

1937 S

REGULATION OF SHIPMENT OF PETROLEUM IN INTERSTATE COMMERCE AND FOREIGN COMMERCE

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON FINANCE UNITED STATES SENATE

SEVENTY-FIFTH CONGRESS

FIRST SESSION

ON

S. 790

A BILL TO REPEAL SECTION 13 OF THE ACT ENTITLED "AN
ACT TO REGULATE INTERSTATE AND FOREIGN COM-
MERCE IN PETROLEUM AND ITS PRODUCTS BY PRO-
HIBITING THE SHIPMENT IN SUCH COMMERCE OF
PETROLEUM AND ITS PRODUCTS PRODUCED IN
VIOLATION OF STATE LAW, AND FOR OTHER
PURPOSES", APPROVED FEBRUARY 22, 1935

FEBRUARY 12, 15, 16 and 17, 1937

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REGULATION OF SHIPMENT OF PETROLEUM IN INTER-STATE AND FOREIGN COMMERCE

FRIDAY, FEBRUARY 12, 1937

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON FINANCE,
Washington, D. C.

The subcommittee met, pursuant to call, in room 450 Senate Office Building, at 10 a. m., Senator Tom Connally presiding.

Present: Senators Connally and Lonergan.

Also present: Hon. Harold L. Ickes, Secretary of the Interior, and Mr. E. B. Swanson, Associate Director, Petroleum Conservation Division, Department of the Interior.

Senator CONNALLY. Will the subcommittee please come to order. Senator Townsend, who is a member of the subcommittee, had to be out of the city this morning.

We have met to consider S. 790, which is as follows:

A BILL To repeal section 13 of the Act entitled "An Act to regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law, and for other purposes", approved February 22, 1935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 of the Act entitled "An Act to regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law, and for other purposes", approved February 22, 1935, is hereby repealed.

The repeal is simply a repeal of that clause of the act which limited its operation to June 1937 and the effect of repealing that clause would be to make the act permanent law; and so the purpose of this bill is simply to continue the so-called Connally "Hot Oil" Act, and make it permanent. I will submit for the record a copy of the act, Public Law No. 14, Seventy-fourth Congress.

[PUBLIC—No. 14—74TH CONGRESS]

[S. 1190]

AN ACT To regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the policy of Congress to protect interstate and foreign commerce from the diversion and obstruction of, and the burden and harmful effect upon, such commerce caused by contraband oil as herein defined, and to encourage the conservation of deposits of crude oil situated within the United States.

SEC. 2. As used in this Act—

(1) The term "contraband oil" means petroleum which, or any constituent part of which, was produced, transported, or withdrawn from storage in excess of the amounts permitted to be produced, transported, or withdrawn from storage

under the laws of a State or under any regulation or order prescribed thereunder by any board, commission, officer, or other duty authorized agency of such State, or any of the products of such petroleum.

(2) The term "products" or "petroleum products" includes any article produced or derived in whole or in part from petroleum or any product thereof by refining, processing, manufacturing, or otherwise.

(3) The term "interstate commerce" means commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof, or from any place in the United States to a foreign country, but only insofar as such commerce takes place within the United States.

(4) The term "person" includes an individual, partnership, corporation, or joint-stock company.

SEC. 3. The shipment or transportation in interstate commerce from any State of contraband oil produced in such State is hereby prohibited. For the purposes of this section contraband oil shall not be deemed to have been produced in a State if none of the petroleum constituting such contraband oil, or from which it was produced or derived, was produced, transported, or withdrawn from storage in excess of the amounts permitted to be produced, transported, or withdrawn from storage under the laws of such State or under any regulation or order prescribed thereunder by any board, commission, officer, or other duly authorized agency of such State.

SEC. 4. Whenever the President finds that the amount of petroleum and petroleum products moving in interstate commerce is so limited as to be the cause, in whole or in part, of a lack of parity between supply (including imports and reasonable withdrawals from storage) and consumptive demand (including exports and reasonable additions to storage) resulting in an undue burden on or restriction of interstate commerce in petroleum and petroleum products, he shall by proclamation declare such finding, and thereupon the provisions of section 3 shall be inoperative until such time as the President shall find and by proclamation declare that the conditions which gave rise to the suspension of the operation of the provisions of such section no longer exist. If any provision of this section or the application thereof shall be held to be invalid, the validity or application of section 3 shall not be affected thereby.

SEC. 5. (a) The President shall prescribe such regulations as he finds necessary or appropriate for the enforcement of the provisions of this Act, including but not limited to regulations requiring reports, maps, affidavits, and other documents relating to the production, storage, refining, processing, transporting, or handling of petroleum and petroleum products, and providing for the keeping of books and records, and for the inspection of such books and records and of properties and facilities.

(b) Whenever the President finds it necessary or appropriate for the enforcement of the provisions of this Act he shall require certificates of clearance for petroleum and petroleum products moving or to be moved in interstate commerce from any particular area, and shall establish a board or boards for the issuance of such certificates. A certificate of clearance shall be issued by a board so established in any case where such board determines that the petroleum or petroleum products in question does not constitute contraband oil. Denial of any such certificate shall be by order of the board, and only after reasonable opportunity for hearing. Whenever a certificate of clearance is required for any area in any State, it shall be unlawful to ship or transport petroleum or petroleum products in interstate commerce from such area unless a certificate has been obtained therefor.

(c) Any person whose application for a certificate of clearance is denied may obtain a review of the order denying such application in the United States District Court for the district wherein the board is sitting by filing in such court within thirty days after the entry of such order a written petition praying that the order of the board be modified or set aside, in whole or in part. A copy of such petition shall be forthwith served upon the board, and thereupon the board shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript, such court shall have jurisdiction to affirm, modify, or set aside such order, in whole or in part. No objection to the order of the board shall be considered by the court unless such objection shall have been urged before the board. The finding of the board as to the facts, if supported by evidence, shall be conclusive. The judgment and decree of the court shall be final, subject to review as provided in sections 128 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 225 and 347).

SEC. 6. Any person knowingly violating any provision of this Act or any regulation prescribed thereunder shall upon conviction be punished by a fine of not to exceed \$2,000 or by imprisonment for not to exceed six months, or by both such fine and imprisonment.

SEC. 7. (a) Contraband oil shipped or transported in interstate commerce in violation of the provisions of this Act shall be liable to be proceeded against in any district court of the United States within the jurisdiction of which the same may be found, and seized for forfeiture to the United States by a process of libel for condemnation; but in any such case the court may in its discretion, and under such terms and conditions as it shall prescribe, order the return of such contraband oil to the owner thereof where undue hardship would result from such forfeiture. The proceedings in such cases shall conform as nearly as may be to proceedings in rem in admiralty, except that either party may demand a trial by jury of any issue of fact joined in any such case, and all such proceedings shall be at the suit of and in the name of the United States. Contraband oil forfeited to the United States as provided in his section shall be used or disposed of pursuant to such rules and regulations as the President shall prescribe.

(b) No such forfeiture shall be made in the case of contraband oil owned by any person (other than a person shipping such contraband oil in violation of the provisions of this Act) who has with respect to such contraband oil a certificate of clearance which on its face appears to be valid and to have been issued by a board created under authority of section 5, certifying that the shipment in question is not contraband oil, and such person had no reasonable ground for believing such certificate to be invalid or to have been issued as a result of fraud or misrepresentation of fact.

SEC. 8. No common carrier who shall refuse to accept petroleum or petroleum products from any area in which certificates of clearance are required under authority of this Act, by reason of the failure of the shipper to deliver such a certificate to such carrier, or who shall refuse to accept any petroleum or petroleum products when having reasonable ground for believing that such petroleum or petroleum products constitute contraband oil, shall be liable on account of such refusal for any penalties or damages. No common carrier shall be subject to any penalty under section 6 in any case where (1) such carrier has a certificate of clearance which on its face appears to be valid and to have been issued by a board created under authority of section 5, certifying that the shipment in question is not contraband oil, and such carrier had no reasonable ground for believing such certificate to be invalid or to have been issued as result of fraud or misrepresentation of fact, or (2) such carrier, as respects any shipment originating in any area where certificates of clearance are not required under authority of this Act, had no reasonable ground for believing such petroleum or petroleum products to constitute contraband oil.

SEC. 9. (a) Any board established under authority of section 5, and any agency designated under authority of section 11, may hold and conduct such hearings, investigations, and proceedings as may be necessary for the purposes of this Act, and for such purposes those provisions of section 21 of the Securities Exchange Act of 1934 relating to the administering of oaths and affirmations, and to the attendance and testimony of witnesses, and the production of evidence (including penalties), shall apply.

(b) The members of any board established under authority of section 5 shall be appointed by the President, without regard to the civil service laws but subject to the Classification Act of 1923, as amended; and any such board may appoint, without regard to the civil service laws but subject to the Classification Act of 1923, as amended, such employees as may be necessary for the execution of its functions under this Act.

SEC. 10. (a) Upon application of the President, by the Attorney General, the United States District Courts shall have jurisdiction to issue mandatory injunctions commanding any person to comply with the provisions of this Act or any regulation issued thereunder.

(b) Whenever it shall appear to the President that any person is engaged or about to engage in any acts or practices that constitute or will constitute a violation of any provision of this Act or of any regulation thereunder, he may in his discretion, by the Attorney General, bring an action in the proper United States District Court to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond.

(c) The United States District Courts shall have exclusive jurisdiction of violations of this Act or the regulations thereunder, and of all suits in equity and

actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, this Act or the regulations thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by this Act or regulations thereunder, or to enjoin any violation of this Act or any regulations thereunder, may be brought in any such district or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 128 and 240 of the Judicial Code, as amended (U. S. C., title 28, secs. 225 and 347).

SEC. 11. Wherever reference is made in this Act to the President such reference shall be held to include, in addition to the President, any agency, officer, or employee who may be designated by the President for the execution of any of the powers and functions vested in the President under this Act.

SEC. 12. If any provision of this Act, or the application thereof to any person or circumstance, shall be held invalid, the validity of the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 13. This Act shall cease to be in effect on June 16, 1937.

Approved, February 22, 1935.

We have present, this morning, the Secretary of the Interior, Mr. Ickes, and we shall be very pleased to hear the Secretary.

STATEMENT BY HON. HAROLD L. ICKES, SECRETARY OF THE INTERIOR

Secretary ICKES. Mr. Chairman, and gentlemen, members of the committee, when I appeared before the subcommittee of the Committee on Interstate and Foreign Commerce of the House of Representatives on September 18, 1934, I said that there are certain fundamental considerations which warrant the determination of a permanent national policy of oil conservation to be effective during periods of scarcity as well as of plenty.

As I said then, the first considerations are that the oil reserves of the United States are limited and that oil is an irreplaceable resource. Another consideration is that the United States is using up its oil reserves faster than the rest of the world, as a result of which there will be an oil shortage in the United States long before there is an oil shortage in the rest of the world. Still another is that, as a Nation, we should not be forced to depend upon more costly substitute fuels in advance of the rest of the world or pay the higher price for oil which foreign producers will demand when our production fails to meet our needs.

If this price for our past and present extravagance is to be avoided, adequate study should be made of all factors involved in oil and gas conservation in order to make certain that our present and future reserves of oil will be developed without waste and that our supply of this irreplaceable source can be made to meet, so long as possible, the needs of the Nation.

Oil is essential to our happiness and well-being as citizens and absolutely indispensable to our national defense. The Congress and the executive branch should not await the day of practical exhaustion before arriving at a national policy of oil conservation. If we are to conserve our oil supply so that it will meet, to the fullest possible degree, the needs of the Nation, we must do it while there is oil to conserve. I suggest, therefore, that the Congress and the executive branch might well address themselves to the question as to how, in

addition to the permanent enactment of the Connally Act, the Federal Government might aid the oil-producing States to husband the oil resources of America.

When I spoke before the House committee, the daily average crude oil production in the United States was about 2,500,000 barrels; today, it is about 3,250,000 barrels, an increase of 30 percent. All-time records of production are being broken, one after another. The increase in demand for petroleum products necessitating this increased production of crude oil, coupled with the elimination of contraband petroleum products, largely has eliminated the problem of stabilization which was an important phase of our national recovery program and was particularly pressing during the summer of 1934. The increased demand and mounting production have emphasized further, to my mind at least, the need for conservation.

The minimum objective of a sound conservation program should be the prevention of waste. The Supreme Court of the United States, in its decision of February 2 involving the control of natural gas production in the Texas Panhandle, divided waste into (1) above ground waste, which involves production in excess of demand or for inferior uses, and (2) underground waste, which relates to the manner, place, or extent of production. The Court indicated clearly that the State has the right to prorate production to prevent waste, as well as to avoid undue drainage from one property to another.

In its decision of January 4, last, in the matter of the transportation in interstate commerce of goods made by convict labor, the Supreme Court held—

that where the subject of commerce is one as to which the power of the State may constitutionally be exerted by restriction or prohibition in order to prevent harmful consequences, the Congress may, if it sees fit, put forth its power to regulate interstate commerce so as to prevent that commerce from being used to impede the carrying out of the State policy.

These decisions of the Supreme Court are of particular interest in view of the present status of the conservation of our oil and gas resources. Five States—Kansas, Louisiana, New Mexico, Oklahoma, and Texas—producing in the aggregate 73 percent of the natural oil output, have adopted the policy of regulating oil production within their respective borders so as to prevent waste.

There is a variation in the respective laws and in the orders issued thereunder, but each State determines each month the amount of oil which may be produced from its wells and fields, so that above-ground waste may be prevented by not producing in excess of demand, thereby escaping the loss by evaporation and hazard of floods and accidental fires to which oil placed in storage tanks is exposed, and that underground waste may be avoided by limiting the manner, place and extent of production, thus leaving room for the employment of sound engineering principles to assure an increased ultimate recovery of oil.

Each of these States determines for itself, on the basis of testimony received at public hearings, the amount of oil which currently may be produced without waste and the proportion in which it is to be divided among the fields and wells of the State. In determining its total allowable production, each State is guided to some extent by the purely advisory recommendations of the Bureau of Mines, but the record shows that each of the principal oil-producing States has

exercised its own judgment as to the amount of its oil which may be produced and marketed without waste.

This, then, is the State policy. The Federal Government, under the law which now is before your committee with my recommendation for its permanent enactment, simply supports the State policy by providing that petroleum, or the products thereof, produced in excess of the amounts permitted by State law or the orders thereunder, is contraband and may not be moved in interstate or foreign commerce.

The law embodies the same policy which was expressed in section 9c of the National Industrial Recovery Act, but with one material difference. Section 9c merely delegated to the President the authority to prohibit the movement of such excess oil in interstate and foreign commerce; it did not prohibit the movement itself. Section 9c was declared unconstitutional by the Supreme Court in what is known as the "hot oil" case.

This section was attacked upon the ground that it was an unconstitutional delegation of legislative power. The Court declared that the question whether the transportation in interstate and foreign commerce of excess oil should be prohibited by law was one of legislative policy and that, in section 9c, the Congress had declared no policy as to the transportation of such excess production. Section 9c, the Court said, gave to the President an unlimited authority to determine the policy and to impose the prohibition, or not to impose it, as he saw fit, and disobedience to his order was made a crime punishable by fine and imprisonment.

It was because the Congress, in enacting section 9c, had delegated legislative authority to the President, without having declared its policy, established standards, or laid down rules, that action under section 9c was declared to be without constitutional sanction.

The Connally Act was approved 46 days after the decision on section 9c. In it the Congress has clearly stated its legislative policy, has established necessary standards, and laid down rules. Although subjected to legal attack immediately upon its enactment, the act has been supported with uniform success in Federal courts in Texas and Louisiana. No issue under the act has been presented to the Supreme Court.

By Executive Order No. 6979 of February 28, 1935, the Secretary of the Interior was designated by the President to execute all of the powers, except those in section 4, vested in him by the act, with the proviso that no regulation, the violation of which was punishable by fine or imprisonment, should be effective unless and until approved by the President. Executive Order No. 6980-B of March 1, 1935, approved regulations issued pursuant to the Act. Executive Order No. 6980-C of the same date required certificates of clearance for petroleum and petroleum products moving in interstate commerce from the East Texas oil field and established Federal Tender Board No. 1, with its principal office at Kilgore, Texas, for the issuance of such certificates.

Executive Order No. 7024-B of April 25, 1935, established Federal Petroleum Agency No. 1, as an investigative agency under the act and Executive Order No. 7129-A of August 6, 1935, required certain reports from masters of vessels transporting petroleum or its products in interstate or foreign commerce from any port in Texas or Louisiana. On April 1, 1936, the Petroleum Conservation Division was estab-

lished by my order in the Department of the Interior to assist in the administration of the act. The administration of the Act is so essentially a field activity that, of the 78 persons employed, 60 are in the field and only 18 in Washington.

This is not elaborate machinery. The Federal office in the east Texas oil field is at Kilgore, within a few hundred yards of the State office, and is readily accessible to every operator in the field. It is required that each application for a tender must be checked and ready for consideration by the Board which has exclusive jurisdiction within 24 hours after the application is filed. Emergency tenders are provided to meet special conditions.

During the past fiscal year, 6,207 applications for tenders, covering 224,778,000 barrels of crude petroleum and petroleum products, were received by Federal Tender Board No. 1 and Federal Petroleum Agency No. 1. Of this number, 5,968 tenders involving 222,034,000 barrels were approved; 197 involving 2,212,000 barrels were not approved; and 42 involving 532,000 barrels were pending on the last day. The cost, including field inspections, record keeping, and examination, was about one-tenth of a cent per barrel.

The fact that it has been necessary to withhold approval on only about 1 percent of the oil for which applications have been received indicates that the system of checking is so thorough that applications for tenders are not submitted unless the applicant has a reasonable basis for assuming the legality of the oil involved. It does not throw any light upon the extent to which contraband oil might be shipped if control should be relaxed, suspended, or terminated.

The prosecution of cases arising under the Connally Act rests with the Department of Justice, which maintains an office at Tyler, Tex. The annual report of the Attorney General shows that, during the past fiscal year, 98 criminal and 6 civil cases were instituted by the Government under the act. Five civil cases were brought against the Government. Sixty-one criminal cases were terminated by pleas of guilty and the imposition of fines, 18 were dismissed, and 19 were awaiting trial. Nine civil cases were won by the Government in the lower courts, one was dismissed by the Government, two were pending appeal and two awaiting trial.

It has been necessary to establish but one tender board that in the east Texas oil field—under the act. The law is effective, however, in other fields, although the tender system is not employed. The Rodessa field in Louisiana is under constant observation and regular examinations are made in other areas, such as that surrounding Corpus Christi, in southwest Texas, Conroe, Talco, and other Texas fields. Reports covering operations in Oklahoma, New Mexico, and Kansas are received and checked periodically. Should the need arise, additional tender boards can be established by the President.

The need for a tender board in the east Texas field is evident when the magnitude of the area is understood. This field is about 50 miles long and from 3.5 to 10 miles wide. It contains about 130,000 acres of productive territory and approximately 22,000 oil wells. Two-thirds of the flowing oil wells in the State of Texas are in this area. The field produces currently about 15 percent of the national crude-oil output, or nearly as much as the aggregate production from all of the wells in Louisiana, Kansas, and New Mexico, the three States which rank fourth, fifth, and sixth in output.

At the time of its discovery it contained at least one-fourth of the oil reserves of the entire United States. Gasoline is shipped by tank car from refineries in the field to every State from the Rocky Mountains to the Appalachians. During the last 4 months of 1936, these States received slightly more than 1,000,000 barrels of gasoline by tank car from plants located in the East Texas field.

The operation of the East Texas oil field shows clearly how the State and Federal Governments may work together to prevent waste and increase the ultimate recovery of oil. Although the market demand for East Texas might exceed greatly the present output, the orders of the Railroad Commission of Texas, since June 1933, have been based upon the engineering principle that, if the withdrawals of oil, gas, and water from the structure are uniform throughout the field and equal approximately to the encroachment of the edge water, the pressure, or energy, in the reservoir is uniformly maintained. The studies of its engineering staff have indicated that a production rate of from 425,000 to 450,000 barrels daily will result in the maintenance of an approximately constant reservoir pressure and prolong the flowing life of the field.

According to testimony before the Texas Railroad Commission on October 17, 1935, this method of control has conserved energy to such an extent that most companies and individuals have raised their estimates of recovery of oil from the field at least 30 percent. Such an increase would amount to about 600,000,000 barrels, which would be equal to the discovery of 60 average-sized oil fields. To my mind, this is true conservation.

It has been pointed out that the withdrawals of oil and gas must be uniform throughout the field, if the objective of increased recovery is to be attained. If excessive amounts are withdrawn in some portion of the field, pressures adjacent thereto may be lowered to the point where gas will escape from the oil and render it less fluid or water may intrude and trap portions of the oil and gas. Such localized excess production would violate the Commission's orders. Were it not for the prohibition of the Connally Act, the contraband oil that could be thus produced would be shipped surreptitiously and find its principal market, directly or in its products, in other States. With the Federal Government prohibiting the shipment of such contraband oil in interstate commerce and the State government disapproving its movement intrastate, there is no present market for contraband oil and hence no incentive for its production.

The effect of this method of control upon the physical conditions within the East Texas oil field is shown by the following comparison. During the 15 days following April 25, 1933, when production virtually was without control and East Texas crude oil was selling for from 10 cents to 25 cents a barrel, 12,000,000 barrels of crude was produced with a reservoir pressure decline of 65 pounds. The order inaugurating the present method of control was dated June 12, 1933. In the 3½ years from June 10, 1933, to January 12, 1937, the average reservoir pressure in the East Texas oil field declined 64 pounds, but in the interim 526,000,000 barrels of oil was produced. This indicates that, under control, the reservoir energy has done 44 times as effective work as it did when the oil was permitted to flow with little, if any, restraint.

While on the subject of State activities relating to oil and gas conservation, I want to give due credit to Texas for its drastic cut in the

waste of natural gas in the Texas Panhandle and to Louisiana, under the leadership of Governor Leche, for enacting its new conservation law, as the result of which the gas waste in the Rodessa field is being eliminated. Appreciation is also due to Louisiana for its cooperation with the Department of the Interior in adopting rules and regulations which aim to increase the recovery of oil.

I recall that, when I spoke before the American Petroleum Institute at Dallas, Tex., on November 14, 1934, I quoted from a report which showed that in June of 1934 gas was being blown into the air from the Texas Panhandle field in the amount of approximately one billion cubic feet daily. In the following summer, the Texas legislature enacted H. R. 266 and I am advised that the Texas Railroad Commission's report for November 1936, shows that 92 percent of this gas wastage has been stopped. This is indeed a fine showing.

I recall also that early last summer natural gas was being blown wastefully into the air in the Rodessa, La., field in an amount equal to at least one-half of the consumption of natural gas in the whole United States for domestic purposes. I am advised that an emergency order under the new conservation law of Louisiana cut this wastage approximately in half and that the permanent order, effective January 1, 1937, aims to eliminate waste altogether. Here is competition in conservation of which both States may well be proud.

The principal merit of the Connally Act is that it supports State oil and gas conservation laws and thereby increases their effectiveness. The act, however, has contributed also to the stability of wholesale and retail markets by eliminating the destructive influence of contraband gasoline upon such markets.

In the administration of the Petroleum Code, we learned what systemic aches and pains could result from a "hot" gasoline sore. During the spring, summer, and fall of 1934, committees representing the industry in cooperation with the Petroleum Administration struggled continuously to maintain a "living wage" for the independent crude-oil producers and still make it possible for the independent and non-integrated refiners and distributors to operate their plants without suffering the substantial losses which then were all too common. In order to make this possible, it was necessary for tank-car-gasoline prices to bear a normal relationship to crude-oil prices. We received hundreds of appeals from dealers asking for relief from the disastrous results of gasoline price wars as well as from small refiners who, with their backs to the wall, were fighting off the shut-downs that appeared to be inevitable. Several well-considered and efficiently managed efforts were made to achieve a normal and healthy gasoline tank-car market but, individually and collectively, they were always negated by the shipment of excess, or contraband, gasoline from the East Texas area. Some improvement was seen when the first tender board was established in East Texas on October 23, 1934, under the authority of section 9 (c) of the National Industrial Recovery Act, but there was no definite or sustained improvement until the Connally Act was approved on February 22, 1935, and Federal Tender Board No. 1 was established thereunder on March 1, 1935. Then the response in wholesale gasoline prices was immediate and they were strengthened further when the act was upheld in the Federal courts.

Granting then that this law has been of economic benefit to independent producers, refiners, and distributors, what has been the

change in retail gasoline prices since it was approved? On March 1, 1935, when Federal Tender Board No. 1 was established, the average service-station price of gasoline, exclusive of taxes, in 50 representative cities was 13.22 cents per gallon. On December 1, 1936, it was 13.97 cents per gallon. This increase of three-fourths of a cent per gallon represents a gain of 6 percent in the retail price of gasoline, exclusive of taxes, during the period. It is interesting to note, however, that the average retail price of gasoline during 1936 was from 3½ to 4 cents a gallon less than the averages recorded for 1927, 1928, and 1929, when oil fields competed with one another with but little restraint and storage tanks were being filled with unneeded crude oil.

My office has received two pamphlets objecting to the continuance of the Connally Act. If I could be as optimistic as the authors of these pamphlets regarding the future oil supply of the United States, I would be in perfect accord with their philosophy that "good old-fashioned competition in every department of the petroleum industry is the best protection to the public." I said as much in 1934, when the report of the Committee of Eleven of the American Petroleum Institute was under examination by a subcommittee of the Interstate and Foreign Commerce Committee of the House of Representatives. By reference to page 189 of the hearings, you will find that I said on that occasion:

We ought to have a free flow of flush production, so that oil could be produced at 10 cents a barrel, provided we have this inexhaustible supply, as that report indicates. If there is no question of conservation involved at all, we should have a free flow of oil and ought to be able to develop a program by which gasoline could be sold for 2 or 3 cents a gallon.

I was referring, of course, to the refinery price.

One pamphlet says that the "cost of flush production is probably not over 25 cents a barrel" and this undoubtedly is true. But flush production means a wide-open flow, an unrestrained gushing forth of oil which exhausts the reservoir energy quickly and uselessly and leaves underground and unrecovered fully 80 percent of the oil originally in place. If the supply of oil were such that the needs of the Nation could be met by skimming off the cream and leaving the milk, I never would have advocated any degree of control.

It is an interesting fact that, of the crude oil produced from 1931 to 1934, inclusive, only 10 percent was at a cost of 40 cents a barrel or less. The average cost was 80 cents a barrel, but only 60 percent was produced at or below that average cost. If our oil reserves were 10 or more times larger than they are, we might indulge for a while in the profligate outpouring of oil which is involved in unrestrained low cost flush production. But with our limited supply, we cannot afford to lose the reserves in those fields where oil is pumped to the surface through stripper wells, even though that production may cost more.

This same pamphlet calls particular attention to the fact that "in 1931 the posted price of Mid-Continent crude oil was as low as 10 cents per barrel." No mention is made of the additional fact that on August 4, 1931, the Governor of Oklahoma established martial law and ordered the National Guard to maintain military control covering a radius of 50 feet around every oil well in 29 fields within that State. Neither is it recalled that the Governor of Texas on August 17, 1931, ordered the absolute shut-down of every oil and gas well in the east

Texas field and proclaimed martial law in the four counties embracing the field. The last contingent of National Guard troops sent into the east Texas field on August 17, 1931, left on December 21, 1932.

It is also set out in the pamphlet that the posted price of crude in 1933, before control by Federal authority, was as low as 25 cents a barrel. Again no mention is made of the closing down of fields in Oklahoma and Texas, of the bombing of pipelines in the east Texas field or of the decline in reservoir pressure in the east Texas field, which was so drastic that it was predicted freely that if a comparable decline continued for the remainder of the year, two-thirds of the wells in the field would be pumping by January 1934.

On June 13, 1933, the Texas Railroad Commission reduced the east Texas field allowable to about 550,000 barrels daily, or approximately 300,000 barrels less each day than under the order previously in effect. On June 16, 1933, the National Industry Recovery Act was signed by the President and on June 19, the posted price for east Texas crude oil was restored to 50 cents a barrel and similar increases were recorded in the other oil-producing States east of California.

On August 19, 1933, the President approved the Code of Fair Competition for the Petroleum Industry. On August 24 the posted price for East Texas crude oil was increased to 60 cents per barrel and a similar 10-cent increase was posted elsewhere. The Code of Fair Competition for the Petroleum Industry became effective September 2, 1933, and on September 6 the posted price for East Texas crude oil was increased to 75 cents per barrel.

The first order allocating crude-oil production among the several oil-producing States under the procedure established by the Code of Fair Competition for the Petroleum Industry was effective September 8, 1933, and on that same date the posted price for East Texas crude oil was increased to 90 cents per barrel with comparable increases in other oil-producing States. The second order allocating crude-oil production became effective September 28, 1933, and on the following day the posted price for East Texas crude oil was advanced to \$1 per barrel, with corresponding increases elsewhere. This price level remained constant during the remainder of the period that the oil industry operated under the petroleum code, and continued after that code had been invalidated by the decision of the Supreme Court on May 27, 1935, until January 9, 1936, when the posted price for East Texas crude oil was \$1.15 per barrel and average midcontinent crudes advanced to \$1.10. On January 28, 1937, the level of crude-oil prices moved up 12 cents a barrel, or to \$1.27 a barrel for East Texas crude and \$1.22 for average midcontinent crude.

The average posted price of crude oil in the United States today is about \$1.20 a barrel. This price happens to be about the average paid for all of the oil produced in the United States since Colonel Drake drilled his well in Pennsylvania in 1859. In 76 years we have produced in the United States 17,600,000,000 barrels of oil of a value of \$21,400,000,000, making an average of \$1.215 per barrel. Even at this price, the available records indicate that fully 15 percent of the current output is sold below cost. The current cost might not be so high had the present improved method of crude-oil production been developed at an earlier date and it certainly would be appreciably higher had the lid been blown off of the East Texas field within the first 3 years of its discovery, a catastrophe that was avoided by the scant margin of only a few months.

In addition to the pamphlets referred to, my office has received only four letters objecting to the extension of the Connally Act. The first was from a labor organization in the Mid-Continent oil field. It proposed a measure which would include the establishment of minimum wages and maximum hours for field and refinery workers. Under the petroleum code, a Petroleum Labor Policy Board was engaged actively in the administration of the labor provisions of the code and I was keenly interested in this phase of our administration. I am of the opinion, however, that if the Congress should consider such changes as this objection proposes, legislation affecting the wages and hours of workers in the petroleum industry should be incorporated as part of a general program for the protection of employees generally.

Three of the letters I have mentioned were from independent oil companies engaged in the local distribution of petroleum products and each enclosed or called attention to the pamphlets previously referred to. Each of these objectors has been asked to furnish information in detail regarding the operating difficulties which have been encountered as a result of the act. No replies have been received, although one of the companies, at least, has had time to answer,

I do not want to leave with this committee the impression that I am unsympathetic with the problems of the small or independent petroleum jobber and distributor. Although the petroleum code did not deal specifically with the margins for jobbers or dealers, all who were concerned with the code's administration became fully acquainted with and deeply concerned over the difficulties with which those engaged in marketing petroleum products had to contend. I hope sincerely that a solution may be found for these difficulties. Perhaps, it may lie in the suggestion, made at the recent meeting of the American Petroleum Institute in Chicago, that integrated oil companies should withdraw voluntarily from the bulk distributing business, leasing their bulk distributing facilities, with the exception of water- and pipe-line terminals, to existing jobbers or to new ones.

My experience as administrator of the petroleum code causes me to believe that, if the larger marketers of petroleum products were as well acquainted with the difficulties of the independent oil producers and refiners as they are with their own problems and were desirous of developing a program which would assure an adequate supply of oil to the Nation at a reasonable price, they would not favor, as some of them seem to do, a return to those troublesome times when retail price wars rages, stripper wells were closed down, small refiners were forced to suspend or abandon operations and the nation's oil resources were endangered by refusal to conform to State regulations. If they could look at the whole situation from a broader point of view, I feel certain that they would earnestly endeavor to find a satisfactory solution to problems that, after all, belong to the industry as a whole.

In conclusion, may I say that it is evident to me that the cooperation which the Petroleum Administration has received from the conservation officers of oil producing States in the administration of the Connally Act—a cooperation that it is hoped will be continued and widened—has demonstrated that State and Federal Governments can work together effectively for the conservation of the oil and gas resources of the Nation. In view of this happy and beneficial cooperation in the conservation of this irreplaceable and vitally essential

natural resource, I recommend that the Connally Act be made permanent without change or modification.

Senator CONNALLY. We thank you, Mr. Secretary, and I will ask Senator LONERGAN, are there any questions you desire to ask?

Senator LONERGAN. Not at this time, Mr. Chairman.

Senator CONNALLY. Mr. Secretary, if you will submit to some questions, I should like to develop some things that you have touched upon.

Secretary ICKES. I shall be very glad to, Senator.

Senator CONNALLY. You mentioned, a moment ago, that some of the labor unions had protested against the extension of the act?

Secretary ICKES. We have had one such protest.

Senator CONNALLY. That was because of its failure to provide working hours, and favorable conditions of operation. May I ask you whether or not the so-called Connally Act undertakes in any way, within itself, to regulate the production, or working conditions, or has anything to do with it, at all, except to cooperate with State law?

Secretary ICKES. I do not understand that this one protest that we received objected so much to making the Connally Act permanent, as that it wanted the incorporation of a provision which would protect them. The answer to your specific question is that the Connally Act merely gives us power to prevent the movement in interstate or foreign commerce of "hot oil", and it has nothing to do with labor, or regulations, or anything of the sort.

Senator CONNALLY. Exactly. In other words, under the practice, as we have been operating, all of those matters are purely within the State's jurisdiction?

Secretary ICKES. That is correct.

Senator CONNALLY. This act does not undertake, in anywise, to relate to those matters?

Secretary ICKES. That is quite right.

Senator CONNALLY. And it would be somewhat foreign to the purpose of this legislation, to drag that in, at this time, in view of the Supreme Court decisions, heretofore, with regard to production?

Secretary ICKES. I do not think it would be advisable, as I suggested.

Senator CONNALLY. That is very fine.

Senator LONERGAN. I should like to ask one question.

Senator CONNALLY. Senator Loneragan.

Senator LONERGAN. You believe that the adoption of this proposal will be for the best interests of the consumers?

Secretary ICKES. Yes, I do, Senator, taking a long-range view. Of course, it is conceivable that if, with the flush production, oil went down to 25 cents or to 10 cents a barrel, we might have cheaper gasoline, but the benefits of that would not be so appreciable, at that; and, in the long run, we would have less oil and higher prices for gasoline.

Senator LONERGAN. That is what I was going to say.

Secretary ICKES. Yes.

Senator LONERGAN. What we must consider, here, is the future.

Secretary ICKES. Exactly.

Senator LONERGAN. As well as the present.

Secretary ICKES. Exactly.

Senator CONNALLY. Mr. Secretary, along the line of the question asked by Senator Lonergan, the whole matter of the conservation, in aid of which this act has been passed, is to preserve and conserve the oil reserves?

Secretary ICKES. Correct.

Senator CONNALLY. And your theory is that if we allow flush production, practically 80 percent of those reserves are lost, by remaining in the ground, and the lessening gas pressure, and things of that kind? I believe you have already developed that in your testimony.

Secretary ICKES. Yes.

Senator CONNALLY. So that the public, in the long run, will get 100 percent oil instead of 20 percent?

Secretary ICKES. And "pay through the nose."

Senator CONNALLY. And "pay through the nose" if they did not?

Secretary ICKES. Exactly.

Senator CONNALLY. Let me ask you, also, Mr. Secretary, on the question of price to the consumer—the price of crude oil—is it, or is it not, true that when we had 10-cent and 25-cent crude oil, that reduction and low price in the crude was not always reflected to the consumer?

Secretary ICKES. Oh, I think it is fair to say it never was reflected. That is subject to correction by my experts.

Senator CONNALLY. Do you care to develop that any?

Secretary ICKES. I think that Mr. Holland could probably develop that better than I, or Mr. Steele.

Senator CONNALLY. This act went into effect about when?

Secretary ICKES. March of 1935.

Senator CONNALLY. Do you, or do you not, know what the effect was on the advance of gasoline prices about that time? Was there, or was there not, an advance? And if so, what caused it?

Secretary ICKES. Was there, Mr. Swanson?

Mr. SWANSON. There was an advance of three-fourths of a cent in retail gasoline prices.

Secretary ICKES. But the crude went up—doubled, trebled, and quadrupled in price.

Senator CONNALLY. That is what I was trying to develop in connection with Senator Lonergan's question—that while, when this act went into effect, prices of gasoline went up about three-quarters of a cent to the consumer, the market price went up two or three times.

Secretary ICKES. It was going from 25 to 50, to 60, to 75, to 90, and to over \$1.

Senator CONNALLY. And yet it was not reflected in the prices to the consumer?

Secretary ICKES. The consumer did not get the benefit of the low crude-oil prices.

Senator CONNALLY. Under section 9 of the code, prior to its being held invalid by the Court, was there, or not, a great deal of what they called distress gasoline?

Secretary ICKES. Oh, a great deal.

Senator CONNALLY. What, if anything, did the oil authorities, or what did your Administration do?

Secretary ICKES. We made an arrangement at one time for the large companies, that had the capital with which to buy, to take some of this distress gasoline off the market.

Senator CONNALLY. What did you call them—buying pools, or something of that kind?

Secretary ICKES. Yes; there was a buying pool. I think it fair to call it that.

Senator CONNALLY. With a view to relieving the pressure, and helping the little fellows get rid of their gasoline that was distressed?

Secretary ICKES. That is right.

Senator CONNALLY. And yet holding it, and conserving it for future use?

Secretary ICKES. That is right.

Senator CONNALLY. Mr. Holland is in possession, is he, of the details in regard to those buying pools, and things of that kind?

Secretary ICKES. Mr. Holland, or Mr. Swanson, has all of that, because he was with the Oil Administration at the time.

Senator CONNALLY. Would it bother you if we should hear Mr. Swanson, injecting him right at that point?

Secretary ICKES. I shall be very glad to have you do that.

Senator CONNALLY. What was the operation, under those buying pools, Mr. Swanson?

Mr. SWANSON. Mr. Chairman, there were several so-called buying-pool efforts, that began in December of 1933 and continued from then on, during the entire period of the Petroleum Code.

Senator CONNALLY. What was the purpose of the Department in participating, or in authorizing, or in aiding those buying pools?

Mr. SWANSON. It was an effort on the part of the Department and the industrial committees to bring about the normal relationship between gasoline prices and crude-oil prices, in order to permit the independent, nonintegrated refiner to be able to operate without loss.

Senator CONNALLY. What do you figure is the proper relationship between the price of crude and gasoline?

Mr. SWANSON. It varies with different price levels, but at a crude-oil price of \$1, the normal price relationship between crude oil and gasoline is as 18.5 is to 1. In other words, the crude oil price per barrel should be 18.5 times the refinery price per gallon of regular gasoline.

Senator CONNALLY. That is, the wholesale price at the refinery?

Mr. SWANSON. The wholesale price at the refinery. That is based upon a correlation of gasoline prices and crude-oil prices, over a period of many years.

Senator CONNALLY. Beginning at March 1933 was any effort made by the Department to more or less stabilize the prices of crude and gasoline?

Mr. SWANSON. March 1933.

Senator CONNALLY. Under the oil code?

Mr. SWANSON. The code was not effective until September 2, 1933.

Senator CONNALLY. What was the price of oil, along during that period? Do you know?

Mr. SWANSON. In March 1933?

Senator CONNALLY. Yes.

Mr. SWANSON. About 50 cents a barrel, on crude oil.

Secretary ICKES. No; it got as low as 10, in some instances, and about 5 cents a barrel, in others.

Mr. SWANSON. That was in April. The drop in price came on April 25, 1933.

Senator CONNALLY. If oil is \$1 a barrel, you figure that one-eighteenth and five-tenths of that would be what?

Mr. SWANSON. That would be the normal wholesale gasoline price.

Senator CONNALLY. That would be a little less than 5 cents a gallon?

Mr. SWANSON. No; it would be a little bit above 5 cents. It would be 5.5 cents.

Senator CONNALLY. Mr. Secretary, I understand your testimony, in the concluding portion of it, to not encourage or favor the price wars, that you spoke of, in the gasoline industry, whether or not that is wholesome for the industry, or the consumer, either.

Secretary ICKES. I do not think it is wholesome.

Senator CONNALLY. One of the objects, then, of this policy of yours, and this legislation, is to more or less stabilize it?

Secretary ICKES. I think that has been the effect of this legislation.

Senator CONNALLY. To stabilize the price, and to maintain the proper relationship between crude and gasoline, in order that a producer may get the benefit of the fair price?

Secretary ICKES. I want to see our oil reserves last us as long as possible, so that we will have a fair supply over a considerable number of years, at reasonable prices.

Senator CONNALLY. May I ask you, or Mr. Swanson to develop just a little bit more that distress gasoline arrangement, by which you encouraged the buying of distress gasoline, by the companies and the holding of it? What was the purpose of that, Mr. Swanson?

Mr. SWANSON. We tried many things, during the period of the Petroleum Code, to bring about that normal relationship between refinery prices and crude-oil prices, in order to permit the nonintegrated refiner to operate. We have found, by looking backward, that every one of these efforts always seemed to fall down, to break down, because of the supply of contraband gasoline, principally from the East Texas field. We have found also that each time any official effort was made to restrict or limit the shipment of contraband gasoline from the East Texas field, there was a response in the gasoline price which tended to bring it up closer to the normal relationship. Whenever those efforts broke down, the refinery price of gasoline again receded. This undoubtedly was due to the fact that it was customary, in the East Texas field, at that time, to sell the so-called contraband gasoline for one-half to 1 cent, or even more, per gallon, less than the gasoline manufactured from legally produced crude oil.

The ability, then, to get this cheaper gasoline and move it into interstate commerce and into markets in the Middle West, obviously gave certain marketers a supply of gasoline which was cheaper than the supply which was available to marketers who were purchasing legally produced gasoline. Having that cheaper gasoline, then, these marketers would do the natural thing of endeavoring to increase their sales of gasoline, and they did that by reducing the price of gasoline. That, then, precipitated a price war. By removing this excess gasoline from the market, it removed that one factor, which was the cause of large numbers of price wars throughout the Middle West.

I recall that we received hundreds of complaints from distributors during the summer of 1934, complaining about price wars in the Middle West; but as soon as the Federal Tender Board was established, under section 9-c, on October 23, 1934, those complaints began to dwindle and finally stopped.

Now, the only conclusion we could reach from that was that, having removed that one factor in local price wars, and the local price wars having thereupon dwindled, it must have been the cause of the local price wars.

Senator CONNALLY. When these people bought this "hot oil" or "hot gasoline", either one, and were able to sell it at 2 or 3 cents below the price that other legitimate producers were able to produce it for, were, or were not, the reduced prices, in effect, below the cost of production of the legitimate dealer?

Mr. SWANSON. Absolutely.

Senator CONNALLY. They were?

Mr. SWANSON. They were materially below cost.

Senator CONNALLY. Is, or is not, the practice of permitting so-called "competitors" to sell a product below the cost of production, for the purpose of killing off competition, a healthy economic condition to permit to continue?

Mr. SWANSON. It is not; and one of the most troublesome problems of the whole petroleum code administration was to prevent that very thing.

Secretary ICKES. Another factor, Senator, was this: The producer of "hot oil", in many instances, was producing his neighbor's oil. That was the reason he could afford to sell cheaper.

Senator CONNALLY. He was stealing his neighbor's oil?

Secretary ICKES. Exactly.

Senator CONNALLY. Because his neighbor was obeying the law, and he was not obeying it?

Secretary ICKES. That is it. It was stolen oil, to begin with.

Senator CONNALLY. From about the time of the Connally Act, or shortly before that, between February 1 and 15, 1935, and until December of last year, was there, or not, a rise in the price of wholesale gasoline?

Mr. SWANSON. There was an increase. I do not recall exactly how much it was, but I believe it was about the same as the increase in the retail price, or around three-quarters of a cent.

Senator CONNALLY. Was that rise in both crude and in gasoline prices helpful to the independent producer, who had his pipe lines, and who has not his refinery, or was it harmful to him?

Mr. SWANSON. It would be helpful, primarily, to the independent crude-oil producer, and the independent refiner.

Senator CONNALLY. Why?

Mr. SWANSON. Because it gave him a price for his product which permitted him to receive the return of his costs of operation.

Senator CONNALLY. In other words, it enabled him to compete? Was it such a price as enabled him to compete with other producers, and stay in business?

Mr. SWANSON. To stay in business; yes, sir.

Senator CONNALLY. In other words, he was able to get enough for his gasoline to compensate him for his costs and his operating, and do business; is that correct, or not?

Mr. SWANSON. That is correct. I have received from a number of independent refiners—those are refiners who purchase their crude oil at posted prices, and sell their product on the tank-car market—from a number of refiners of that class, I have received their own figures, as to their operations, and the profits which they made from their opera-

tions. Yet these figures show that, beginning about March or April 1935—in other words, about the time that the Connally Act became effective—they changed from losses of as high as 20 cents a barrel, per barrel refined, to profits which ranged from 1 cent a barrel to 3 cents a barrel, 5 cents a barrel, and, in some months, 10 and 15 cents a barrel. From the time the Connally Act became effective, these independent refiners were able to make money. Prior to that time they constantly lost money.

Senator CONNALLY. In that connection, allow me to ask you, what was the relationship during that period, between the crude and the retail price of gasoline? Did it maintain a fair relationship?

Mr. SWANSON. I think it did; yes, sir.

Senator CONNALLY. And was the public being held up?

Mr. SWANSON. Not to any degree, so far as we can determine.

Senator CONNALLY. I was trying to develop whether or not the advances in the prices of crude, which enable the independent operator to do business and make a little profit, whether all of that came out of the consumer, in the advanced price of gasoline, or whether it arose from other causes?

Mr. SWANSON. I do not believe that it did.

Senator CONNALLY. How?

Mr. SWANSON. I do not believe that it did come out of the consumer.

Senator CONNALLY. You do not believe it did?

Mr. SWANSON. No, sir. Mr. Secretary, you called attention to the difference of 3.5 to 4 cents a gallon between present prices of gasoline and the higher prices of '27, '28 and '29.

Senator CONNALLY. Thank you, Mr. Swanson. We may call you a little later, but we will finish with the Secretary, first.

Mr. Secretary, you discussed the legal attacks on this Act. Has any Federal court, anywhere, held the act invalid?

Secretary ICKES. No; it has not, Senator.

Senator CONNALLY. It has been maintained, as I understand it.

Secretary ICKES. It has been maintained in every court where the issue has been presented.

Senator CONNALLY. I will state that I will later put in the record here a report of the Department of Justice, with regard to the enforcement, and of their operations under the act. I think it contains data with regard to the different rulings of the courts.

Secretary ICKES. Yes.

Senator CONNALLY. The circuit court of appeals, I believe, has acted upon it, and the three-judge Federal court.

Secretary ICKES. Yes.

Senator CONNALLY. And, in each instance, it has been held constitutional and valid.

Secretary ICKES. It has been upheld, yes.

Senator CONNALLY. Mr. Secretary, you only have one tender board, at present, in the East Texas field, have you?

Secretary ICKES. That is right.

Senator CONNALLY. What about the Monroe and Corpus Christi fields, and other fields?

Secretary ICKES. We really keep very close watch over those fields, from our Kilgore office, and we are prepared, if there is a showing at any time of a necessity, to set up other tender boards, by

asking the President to authorize us to do that. We have seen no occasion, so far. We want to keep expenses down to a minimum.

Senator CONNALLY. What are your views at present, as to the efficacy of this act, in so far as its being enforced, or otherwise?

Secretary ICKES. Oh, I think that, with the cooperation we are receiving now in Texas and in other States, it is working beautifully. It is doing the job that it was set up to accomplish.

Senator CONNALLY. In the matter of the recommendations of the Bureau of Mines, as to the quotas properly producible by each State, have the States, in general, pretty much followed those recommendations?

Secretary ICKES. In general They do not feel bound by them, and of course, there may come a time when they may depart very widely from them, but we have no reason to complain about it, so far. On that point, Mr. Holland, I think, can enlighten you, more than I.

Senator CONNALLY. Is there any other matter, Mr. Secretary, that you care to develop?

Secretary ICKES. I have none.

Senator CONNALLY. We are certainly very much obliged to you, Mr. Secretary, for your appearance, and we thank you for your testimony.

Secretary ICKES. I was glad to be here.

Senator CONNALLY. Since we brought up the legal aspects of this matter, I understand Mr. Charles I. Francis, who is a member of the oil attorneys division of the American Bar Association is present, and we understand that committee has taken some action. We would be glad to hear Mr. Francis.

STATEMENT OF CHARLES I. FRANCIS, HOUSTON, TEX., CHAIRMAN OF THE SECTION OF MINERAL LAW, AMERICAN BAR ASSOCIATION

Senator CONNALLY. Just tell the reporter your name and who you are, and where you are from.

Mr. FRANCIS. My name is Charles I. Francis, from Houston, Tex. I am the chairman of the section of mineral law of the American Bar Association, which section has a membership of approximately 1,000 attorneys, all over the United States, and we have devoted a considerable amount of time to study and investigation of the Connally Act, its practical operations, and the desirability of its renewal.

At the recent meeting of our section, at Columbus, Ohio, the council of the mineral section unanimously recommended the extension of this law, believing it to be a valid constitutional law, and one that has worked in the interest not only of the oil industry but of the public. Our recommendations, after that study, were made, that this law be extended, to the house of delegates of the American Bar Association, a representative body selected from the entire bar, and, after considerable discussion, the house of delegates of the American Bar Association unanimously recommended the extension of this act, and also the extension of the Oil States Compact resolution. It was our judgment and opinion that not only the Connally Act, but the resolution of Congress authorizing the Oil States Compact, should be renewed and extended, and I was directed, on behalf of the American Bar Association, to present, Senator Connally, to your committee, a resolution

which we adopted, and which I would like to put into the record, which explains our views in respect to this matter.

Senator CONNALLY. We shall be very glad to have that carried in the record as an exhibit.

(The resolution referred to is as follows:)

REPORT AND RECOMMENDATION OF THE SECTION OF MINERAL LAW OF THE AMERICAN BAR ASSOCIATION, APPROVED AND ADOPTED BY THE HOUSE OF DELEGATES OF SAID ASSOCIATION ON JANUARY 7, 1937

To the House of Delegates of the American Bar Association:

At its last session, the Congress of the United States enacted a law known as the Connally Act prohibiting the interstate transportation of petroleum and its products where such has been produced in violation of the valid laws, rules and regulations of any sovereign state. This act was adopted for the purpose of aiding in the enforcement of State legislation on this subject.

Shortly thereafter, with the consent of the Congress, the oil-producing States of Texas, Oklahoma, Kansas, New Mexico, Colorado, and Illinois entered into a compact for the sole purpose of preventing actual waste in the production of oil and gas.

The constitutionality of these acts has not been questioned, and experience has demonstrated that they have been effective aids in the conservation of oil and gas in the oil-producing States. Both measures were adopted, in the first instance, with little or no opposition, and it is believed that a similar general unanimity of well-informed opinion in their favor exists today. Both laws, as enacted, expire during the current year unless extended by act of the present Congress.

After careful study and investigation by an appropriate committee and by its council, the section of mineral law of the American Bar Association feels very strongly that each of these measures should be continued in force for an additional period of 2 years, and therefore unqualifiedly recommends the adoption of the following resolution:

"Be it resolved, That the American Bar Association recommends:

"(1) That Congress reenact, for a period of 2 years, the 'Connally bill' (49 U. S. Stat. 30-33), originally passed by the Seventy-fourth Congress on February 22, 1935, regulating the interstate transportation of petroleum and its products;

"(2) That the Congress of the United States, by resolution, approve a 2-year extension of the Oil States' Compact for the conservation of oil and gas;

"(3) That the legislatures of the several oil and gas producing States, by appropriate State law, become signatory members of said compact; and *be it further*

"Resolved, That the American Bar Association authorize the section of mineral law, and its proper officials, under the supervision and with the approval of the President of the association, to sponsor such legislation at the present session of the Congress of the United States, and to urge upon the several legislatures of the oil- and gas-producing States the enactment of appropriate legislation making said States parties to the aforesaid compact."

Mr. FRANCIS. I would like to say, in that connection, and in conclusion, that I spent about 10 months, as an attorney for the Petroleum Administrative Board, under the Secretary of the Interior, and became familiar with the practical workings of this law, in the East Texas field, where I was in charge of litigation arising under the old section, 9 (c), of the National Industrial Recovery Act, and I have carefully watched the operations of this law, which became effective in March 1935, and my own personal observation and experience in connection with it is that this is a very desirable and beneficial piece of legislation, which ought to be reviewed and extended by the Congress.

Senator CONNALLY. Let me ask you, Mr. Francis, what was the situation, before this act, or any similar regulation as to interstate shipments, was in effect, so far as the ability of the State authorities to enforce their proration and their order?

Mr. FRANCIS. Senator, when this law was enacted, in February 1935—

Senator CONNALLY. I think it became effective in March.

Mr. FRANCIS. It went into effect, if I recall, or it was adopted, on February 26, 1935, and the Federal Tender Board was set up, down in the East Texas field, on March 1, 1935, and immediately prior to that time, and before the effective date of this act, there was pouring out into the channels of interstate commerce multiplied thousands of barrels of contraband oil and gasoline, demolishing the national markets, putting independent refiners in a situation where, operating upon legal oil, it was impossible for the independent refiners to operate at a profit, because they were in competition with refiners, who were using "hot oil", and placing gasoline on the national market, shipping it to other States, at a price much less, below the actual cost of production of those refiners who operated upon legal oil. When this became effective, it was successful in blocking the channels of interstate commerce, to this contraband commodity.

The price structure reacted to that situation, and, in my judgment and opinion, the effectiveness of this act is accountable for the stabilization of the refinery price of gasoline that ensued, during the next 6 or 8 months following the inauguration of your Federal Tender Board in the East Texas field, under this act.

Senator CONNALLY. May I ask you your views as to the relationship of crude-oil prices against gasoline prices to the consumer, since the effective date of this legislation, whether it has been a fair ratio, or whether the consumer has been penalized in any way?

Mr. FRANCIS. Senator, I think that the statistical data that has been given by the Secretary of the Interior is unanswerable on that point. I could not add anything to it.

Senator CONNALLY. Have you any questions, Senator Lonergan?
Senator LONERGAN. No.

Senator CONNALLY. Is there any other matter that you want to call to the attention of the committee?

Mr. FRANCIS. No; except, Senator, I do not know whether it comes within the purview of this particular committee, but I think your resolution, authorizing the continuation of our oil States compact, ought to be renewed by this Congress. I do not know whether that comes under your committee, or not.

Senator CONNALLY. I rather think that will go to either the Committee on Interstate Commerce or to the Committee on Mines and Mining. This is the Finance Committee. We have not handled it so far, but we are glad to have your views about it.

Mr. FRANCIS. There is something about it in the resolution which I submitted here, and which I think you are familiar with because it came before you, in your capacity as a Senator.

Senator CONNALLY. We should be glad to hear you on any other aspect of this matter that you care to bring up.

Mr. FRANCIS. I think it is embodied in the resolution fully, Senator, which, with your permission, I have placed in the record.

Senator CONNALLY. We thank you, Mr. Francis.

STATEMENT OF PAUL E. HADLICK, SECRETARY, NATIONAL OIL MARKETERS ASSOCIATION, WASHINGTON, D. C.

Mr. HADLICK. Senator Connally, may I be heard a moment? I am Mr. Hadlick. I represent people opposed to this, and I realize they will be given time; but I wonder if I might suggest, before Mr.

Francis leaves, a point on this resolution of the American Bar Association? May I go ahead for just a moment?

Senator CONNALLY. Just a moment; yes, sir.

Mr. HADLICK. I have been a member of the American Bar Association for many years. I knew nothing of this resolution coming before them until I read it in the papers, and wrote them for it, and I think it would be appropriate to attach to that resolution the list of the members of the mineral section of the American Bar Association. The people interested in oil—I do not know what Mr. Francis' connections are—are principally interested in the production of oil for certain oil companies, principally the major oil companies, and I think it would be appropriate to ask, and I should like to ask, that that be admitted, along with the resolution, in your record.

Mr. FRANCIS. Senator, I would be glad to get the list and embody it, but the membership of the mineral section, as well as of the council of that section, is not in any sense preponderatingly oil attorneys. It is copper, coal, oil—all of our natural resources are represented, both on the council of the mineral section and in the membership of that section, and I do not think it could at all be said that that section and its officers or membership is predominantly oil attorneys, and it certainly could not be said of the house of delegates of the American Bar Association, that approved this resolution unanimously. There are about 150 delegates in that house of delegates of the American Bar Association, and I would say not over 1 percent of them had any connection with oil, in any manner, way, form, or fashion, in their practice.

Senator CONNALLY. If you care to submit the list, Mr. Francis, we would be glad to put it in our record.

Mr. FRANCIS. I shall be glad to. I will have to get it from my file, but I will be glad to mail it in to you.

Senator CONNALLY. Mr. Hadlick, in your complaint, you made the point that, as a member of the American Bar Association, you had not had any notice of this coming up. Did you attend the meeting of the house of delegates?

Mr. HADLICK. I had no notice of the meeting. I am a life member of the American Bar, and I point out that this policy of the American Bar Association going on record through committees, on proposals before Congress, is a dangerous thing.

Senator CONNALLY. We are not concerned with your internal affairs, in the American Bar Association. I will say that. I used to be a member. I think I quit, though, because, like you, I never attended; that is, I do not mean you never attend, but you did not attend this meeting of the house of delegates.

Mr. HADLICK. I was not invited.

Senator CONNALLY. You are a member. You do not have to be invited every time they have a meeting?

Mr. HADLICK. I had no notice.

Senator CONNALLY. Were you a member of the house of delegates?

Mr. HADLICK. No.

Senator CONNALLY. Then of course, you were not invited. I do not want to get into any squabble about that. Put that in the record.

Mr. FRANCIS. All right.

Senator CONNALLY. Take that up with the American Bar Association.

Mr. HADLICK. Believe me, I will, Senator.

Senator CONNALLY. We are not concerned with what they pass on, and it is up to you and your bar association.

Mr. FRANCIS. Senator, you understand the resolution which I present was not just a resolution of the mineral section of the American Bar Association. It was the unanimous recommendation of the house of delegates of the American Bar Association, which is the official governing body of the whole American Bar Association.

Senator CONNALLY. Are those delegates selected by States?

Mr. FRANCIS. Those delegates are selected by different State organizations, State bar associations, and from every State in the Union, and the house of delegates, composed of those elected representatives from the various State bar associations, chairmen of different sections of the American Bar Association, past presidents, and so forth, is the representative organization, and the voice of the whole American bar.

Senator CONNALLY. All right, Mr. Francis.

Mr. FRANCIS. This matter has been discussed for 6 months before it was adopted. It was in every paper in the country; and if any of the lawyer members of the American Bar Association did not know that they held their midwinter meeting at Columbus, to consider these matters, I cannot understand it.

Senator CONNALLY. Is that all, Mr. Hadlick?

Mr. HADLICK. That is all.

Senator CONNALLY. Anything further, Mr. Francis?

Mr. FRANCIS. No.

Senator CONNALLY. We intended to close this hearing with the testimony of Mr. Ickes, but since Mr. Swanson has been called on here, I think we might go along with him for a little while.

STATEMENT OF E. B. SWANSON, ASSOCIATE DIRECTOR, PETROLEUM CONSERVATION DIVISION, DEPARTMENT OF THE INTERIOR

Senator CONNALLY. Mr. Swanson, I had not anticipated calling you at this time; but since you are here, and we have a little time, and you have already been questioned about some of these matters, I just thought I would give you an opportunity now to go ahead and state any other suggestions that you have with regard to this whole situation.

Mr. SWANSON. Senator, I had no intention——

Senator CONNALLY. First, let me ask you, what is your official connection?

Mr. SWANSON. I am an Associate Director of the Petroleum Conservation Division of the Department of the Interior.

Senator CONNALLY. Prior to that time, were you with the Bureau of Mines?

Mr. SWANSON. Immediately prior to this assignment, I was a member of the Petroleum Administrative Board; and prior to that time I was with the Bureau of Mines, having first gone with the Bureau of Mines in November 1920.

Senator CONNALLY. So you have, in one capacity or another, studied these questions since 1920?

Mr. SWANSON. That is correct; yes, sir.

Senator CONNALLY. In an official capacity?

Mr. SWANSON. Yes, sir.

Senator CONNALLY. We would be glad to hear from you about the desirability of the continuance of this act, or anything with regard to the general oil situation, since it became effective or immediately prior thereto.

Mr. SWANSON. Senator, I do not know that I could do anything more than to say that I endorse wholeheartedly the statement of the Secretary of the Interior. I think he covered the subject very thoroughly.

Senator CONNALLY. I thought I might ask you to develop certain points mentioned by him.

Mr. SWANSON. If you have some questions, sir, I will be very glad to answer them.

Senator CONNALLY. I thought I might have you develop a little more the matter of price relationship between gasoline and crude oil, and also these marketing pools that you folks authorized, in regard to hot gasoline or distress gasoline.

Mr. SWANSON. The relationship between refinery wholesale prices of gasoline and posted prices of crude oil varies with the different levels. When crude oil prices are low, the relationship between that price and the refinery price of gasoline is closer. With crude oil about 25 or 30 cents a barrel, the relationship is about 12 to 1. As the price of crude oil increases, the relationship also increases. In other words, gasoline is cheaper, in relationship to crude oil as the price of crude oil goes higher. That comes about from the fact that there are certain Standard costs which do not change with the price of crude oil. In other words, it costs as much to refine a barrel of 10-cent crude oil as it does to refine a barrel of \$1 crude oil. The pipe-line tariffs and rail charges and other costs also are standard, so that one cannot expect to have the same relative change in gasoline prices as in the changing crude-oil prices; but, at the average price of crude oil, which has been \$1.215 for the last 76 years, the normal relationship would be about 18.5 to 1.

Regarding the buying pools, Senator, we started with the first one in the month of December 1933. That was called the "National Petroleum Agency Agreement", in which about 27 signatory companies agreed to advance a sum of approximately \$10,000,000 to purchase, through a formal organization, distress gasoline, wherever it might be found in the United States. That agreement was approved by the Secretary of the Interior on January 19, 1934, but in his approval he included certain provisions. In other words, it was a modified approval. The signatory companies felt that, as it was a matter of contracts, the modifications imposed by the Secretary of the Interior should be included in the actual agreement. Hence, the matter was referred back to the signatory companies, and they, in turn, signed a modified agreement. That modified agreement was referred to the Department of Justice, and it is my recollection that the final word on that reference was not received by the Secretary of the Interior until sometime in August 1934. I recall, further, that it was provided then that there should be an additional 30-day period, for notice of a hearing, which would have meant that the hearing could not have been held until September 1934. In the meanwhile, the markets had become so demoralized, by excess gasoline in the

east Texas area, that the industry proposed and adopted a different procedure of handling the matter. The industry was in a rather desperate condition that summer. The proposal then was that the interested companies would be permitted to purchase distress gasoline in the east Texas field under a form of contract which was approved by the Secretary of the Interior, as Petroleum Administrator. They established an office in Tyler, Tex., and purchased gasoline during July and August.

There were two forms of contract. The first one permitted the purchase of gasoline from storage, as well as from current production; but the contract provided that the selling company would refine only legally produced oil, would abide by the refinery allocations assigned them under article 4 of the Petroleum Code, and would submit the reports which were required by various orders of the Secretary of the Interior. This first contract was subject to specific approval by the Secretary of the Interior.

Senator CONNALLY. What do you mean—the whole contract?

Mr. SWANSON. No; the specific contract, each contract.

Senator CONNALLY. Did that contract cover matters of prices at which they should buy the gasoline?

Mr. SWANSON. Yes, sir; each contract.

Senator CONNALLY. And resale prices?

Mr. SWANSON. No, sir; just the original price. So many barrels of gasoline would be bought at such a price.

Senator CONNALLY. That had to be approved by the Secretary of the Interior?

Mr. SWANSON. Yes, sir. It was a three-party contract and the Secretary of the Interior was a party to the contract.

Senator CONNALLY. All right.

Mr. SWANSON. There were, at the same time, certain refineries in the east Texas field which were contesting the validity of the Petroleum Code and section 9-C of the National Industrial Recovery Act; and they did not feel that they wished to become parties to a contract with the Secretary of the Interior, so a supplemental form of contract was developed, which was a two-party contract, between the buyer and the seller. The Secretary was not a party to that contract. Buying was conducted, then, under these two different types of contract, during July and August 1934. It was found out, however, that these companies were really endeavoring to "buy the ocean", as it was expressed at that time. They found that they could not do that.

Senator CONNALLY. You do not mean they were putting water in it?

Mr. SWANSON. No, sir; it was not water, it was "hot" gasoline; that is, it was excess gasoline. I do not mean to imply that they were buying the excess gasoline, but they found that excess gasoline was being produced simultaneously with their efforts to purchase legally produced gasoline, which offset the beneficial effects which had been hoped for. As a consequence, that buying program was terminated.

Then, as I recall now, it was the 6th of August 1934, that the Planning and Coordination Committee adopted a resolution requesting the appointment of a program committee, which was to purchase distress gasoline not only in the East Texas field but in all of the territory east of the Rocky Mountains, including the Mid-Continent

field. That program committee was approved by the Secretary of the Interior, as I recall it, on September 8, 1934, and began to operate, but that committee also encountered the same difficulties as the preceding buying arrangements did. It was impossible to normalize the gasoline market in the face of the excess gasoline which was being produced in East Texas.

The next step, then, was the establishment of a Federal Tender Board in East Texas, under section 9-c, which was done, as of October 23, 1934. The buying program was about to be resumed thereunder; but it was not resumed, because the Secretary of the Interior, when he was in Texas, in November 1934, suspended the buying program, under that last arrangement.

That suspension, however, did not terminate the efforts which were made during the period of the Petroleum Code to reestablish the buying program. I recall, Senator, the telegram which you sent to the Secretary of the Interior about that same time, a rather long telegram, telling of the desires of the East Texas refiners, who had been operating on legal crude, to have the buying program reinstated. There were at the same time, I recall, numerous telegrams from banks and storekeepers, and others, in and around Kilgore, and of independent refiners elsewhere in Texas.

The final decision on the resumption of the buying program, however, was never obtained. The matter was referred again to the Department of Justice, but no final action was ever taken on that last request for a resumption of the buying program.

I think that outlines, in brief, the history of buying programs.

Senator CONNALLY. Does that about cover that?

Mr. SWANSON. That outlines it.

Senator CONNALLY. In short, what was the purpose of all those arrangements, so far as the Government was concerned, and the Secretary of the Interior, the Oil Administrator?

Mr. SWANSON. It had a dual purpose of aiding the independent crude oil producer and the independent refiner. First, the excess gasoline threatened to break the crude-oil price to such an extent that small crude-oil producers would not have been able to meet their costs. In general it was to establish a normal relationship between gasoline and crude-oil prices. That could be done in one of two ways—either by lowering the crude-oil price to its normal relationship with the low-priced gasoline, which would have made it impossible for the crude-oil producers to continue operating, or to take the other route, which was to endeavor to raise the price of gasoline at the refinery to its proper relationship with the then-existing price of crude oil.

Senator CONNALLY. In other words, the purpose was to buy up the surplus or distress gasoline, and hold it for a rise in prices, was it not?

Mr. SWANSON. It was to remove the threat of that excess gasoline, so that the wholesale refinery prices would advance to a point where the independent refiner could operate profitably.

Senator CONNALLY. Of course, you are speaking now of the purpose of the Oil Administrator?

Mr. SWANSON. The purpose of the Oil Administration; yes, sir.

Senator CONNALLY. Of course, I suppose the purpose of the companies was to try to make some money out of it, buying it as cheaply as they could and selling it later on.

Mr. SWANSON. I would not be surprised but what some of them also had that motive. I wanted to say one further thing, if I may, in that connection. The experience, however, always indicated that these efforts to buy gasoline, to bring about the normal price relationship which was regarded as necessary, were never successful; and I doubt very much if any such effort to buy gasoline, upward, could have succeeded, or ever would have succeeded, had not the Connally Act removed the threat of that excess gasoline from interstate markets. I feel further that buying programs probably would never have been necessary had that excess gasoline not existed. Certainly, they would never have been necessary after we had the increased demand for gasoline, which became effective in the spring of 1935.

Senator CONNALLY. You have spoken, Mr. Swanson, of this proper relationship of gasoline and crude-oil prices. I believe you said when it is 25 or 30 cents a barrel, the relationship is about 12 to 1.

Mr. SWANSON. Twelve to one; yes, sir.

Senator CONNALLY. And that, at \$1 a barrel for crude—it is about 18.5 to 1?

Mr. SWANSON. Yes, sir.

Senator CONNALLY. Now, I would like to develop this thought, if you will: With crude oil selling at \$1 a barrel and the wholesale price of gasoline at 18.5 to 1, whatever that figures, 5 or 5.5—

Mr. SWANSON. Yes, sir.

Senator CONNALLY. Is that a fair and proper relationship, so far as the consumer is concerned? Is he getting gypped, or is he not?

Mr. SWANSON. I do not believe that the consumer would be harmed at all with that price relationship. It is a relationship which has been a normal one over many years of the oil industry's history, and certainly the record of gasoline prices, in the oil industry, does not show that they have ever harmed the consumer, when taxes are excluded.

Senator CONNALLY. Well, we are not dealing with taxes.

Mr. SWANSON. But when we talk of retail prices, we talk of them as exclusive of taxes.

Senator CONNALLY. Of course, excluding taxes. The Oil Administrator is not responsible for a lot of heavy State taxes, but I am talking about the wholesale price of gasoline at the refinery, before the tax is paid; and your testimony is that, on \$1 a barrel oil, one-eighteenth and five-tenths of that ought to be the price of gasoline?

Mr. SWANSON. Yes, sir; for the regular grade of gasoline, at Mid-Continent refineries.

Senator CONNALLY. Is there anything else you care to submit, Mr. Swanson?

Mr. SWANSON. No, sir.

Senator CONNALLY. There are no other members of the committee here. I believe that is all, Mr. Swanson. We certainly thank you very much for your very illuminating testimony.

At this point, we have a wire from Hon. Homer Hoch, corporation commissioner of the State of Kansas, which I will incorporate in the record. He was invited to appear. He states:

Regret matters pending here prevent my appearing connection with Connally Act. Think act should be continued.

That is signed "Homer Hoch."

At this point I shall also insert in the record the report of the Department of Justice, at Tyler, Tex., with respect to the legal attacks

on the so-called Connally Act, and the various stages and phases of prosecutions thereunder.

(The report referred to is as follows:)

REPORT OF FEDERAL PETROLEUM ENFORCEMENT, EAST TEXAS, OCTOBER 22, 1934, TO DECEMBER 31, 1936, INCLUSIVE, BY DEPARTMENT OF JUSTICE

TYLER, TEX., December 31, 1936.

RECAPITULATION

Part I.—Sec. 9 (c) N. I. R. A.

Total cases and matters (all closed)..... 71

Part II.—Connally Act

I. Cases:

A. Filed in court..... 248

1. Civil..... 26

2. Criminal..... 222

B. Dismissed and closed..... 195

1. Civil..... 19

2. Criminal..... 176

(a) Indictments..... 3

(b) Complaints..... 53

(c) Informations..... 120

C. Pending..... 53

1. Civil..... 7

2. Criminal..... 46

(a) Indictments..... 30

(b) Complaints..... 2

(c) Informations..... 14

II. Matters of investigation..... 60

A. Disposed of and files closed..... 40

B. Pending, civil and criminal..... 20

Total cases and matters..... 308

Grand total..... 379

Part I.—Sec. 9 (c) N. I. R. A.

Total cases and reports..... 71

I. Pending..... None

II. Closed..... 71

(For details see report of Feb. 28, 1935, and subsequent reports.)

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)

Total cases and reports..... 308

SECTION 1

Total cases and reports closed..... 235

I. Cases..... 195

A. Civil..... 15

- (1) *Utah Refining Co. et al. v. Meyers et al.* Equity no. 845, Tyler Div. U. S. D. C., E. D. Texas D. J. 128-75-1; Tyler no. 65-A; C. F. nos. 101 and 100. *Dismissed June 3, 1935.*
- (2) *United States v. Artex Refineries Sales Corp. et al.* Equity no. 668, U. S. D. C., S. D. Texas, Houston Tav. D. J. no. 128-71-1; Tyler no. 60-A; C. F. no. 59. *Final decree enjoining defendants entered June 25, 1935.*
- (3) *Tyler Pipe Line Co. v. Thompson et al. & Meyers et al.* Equity no. 859, U. S. D. C., E. D. Texas; Tyler Div. D. J. no. 128-75-2; Tyler no. 73-A; C. F. no. 106. *Dismissed as v. Federal Tender Board April 13, 1935. Injunction denied. Case dismissed May 30, 1935.*
- (4) *President of the United States v. Danciger Refining Company.* Equity no. 933, U. S. D. C., E. D. Texas, Tyler Div. D. J. no. 128-75-25; Tyler no. 99-A; C. F. no. 137. *Dismissed October 11, 1936.*
- (5) *East Texas Refining Co. v. Federal Tender Board No. 1 (case no. 1).* Equity no. 869, U. S. D. C., E. D. Texas, Tyler Div. D. J. no. 128-75-6; Tyler no. 67-A; C. F. no. 97. *Final decree entered October 9, 1935, sustaining order of FTB no. 1.*
- (6) *East Texas Refining Co. v. Federal Tender Board No. 1 (case #2).* Equity no. 874, U. S. D. C., E. D. Texas, Tyler Div. D. J. no. 128-75-7; Tyler no. 77-A; C. F. no. 98. *Final decree entered Oct. 9, 1935, sustaining order of FTB no. 1.*
- (7) *Haynes Oil Corporation v. Federal Tender Board No. 1.* Equity no. 897, U. S. D. C., E. D. Texas, Tyler Div. D. J. no. 128-75-8; Tyler no. 81-A; C. F. no. 114. *Judgment of district court reversing FTD no. 1 order affirmed by C. C. A., Dec. 5, 1935.*
- (8) *Utah Refining Co. et al. v. Meyers et al.* Equity no. 901, U. S. D. C., E. D. Texas, D. J. no. 128-75-1; Tyler no. 65-B; C. F. nos. 100 and 101. *Dismissed by complainant on January 18, 1936.*
- (9) *McMurrey Refining Company v. John F. Davis et al.* Equity no. 928, U. S. D. C., E. D. Texas, Tyler Div. D. J. no. 128-75-7; Tyler no. 96-A; C. F. no. 1 to 11-B, incl. *Dismissed by petitioner on January 18, 1936.*
- (10) *J. T. Oglesby et al. v. Mecom et al.* Equity no. 651, U. S. D. C., W. D. La., Shreveport Div. D. J. no. 128-33-2; Tyler no. 93-A; C. F. no. 136. *Final decree entered denying injunction and bill of complaint dismissed November 26, 1935. Time for appeal expired.*
- (11) *President of the United States v. Preston Bobo (Independent Gaso. Co.).* Equity no. 940, U. S. D. C., E. D. Texas, Tyler Div. D. J. no. 128-75-5; Tyler no. 72-C; C. F. nos. 104 and 105. *Permanent injunction granted Nov. 20, 1935. Time for appeal expired.*
- (12) *President of the United States v. F. F. Griswold.* Equity no. 677, U. S. D. C., W. D. La., Shreveport Div. D. J. no. 128-33-4; Tyler no. 82-B; C. F. no. 102. *March 31, 1936, District Court's decision affirmed by C. C. A. April 22, 1936, Mandate of Court sent to Dist. Court to be entered. File closed June 30, 1936.*
- (13) *East Texas Refining Co. et al. v. J. W. Steele et al.* Eq. 974. D. J. no. 128-75-87; Tyler no. TC-66; C. F. no. 182. *Dismissed April 11, 1936; file closed Aug. 31, 1936.*

SECTION 1—Continued

I. Cases—Continued.

A. Civil—Continued.

- (14) *United States v. Griffin & Winters et al.* Equity no. 628, U. S. D. C., W. D. La., Shreveport Div. D. J. 123-33-1; Tyler 70-A; C. F. 251. November 24, 1936. Final decree entered by consent against Griffin & Winters. Dismissed as to all other parties.
- (15) *East Texas Refining Co. et al. v. J. W. Steele et al.*, equity 979. D. J. 128-75-88; Tyler no. TC-66-A; C. F. 245. July 2, 1936: Petition dismissed. No appeal was taken.
- AA. Civil cases, Government not a party
- (1) *Hercules Oil Co. v. Ernest O. Thompson, et al.* Equity no. 807, U. S. D. C., W. D. Texas, Austin Div. D. J. no. 128-76-1; Tyler no. 68-A; closed file no. 99. Closed. No appeal taken.
- (2) *George G. Peterson v. Thompson, et al.* Equity no. 508, U. S. D. C., W. D. Texas, Austin Div. D. J. no. 128-76-2; Tyler no. 74-A; closed file no. 107. Closed. No appeal taken.
- (3) *J. R. Tolbert v. Baldwin, et al.* Equity no. 591, U. S. D. C., W. D. Texas, San Antonio Div. D. J. no. 128-76-4; Tyler no. 75-A; closed file no. 108. Closed. No appeal taken.
- (4) *Lacy v. Railroad Commission.* Equity no. 510, U. S. D. C., W. D. Texas, D. J. no. 128-76-5; Tyler no. 68-A; closed file no. 99. Closed.

B. Criminal

1. Criminal complaints before the U. S. commissioner, at Tyler, Tex.

Defendant	Comp. no.	D. J. no.	Tyler no.	Closed file
GROUP A ¹				
(1) C. C. Cunningham	767	128-75-9	92-A	178
(2) C. W. McCormick	768	128-75-9	92-A	178
(3) C. C. McRea	771	128-75-9	92-A	178
(4) W. C. Gipson	772	128-75-9	92-A	178
(5) B. F. Enoch	779	128-75-9	92-A	178
GROUP B ²				
(6) Jessie McHenry	829	128-75-30	TC-25	139
(7) Geo. H. McDonald	833	128-75-30	TC-13	154
GROUP C ³				
(8) Wynne Leake	878	128-75-69	TC-44	238
(9) G. A. Butler	880	128-75-67	TC-42	218
GROUP D ⁴				
(10) R. G. Ford	737	128-75-9	92-A	178
(11) Warren Sellers	739	128-75-9	92-A	178
(12) B. C. Burnett	744	128-75-9	92-A	178
(13) J. C. Ducote	770	128-75-9	92-A	178
(14) W. E. Scott	774	128-75-9	92-A	178
(15) R. O. Victory	803	128-75-24	TC-5-1	199
(16) R. O. Victory	804	128-75-24	TC-5-2	200
(17) H. W. Powell and N. M. Callahan	810	128-75-31	TC-1-2	204
(18) R. Sandridge	812	128-75-31	TC-1-3	207
(19) Homer Williams	813	128-75-36	TC-2-4	203
(20) J. H. Strickland	815	128-75-37	TC-4-2	202
(21) Lucian Joseph	818	128-75-24	TC-5-7	206
(22) G. W. Bartlett	820	128-75-37	TC-4-4	201

¹ All above complaints dismissed Oct. 14, 1935.

² Dismissed Feb. 10, 1936.

³ Complaint against Wynne Leake dismissed Mar. 18, 1936, and against G. A. Butler dismissed Feb. 20, 1936.

⁴ The above complaints were dismissed by the Government Oct. 19, 1936.

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 1—Continued

I. Cases—Continued.

B. Criminal—Continued.

1. Criminal complaints before the U. S. commissioner, at Tyler, Tex.—Continued.

Defendant	Comp. no.	D. J. no.	Tyler no.	Closed file
GROUP D				
(23) C. T. Weaver.....	821	128-75-37.....	TC-4-5.....	209
(24) Lee Harrison and J. R. Brooks.....	838	128-75-16.....	TC-11.....	210
(25) S. M. Lee.....	840	128-75-32.....	TC-14.....	211
(26) J. B. King.....	861	128-75-65.....	TC-40.....	212
(27) G. G. Daniel.....	860	128-75-59.....	TC-30.....	213
(28) E. B. Stafford.....	868	128-75-54.....	TC-37.....	214
(29) S. L. Emuls.....	879	128-75-68.....	TC-43.....	215
GROUP E ⁴				
(30) W. R. Simms & Homer Brewer.....	906	128-75-80.....	TC-58.....	197
(31) Carl Haney.....	903	TC-74.....	190.....	191
(32) W. J. Hix (Hicks).....	965	128-75-99.....	TC-83.....	192
(33) Luther S. Owens.....	966	128-75-93.....	TC-79.....	193
(34) Guy English.....	970	128-75-101.....	TC-71.....	194
(35) C. D. Moss.....	971	128-75-107.....	TC-70.....	195
(36) Cecil Malono.....	973	128-85-90.....	TC-77.....	189
(37) C. C. Miller.....	974	128-75-94.....	TC-84.....	189
(38) D. A. Presley.....	975	128-75-94.....	TC-84.....	198
(39) H. W. Caddis.....	980	128-75-107.....	TC-86.....	198
(40) C. H. Wagner.....	1007	128-75-74.....	TC-54.....	196
GROUP F ⁵				
(41) Wiley Page.....	-----	128-75-79.....	TC-61.....	255
(42) M. H. Hurrell.....	-----	128-75-79.....	TC-61.....	255
(43) Lewis J. Byrd.....	948	128-75-76.....	TC-57.....	242
(44) H. B. Stewart.....	923	128-75-73.....	TC-56.....	-----

⁴ The above complaints were dismissed by the Government Oct. 20, 1936.
⁵ The above cases grew out of violations of sec. 80, U. S. C. A., and were handled by the United States attorney and are carried in this report for record purposes only. The October 1936 grand jury did not return a bill against these defendants, and the complaints were dismissed.
⁷ Same as (43) supra.

2. Criminal informations, Tyler, Tex. (based on complaints previously filed)-----

Defendant	Comp. no.	Inf. no.	D. J. no.	Tyler no.	Closed file
GROUP A ¹					
(1) W. N. Banks.....	770	3845	128-75-9.....	92-A-5.....	127
(2) C. A. Stokes.....	778	3843	128-75-24.....	92-A-2.....	124
(3) Fred Jamell.....	805	3883	128-75-24.....	TC-5-3.....	143
(4) Geo. H. McDonald.....	804	3882	128-75-21.....	TC-5-2.....	200
(5) D. N. Lambert.....	822	3892	128-75-30.....	TC-6-2.....	145
(6) Geo. H. McDonald.....	837	3890	128-75-47.....	TC-10.....	152
(7) W. E. Turner.....	862	3916	128-75-61.....	TC-35.....	161
(8) J. D. Parker.....	864	3913	128-75-62.....	TC-32.....	160
(9) W. M. Banks.....	834	3902	128-75-33.....	TC-15.....	222
(10) Gabe McCall.....	812	3873	128-75-31.....	TC-1-3.....	207
(11) H. H. Richardson.....	884	3920	128-75-60.....	TC-48.....	165
GROUP B ²					
(12) C. C. Cunningham.....	736	3773	128-75-9.....	92-A.....	178
(13) O. W. McCormick.....	734	3774	128-75-9.....	92-A.....	178
(14) B. F. Endch.....	733	3775	129-75-9.....	92-A.....	178
(15) C. C. McRen.....	731	3776	129-75-9.....	92-A.....	178

¹ Dismissed at the February 1936 term of court.
² All of the above defendants pleaded guilty, were fined \$150 each and given jail sentences of 30 days each—suspended, at the February 1936 term of court.

32 REGULATE SHIPMENT OF PETROLEUM AND ITS PRODUCTS

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 1—Continued

I. Cases—Continued.

B. Criminal—Continued.

2. Criminal informations, Tyler, Tex.—Continued.

Defendant	Comp. no.	Inf. no.	D. J. no.	Tyler no.	Closed file
GROUP B—continued					
(16) Joe Blalock.....	732	3779	128-75-9.....	92-A.....	178
(17) F. G. Foss.....	735	3840	128-75-9.....	92-A.....	178
(18) Russell Ponder.....	741	3841	128-75-9.....	92-A.....	178
(19) G. H. Johnson.....	733	3842	128-75-9.....	92-A.....	178
(20) C. A. Stokes.....	743	3771	128-75-9.....	92-A-2.....	124
(21) W. M. Knecht.....	738	3772	128-75-9.....	92-A-4.....	126
(22) W. M. Banks.....	730	3777	128-75-9.....	92-A-5.....	127
(23) J. C. Stephens.....	769	3816	128-75-9.....	92-A-9.....	130
(24) C. Charles.....	766	3847	128-75-9.....	92-A-10.....	131
(25) Walker Eugene Dent.....	740	3848	128-75-9.....	92-A-11.....	132
(26) H. J. Tayar.....	805	3884	128-75-24.....	TC-6-3.....	143
(27) H. B. Hornshy.....	806	3885	128-75-24.....	TC-5-4.....	144
(28) E. L. Stegall.....	807	3886	128-75-24.....	TC-5-4.....	144
(29) J. Papa.....	808	3871	128-75-31.....	TC-1-1.....	110
(30) S. L. Brucato.....	808	3872	128-75-31.....	TC-1-1.....	110
(31) W. C. Gipson.....	800	3887	128-75-24.....	TC-6-1.....	147
(32) Bill T. Cox.....	811	3800	128-75-30.....	TC-6-1.....	147
(33) D. N. Lambert.....	811	3801	128-75-30.....	TC-6-1.....	147
(34) Gill McAllester.....	813	3926	182-75-30.....	TC-2-4.....	203
(35) C. P. Mays.....	814	3870	128-75-30.....	TC-2-3.....	219
(36) L. D. Hardwick.....	816	3888	128-75-24.....	TC-5-0.....	145
(37) J. C. Gibson.....	817	3580	128-75-37.....	TC-4-3.....	142
(38) S. C. Easter.....	823	3803	128-75-30.....	TC-6-3.....	149
(39) O. C. Ledbetter.....	824	3894	128-75-30.....	TC-6-4.....	150
(40) W. H. Jones.....	825	3880	128-75-24.....	TC-5-0.....	146
(41) S. M. Lee.....	826	3874	125-75-31.....	TC-4-1.....	141
(42) C. Broughton.....	835	3896	128-75-43.....	TC-8.....	156
(43) R. M. Miles.....	832	3905	128-75-35.....	TC-17.....	156
(44) B. J. Miles.....	832	3901	128-75-35.....	TC-17.....	156
(45) A. A. Jackson.....	836	3908	128-75-33.....	TC-19.....	157
(46) W. M. Banks.....	836	3907	128-75-33.....	TC-19.....	157
(47) Paul Graundish.....	837	3898	128-75-47.....	TC-10.....	153
(48) T. J. Jordan.....	839	3900	128-75-44.....	TC-12.....	153
(49) Charles Perry.....	841	3903	128-75-41.....	TC-16.....	155
(50) Charles Solomon.....	845	3897	128-75-43.....	TC-7.....	151
(51) J. D. Parker.....	860	3911	128-75-57.....	TC-20.....	159
(52) F. L. Reed.....	863	3918	128-75-56.....	TC 41.....	163
(53) H. A. Gandy.....	860	3912	128-75-59.....	TC 30.....	213
(54) H. H. Richardson.....	870	3917	128-75-51.....	TC 39.....	162
(55) Charles Blalock.....	865	3910	128-75-53.....	TC-28.....	158
(56) J. B. Blalock.....	865	3909	128-75-53.....	TC-28.....	158
(57) Cowboy Kendrick.....	881	3919	128-75-78.....	TC-45.....	164
(58) J. O. Harrison.....	882	3927	128-75-70.....	TC-13.....	166
(59) W. F. Jarrell.....	833	3901	128-75-39.....	TC-13.....	154
(60) W. E. Turner.....	857	3915	128-75-39.....	TC-34.....	244
GROUP C ³					
(61) George H. McDonald.....	803	3881	128-75-21.....	TC-5-2.....	200
(62) Gabe McCall.....	728	3778	128-75-9.....	92-A-9.....	125
GROUP D ⁴					
(63) D. A. Farrell.....	827	3875	128-75-36.....	TC-2-1.....	216
(64) W. R. Shums.....	814	3877	128-75-36.....	TC-2-3.....	219
(65) Archie Beavers.....	807	3879	128-75-37.....	TC-4-1.....	220
(66) W. S. Oden.....	908	3931	128-75-81.....	TC-47-2.....	228
(67) Joe Ammar.....	819	3934	128-75-24.....	TC-5-8.....	230
(68) L. R. Blakeley.....	976	3936	128-75-103.....	TC-73.....	217
(69) E. J. Burkhead.....	828	3937	128-75-36.....	TC-2-2.....	221
(70) T. M. Crain.....	961	3938	128-75-102.....	TC-72.....	237
(71) Duke Case.....	834	3939	128-75-40.....	TC-15.....	222
(72) J. C. Ducote.....	807	3942	128-75-37.....	TC-4-1.....	220
(73) Roy Fox.....	962	3914	128-75-100.....	TC-74.....	190
(74) L. G. Gartman.....	968	3945	128-75-99.....	TC-83.....	191

³ Defendants pleaded guilty. McDonald was fined \$300 and given a 90-day jail sentence, suspended. McCall was sentenced to 30 days in jail. February 1936 term of court.

⁴ On Oct. 5, 1936, all of the above defendants pleaded guilty; were fined \$150 each and given 60 days within which to pay, and each was sentenced to 30 days in jail suspended for 1 year conditioned on good behavior.

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 1—Continued

I. Cases—Continued.

B. Criminal—Continued.

2. Criminal informations, Tyler, Tex.—Continued.

Defendant	Comp. no.	Inf. no.	D. J. no.	Tyler no.	Closed file
GROUP D—continued					
(75) B. R. Hardeman.....	960	3946	128-75-98	TC-80.....*	226
(76) Jerry Kissick.....	963	3948	128-75-89	TC-76.....	225
(77) Wilson Leahy.....	869	3951	128-75-58	TC-86.....	231
(78) O. H. Miller.....	880	3954	128-75-67	TC-42.....	218
(79) Walter V. Newman.....	967	3955	128-75-95	TC-68.....	234
(80) Jack Roberts.....	955	3958	128-75-105	TC-81.....	235
(81) Jim Sanders.....	890	3959	128-75-72	TC-50.....	230
(82) Leon Sebastian.....	1008	3960	128-75-113	TC-72.....	237
(83) J. Y. Sullivan.....	1009	3961	128-75-111	TC-91.....	239
(84) Floyd Vernon.....	809	3962	128-75-24	TC-5-5.....	238
(85) E. A. Joseph.....	870	3968	128-75-68	TC-43.....	215
GROUP E ⁵					
(86) W. R. Simms.....	842	3897	128-75-38	TC-9.....	241
(87) Archie Beavers.....	831	3906	128-75-42	TC-18.....	224
(88) D. A. Farrell.....	867	3914	128-75-62	TC-34.....	244
(89) W. S. Oden.....	950	3932	128-75-92	TC-79.....	192
(90) W. S. Oden.....	883	3933	128-75-04	TC-47.....	229
(91) J. C. Darby.....	878	3940	128-75-69	TC-44.....	223
(92) J. C. DuCote.....	831	3943	128-75-42	TC-18.....	224
(93) J. H. Jackson.....	742	3947	128-75-9	92-A-13.....	205
(94) Wilson Leahy.....	994	3952	128-75-90	TC-77.....	195
(95) Walter V. Newman.....	964	3956	128-75-93	TC-75.....	233
(96) Walter V. Newman.....	982	3957	128-75-107	TC-86.....	198
GROUP F ⁶					
(97) J. O. (W. R.) Mayfield.....	871	3953	128-75-60	TC-38.....	232
(98) F. D. (F. O.) Emison.....	777	3844	128-75-9	92-A.....	206
(99) W. C. Darby.....	878	3941	128-75-69	TC-44.....	223
(100) T. E. Guillory.....	100	3963	128-75-85	TC-65.....	227

⁵ On Oct. 5, 1936, all of the above defendants pleaded guilty, were fined \$150 each and each sentenced to 30 days in jail, both sentence and fine being suspended for one year conditioned on good behavior. These defendants paid fines in other cases against them, or there were extenuating circumstances justifying the suspension of the sentence.

⁶ Oct. 5, 1936: Mayfield pleaded guilty and was fined \$100 and sentenced to 5 mos. in jail. Case dismissed against Emison as he has never been apprehended. Case dismissed against W. C. Darby because he was only 17 years of age and this was his first offense.

⁷ Oct. 5, 1936: Pleaded guilty; fined \$300 and given 90 days within which to pay.

3. Criminal indictments.

- (1) *U. S. v. Fred Jamell, Information No. 3827.* D. J. 128-75-9; Tyler No. 92-A-1; closed file 123. Pleaded guilty; fined \$150 and sentenced to 30 days in jail suspended conditioned on good behavior. February 1936 term of court.
- (2) *U. S. v. V. H. Smith, complaint no. 945.* D. J. 128-75-76; Tyler TC-57; closed file 242, Oct. 5, 1936: Defendant pleaded nolo contendere; received a sentence of 1 year and 1 day in the penitentiary suspended 5 years.⁸
- (3) *U. S. v. J. I. Staley, complaint no. 949.* D. J. 128-75-76; Tyler no TC-57; closed file 242 Oct. 5, 1936. Defendant pleaded nolo contendere; court imposed a fine of \$5,000, which was paid.⁸

⁸ These cases were based on violation of Sec. 80, U. S. C. C. and were handled by the U. S. District Attorney and are carried in this report for record purposes only, the original report having been submitted to Washington office through this office.

Part II.—*Connally Act (Feb. 22, 1935 to Dec. 31, 1936)*—Continued

SECTION 1—Continued

I. Cases—Continued.

4. Criminal complaints before U. S. Commissioner at Shreveport, Louisiana

- | | |
|---|-----|
| (1) <i>U. S. v. D. D. Bolin</i> , no. 7844, 128-33-4, 91-A..... | 177 |
| (2) <i>U. S. v. Neil Cooper</i> , no. 7845, 128-33-4, 91-A..... | 177 |
| (3) <i>U. S. v. G. W. Camp</i> , no. 7846, 128-33-4, 91-A..... | 177 |
| (4) <i>U. S. v. W. S. Harvin</i> , no. 7852, 128-33-4, 91-A..... | 177 |
| (5) <i>U. S. v. L. Lee</i> , no. 7850, 128-33-4, 91-A..... | 177 |
| (6) <i>U. S. v. W. N. Stewart</i> , no. 7861, 128-33-4, 91-A..... | 177 |
| (7) <i>U. S. v. Cecil Mallard</i> , no. —, 128-33-5, TC-20..... | 247 |
| (8) <i>U. S. v. Archie Beavers</i> , no. —, 128-33-8, TC-22..... | 252 |
| (9) <i>U. S. v. C. D. Harris</i> , no. —, 128-33-8, TC-21..... | 248 |

The above complaints were dismissed by the Government Nov. 9, 1936.

5. Criminal informations, at Shreveport, Louisiana

Group A:

- | |
|--|
| (1) <i>U. S. v. C. Adams</i> , no. 7836. |
| (2) <i>U. S. v. W. M. Chambers</i> , no. 7838. |
| (3) <i>U. S. v. J. W. Hicks, Jr.</i> , no. 7841. |
| (4) <i>U. S. v. J. W. Hicks, Sr.</i> , no. 7842. |
| (5) <i>U. S. v. J. T. Oglesby</i> , no. 7846. |
| (6) <i>U. S. v. Jewel Sanders</i> , no. 7849. |
| (7) <i>U. S. v. H. J. Van Dyke</i> , no. 7852. |

D. J. 128-33-4; Tyler 91-A; C. F. 177. On May 26, 1936, all the above defendants pleaded guilty, were fined \$150 in each case on the first count and given suspended sentences on the remaining counts.

Group B:

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|--|
| (8) <i>U. S. v. Ray Bryant</i> , no. 7837. |
| (9) <i>U. S. v. B. F. Griswold</i> , no. 7840. |
| (10) <i>U. S. v. A. L. Jones</i> , no. 7843. |
| (11) <i>U. S. v. Frank Priest</i> , no. 7847. |
| (12) <i>U. S. v. C. C. Price</i> , no. 7848. |
| (13) <i>U. S. v. Ralph L. Sims</i> , no. 7851. |

D. J. 128-33-4; Tyler 91-A; C. F. 177. Dismissed by the Government on May 26, 1936.

Group C:

- | |
|---|
| (14) <i>U. S. v. P. Davis</i> , no. 7839. |
| (15) <i>U. S. v. Wilson Leahy</i> , no. 7844. |

D. J. 128-33-4; Tyler 91-A; C. F. 177.

All defendants named under group C pleaded not guilty, but later entered pleas of guilty and were fined \$150 on first counts and given suspended sentences on remaining counts; May 26, 1936.

Group D:

- | | |
|---|-----|
| (16) <i>U. S. v. J. H. Maddox</i> , no. 7845, 128-33-4, 91-A..... | 177 |
| (17) <i>U. S. v. L. P. Stevens</i> , no. 7850, 128-33-4, 91-A..... | 177 |
| (18) <i>U. S. v. Charles Leahy</i> , no. 8014, 128-33-7, TC-23..... | 249 |
| (19) <i>U. S. v. J. C. Ducote</i> , no. 8013, 129-75-5, TC-20..... | 247 |
| (20) <i>U. S. v. W. A. Miles</i> , no. 8015, 128-75-8, TC-21..... | 248 |

On Nov. 24, 1936, all defendants pleaded guilty and imposition of sentence was suspended for 5 years.

II. Matters submitted by Federal petroleum agency no. 1, or Federal Tender Board No. 1, now closed

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|--|
| (1) <i>Texas Empire Pipe Line Co. of Texas</i> . D. J. no. 128-74-2; Tyler no. 80-A; closed file 112. <i>Case dropped</i> . File closed May 27, 1935. |
| (2) <i>Empire Pipeline Co.</i> D. J. no. 128-75-20; Tyler no. 80-B; closed file 113. <i>Case dropped</i> and files closed Aug. 19, 1935. |
| (3) <i>Chief Refining Co. et al.</i> D. J. no. 128-75-11; Tyler no. 83-A; closed files 64 and 64-A. <i>File closed</i> ; superseded by criminal complaint. |

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 1—Continued

II. Matters submitted by Federal petroleum agency no. 1, or Federal Tender Board No. 1, now closed—Continued.

- (4) *Gladewater Treating Plant et al.* D. J. no. 128-75-14; Tyler no. 84-A; closed file 117. *File closed; superseded by criminal complaints.*
- (5) *Jay Refining Company et al.* D. J. no. 128-75-13; Tyler no. 85-A; closed file 118. *File closed; superseded by criminal complaints.*
- (6) *Kil-Tex Refining Company et al.* D. J. no. 128-75-15; Tyler no. 86-A; closed file 119. *File closed; superseded by criminal complaint.*
- (7) *Rathmel Reclamation Plant et al.* D. J. no. 128-75-12; Tyler no. 87-A; closed file 120. *File closed; superseded by criminal complaint.*
- (8) *Swastika Refining Company et al.* D. J. no. 128-75-16; Tyler no. 88-A; closed file 122. *File closed; superseded by criminal complaint.*
- (9) *Upshur Treating Plant et al.* D. J. no. 128-75-17; Tyler no. 89-A; closed file 121. *File closed; superseded by criminal complaint.*
- (10) *Lake Refining Company, et al.* D. J. no. 128-75-18; Tyler no. 90-A; closed files 66 and 66-A. *File closed; superseded by criminal complaint.*
- (11) *Harry Shelton (Arkansas Gasoline Co.).* D. J. no. 128-75-29; Tyler no. 100-A and B; closed files 133 and 134. *File closed; superseded by criminal complaint.*
- (12) *Re: Certain motor trucks trucking oil in Louisiana (K-05010).* D. J. no. 128-75-31; Tyler no. TC-1. *Activities ceased; file closed Nov. 30, 1935; closed file 172.*
- (13) *Re: Certain motor trucks trucking oil from east Texas (K-05009).* D. J. no. —; Tyler no. TC-2; closed file 173. *Violations ceased. File closed Nov. 30, 1935.*
- (14) *Carl B. Langford and L. & E. Oil Co. (K-05095).* D. J. no. 128-75-48; Tyler no. TC-24; closed file 175. *Evidence not sufficient to prosecute. File closed Dec. 31, 1935.*
- (15) *Herman Aycock and Harry Williams (K-05086).* D. J. no. 128-75-49; Tyler no. TC-25; closed file 174. *Evidence not sufficient to justify prosecution. File closed December 31, 1935.*
- (16) *Re: Federal Tender Board v. Recalcitrant Witnesses (H. O. Radcliffe).* D. J. no. —; Tyler no. 101; closed file 138. *Ex parte petition drafted, but before filing witnesses compelled. File closed.*
- (17) *S. W. Whitson (K-05100).* D. J. no. 128-75-63; Tyler no. TC-31; closed file 171. *File closed February 29, 1936.*
- (18) *J. D. Parker (Forrest Parker) (K-05031).* D. J. no. —; Tyler no. TC-33; closed file 176. *Closed March 10, 1936; subject to be reopened.*
- (19) *P. M. Grubb (K-05315).* D. J. no. 128-75-105; Tyler no. TC-89; closed file 167. *File closed May 31, 1936; lack of proof of violation.*
- (20) *Fred McFarland (K-05316).* D. J. no. 128-75-108; Tyler no. TC-88; closed file 168. *File closed May 31, 1936; lack of evidence.*
- (21) *J. F. Shannon (K-05284).* D. J. no. 128-75-106; Tyler no. TC-82; closed file 169. *File closed May 14, 1936; insufficient evidence.*
- (22) *Addison & Co., S. G. Faust, agent (K-05122).* D. J. no. 128-75-84; Tyler no. TC-64; closed file 170. *File closed May 31, 1936; insufficient evidence.*
- (23) *Converse Refining Company (K-05002).* D. J. no. —; Tyler no. TC-94; closed file 179. *File closed July 17, 1936; company ceased operations.*

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 1—Continued

II. Matters submitted by Federal petroleum agency no. 1, or Federal Tender Board No. 1, now closed—Continued.

- (24) *Marimac Oil Company*. D. J. no. 128-75-24; Tyler no. 97-A; closed file 180. Closed June 10, 1936; violations ceased.
- (25) *F. S. Stratton: Stratton Oil Co.; S. & C. Oil Co., et al.* D. J. no. 128-75-22; Tyler no. 94-A; closed file no. 181. Superseded by criminal complaint.
- (26) *A. L. Wisener: Kansas City Southern Ry. Co.* (K-05006). D. J. no. 128-75-37; Tyler no. TC-4. Superseded by suit involving parties named.
- (27) *Ancoro Oil Co., Inc.: Kansas City Southern Ry., et al.* (K-05007). D. J. no. 128-75-30; Tyler no. TC-6. Superseded by suit. (See A. L. Wisener case.)
- (28) *Crystal Refining Company and truckers* (K-05001). D. J. no. 128-75-50; Tyler no. TC-27; closed file 181. File closed Aug. 31, 1936; violations ceased.
- (29) *Gabe McCall and R. S. Jackson* (K-05059). D. J. no. 128-75-31; Tyler no. TC-51; closed file 185. File closed Aug. 1936; violations ceased.
- (30) *D. N. Lambert and D. A. Sorrels* (K-05056). D. J. no. 128-75-30; Tyler no. TC-52; closed file 183. File closed Aug. 31, 1936; violations ceased.
- (31) *Gabe McCall and H. Curry* (K-05059). D. J. no. 128-75-31; Tyler no. TC-53; closed file 186. File closed Aug. 31, 1936; activities ceased.
- (32) *Bennett Pipe Line Corporation* (K-05049). D. J. no. 128-75-73; Tyler no. TC-56. Superseded by criminal complaints being handled by U. S. atty.
- (33) *Wiley Page and M. H. Harrell* (K-05104). D. J. no. 128-75-79; Tyler no. TC-61. File closed; superseded by criminal complaint filed against M. H. Harrell, being handled by U. S. attorney.
- (34) *Texas Oil Products: United East & West; Gladewater Ref. Co., corps. C. R. Starnes, E. L. Ames, J. E. G. Craig, and H. F. Richardson.* D. J. no. 128-75-28; Tyler no. TC-3. Superseded by criminal complaints; case being handled by U. S. atty.
- (35) *C. J. Dornes: L. A. & T. Ry. Co. et al.* (K-05008). D. J. no. 128-75-24; Tyler no. TC-5; closed file no. —. File closed Aug. 31, 1936; violations ceased.
- (36) *McDonald & Victory et al.* D. J. no. 128-75-23; Tyler no. 95-A; closed file 243. File closed Aug. 31, 1936; no further violations.
- (37) *J. Y. Sullivan and W. C. Roberts* (K-05323). D. J. no. 128-75-111; Tyler no. TC-91; closed file 239. Superseded by criminal complaint against Sullivan. Dropped as to Roberts.
- (38) *Gilliland Ref. Co. and Atchafalaya Oil Co., W. C. Adams, W. P. Williams, H. O. Radcliffe* (K-05050). D. J. no. 128-75-77; Tyler TC-62. Superseded by criminal complaints.
- (39) *F. A. Johnson v. W. P. Ford.* D. J. no. 128-73-1; Tyler no. TC-108; closed file 188. File closed Aug. 31, 1936.
- (40) *State of Texas v. 543,000 bbls. of oil et al. U. S. D. C. W. D. Texas, Austin Div. Eq. 599.* D. J. —; Tyler I-31. Filed September 14, 1936.

Nature of action: Petition to remove from State court action which sought to enjoin Federal authorities from distraining on 543,000 bbls. of oil for delinquent cases.

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 1—Continued

II. Matters submitted by Federal petroleum agency no. 1, or Federal Tender Board No. 1, now closed—Continued.

Disposition: Sept. 23 and 24, 1936: Conferences held at Washington, D. C., between the attorney general of the State of Texas and representatives of the Dept. of Justice, Dept. of Interior, and Treasury Dept. of the U. S., at which a satisfactory solution was reached. The State authorities dismissed that part of the action which sought to enjoin Federal authorities, and the Federal authorities joined with State authorities to have the action remanded to the State court to be tried out on the question of the State's right to confiscate the oil. The Federal authorities further agreed that the restraint by Federal authorities against this oil would be dismissed. The action was dismissed against the Federal authorities and our files are closed.

SECTION 2.—PENDING CASES AND REPORTS

Total cases and reports pending-----

I. Civil cases in which United States or agency is a party-----

- (1) *Atlas Pipeline Corporation, Inc. v. Federal Tender Board No. 1. Equity no. 967, U. S. D. C., E. D. Texas, Tyler Div. D. J. 128-75-82; Tyler TC-56.*

Filed: March 16, 1936.

Charge: Appeal from order of F. T. B. denying certificates of clearance on application for tenders.

Disposition:

Apr. 1, 1936: Response of F. T. B. and transcript of record of hearing before board filed.

Apr. 8, 1936: Heard and submitted with Eq. 972, at Sherman, Texas.

May 9, 1936: Consolidated with Eq. 972. Court made findings of fact and conclusions of law. Action of F. T. B. affirmed; petition for review dismissed and appeal taken on June 10, 1936.

Nov. 6, 1936: Argued before Circuit Court of Appeals, at Ft. Worth, Texas, and submitted.

Dec. 10, 1936: Affirmed in part and reversed in part and remanded for revision in accordance with opinion.

Dec. 31, 1936: Pending.

- (2) *United States v. Atlas Pipeline Corporation, Inc., and Hercules Gasoline Company, Inc., Equity 972. D. J. 128-75-75; Tyler TC-55-A.*

Filed: April 2, 1936.

Charge: Injunction suit to prevent violation of the Connally Act and regulations.

Disposition:

April 8, 1936: Heard on complainant's motion for a preliminary injunction.

April 9, 1936: Preliminary injunction granted.

May 9, 1936: Heard on merits; permanent injunction granted; findings of fact and conclusions of law and final decree entered.

June 10, 1936: Appeal granted. For further developments see Case 1, supra.

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 2.—PENDING CASES AND REPORTS—Continued

I. Civil cases in which United States or agency is a party—Continued.

- (3)
- United States v. Texas Company et al., Equity 980.*
- D. J. 128-75-96
-
- Tyler TC-66-B.

Filed: May 16, 1936.

Charge: Injunction proceedings against five oil and pipeline companies to enjoin the transportation in interstate commerce of excess Louisiana Rodessa oil, in violation of the Connally Act.

Disposition:

May 16, 1936: Heard at Sherman, Texas, on motion for a temporary restraining order. Restraining order not issued, but defendants agreed to impound 71,000 bbls. of the oil in question and hold same pending final disposition of the suit. Case passed to May 21, 1936, for hearing on motion for preliminary injunction.*May 21, 1936:* Case heard on motion for a preliminary injunction. Preliminary injunction granted and case passed to May 28 for hearing on merits.*May 28, 1936:* Heard on merits and motion for final decree and submitted.*June 12, 1936:* Court made findings of fact and conclusions of law and entered final decree enjoining the defendants, East Texas Pipeline Company and East Texas Refining Company as prayed for in the bill of complaint.*Sept. 10, 1936:* Appeal granted.*Oct. 8, 1936:* Additional time (60 days) allowed to file transcript of record.*Dec. 9, 1936:* Transcript of record filed with the clerk at New Orleans and case assigned number 8287.*Dec. 31, 1936:* Pending.

- (4)
- United States v. A. L. Wisener et al. (K-05006 and K-05007), Equity No. 706, U. S. D. C., W. D. La., Shreveport Division.*
- D. J. 128-75-36; Tyler TC-4.

Filed: June 9, 1936.

Charge: Injunction proceedings against defendants to enjoin the shipment in interstate commerce of contraband oil in violation of the Connally Act.

Disposition:

June 10, 1936: Temporary restraining order granted by Judge Foster of the C. C. A., 5th Circuit, at New Orleans. Temporary restraining order thereafter extended from time to time to July 10, 1936.*July 10, 1936:* Preliminary injunction granted by Judge Foster at New Orleans enjoining the defendant, Wisener, as prayed for in the bill of complaint. Dismissed as to other defendants.*Dec. 31, 1936:* Negotiations under way to have preliminary injunction made permanent.

- (5)
- Angus Spear v. Thomas D. Humphreys and Federal Tender Board No. 1, et al. Equity 895, U. S. D. C., N. D. Texas, Fort Worth Division.*
- D. J. 128-73-2; Tyler TC-114.

Filed: October 24, 1936.

Charge: Suit to enjoin F. T. B. and others from interfering with the sale or transportation of unlawful oil.

Disposition:

Nov. 13, 1936: Motion of F. T. B. to dismiss bill of complaint filed. Set for hearing Nov. 27.*Nov. 27, 1936:* Petition dismissed as against F. T. B.*Dec. 31, 1936:* Case will be transferred to closed cases in next report.

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 2.—PENDING CASES AND REPORTS—Continued

I. Civil cases in which United States or agency is a party—Continued.

- (6) *Ocean Oil Company v. C. V. Terrell and Federal Tender Board No. 1, et al. Equity 896, U. S. D. C., N. D. Texas, Fort Worth Division.* D. J.—; Tyler TC-118.

Filed: October 24, 1936.

Charge: Suit to enjoin F. T. B. and others from interfering with the sale or transportation of unlawful oil.

Disposition: Same as case 5, supra.

- (7) *Ex parte—In the matter of application of FTB #1 for an order requiring W. M. Paull and David L. Merzbacher to give testimony, Equity #997, U. S. D. C., E. D. Texas, Tyler Division.*

Filed: November 19, 1936.

Nature of action: Ex parte petition for an order to show cause why Paull and Merzbacher should not testify in compliance with subpoena issued by FTB #1.

Disposition:

Nov. 19, 1936: Order to show cause citing Paull and Merzbacher to appear before the court on Dec. 3, 1936.

Dec. 2, 1936: Case continued indefinitely by agreement of parties.

Dec. 8, 1936: Paull and Merzbacher appeared before F. T. B. #1, Kilgore, Texas, voluntarily and gave the testimony desired.

Dec. 15, 1936: Petition dismissed on motion of FTB.

Dec. 31, 1936: Case will be transferred to closed cases in next report.

II. Criminal cases.....

46

A. Tyler.....

37

1. Indictments.....

30

(a) Under the Connally Act.....

None

(b) Under sec. 35 U. S. Criminal Code.....

30

(The following cases are being handled by Honorable Steve M. King, U. S. attorney, and are carried in this report for record purposes only because the false reports were made to Federal Tender Board).

Group A	Comp.	In-dict.	D. J.	Tyler
(1) <i>U. S. v. H. O. Radcliffe.</i>	957	4085	128-75-77	TC-62.
(2) <i>U. S. v. W. C. Adams.</i>	956	4086	128-75-77	TC-62.
(3) <i>U. S. v. J. B. Sowell.</i>	944	4087	128-75-83	TC-62.
(4) <i>U. S. v. Albert J. McDonald.</i>	946	4089	128-75-83	TC-62.
(5) <i>U. S. v. J. B. Sowell.</i>	947	4090	128-75-83	TC-63.
(6) <i>U. S. v. L. R. Rankin.</i>	947	4090	128-75-83	TC-63.
(7) <i>U. S. v. A. C. Miles.</i>	947	4090	128-75-83	TC-63.
(8) <i>U. S. v. H. F. Richardson.</i>	893	4101	128-75-28	TC-3-1.
(9) <i>U. S. v. J. E. G. Craig.</i>	890	4102	128-75-28	TC-3-2.

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Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 2.—PENDING CASES AND REPORTS—Continued

II. Criminal cases—Continued.

A. Tyler—Continued.

1. Indictments—Continued.

(b) Under sec. 35 U. S. Criminal Code—Con-
Filed: Indictments returned October
12, 1936.

Charge: Violation Sec. 35 U. S. Crimi-
nal Code (sec. 80, title 18, U. S.
C. A.).

Disposition:

October 12, 1936: Held under
bonds previously given U. S.
commissioner.

December 31, 1936: Notified to
appear on January 4, 1937 for
arraignment and plea.

Group B	Comp.	In- dict.	D. J.	Tyler
(10) <i>U. S. v. Roy Jenkins.</i>	1028	4103	46-75-11.	TC-93.
(11) <i>U. S. v. Wol- lace Jenkins.</i>	1028	4103	46-75-11.	TC-93.
(12) <i>U. S. v. Ham- ilton Jenkins.</i>	1028	4103	46-75-11.	TC-93.
(13) <i>U. S. v. D. D. Braly.</i>	1028	4103	46-75-11.	TC-93.
(14) <i>U. S. v. Guy Johnson.</i>	1029	4104	46-75-11.	TC-93.
(15) <i>U. S. v. Harry Johnson.</i>	1035	4105	46-75-11.	TC-93.
(16) <i>U. S. v. A. B. Gillis.</i>	1033	4106	46-75-11.	TC-93.
(17) <i>U. S. v. E. E. Griffin.</i>	1034	4107	46-75-11	TC-93.
(18) <i>P. S. v. Howard Johnson.</i>	1036	4108	46-75-11.	TC-93.
(19) <i>U. S. v. Ralph Holman.</i>	1031	4109	46-75-11.	TC-93..
(20) <i>U. S. v. H. A. Montgomery.</i>	1037	4110	46-75-11.	TC-93..
(21) <i>U. S. v. J. C. Jack.</i>	1032	4111	46-75-11.	TC-93..
(22) <i>U. S. v. C. C. Dennis.</i>	1030	4112	46-75-11.	TC-93..
(23) <i>U. S. v. D. D. Bruly.</i>	1028	4113	46-75-11.	TC-93..
(24) <i>U. S. v. R. E. Jenkins.</i>	1028	4114	46-75-11	TC-93..
(25) <i>U. S. v. W. E. Shackelford.</i>	1028	4115	46-75-11.	TC-93..
(26) <i>U. S. v. Ham- ilton Jenkins.</i>	1028	4116	46-75-11.	TC-93..
(27) <i>U. S. v. H- land R. Smith.</i>	923+A	4117	128-75-73.	TC-56..
(28) <i>U. S. v. Clyde V. Shuford.</i>	923+B	4117	128-75-73.	TC-56..
(29) <i>U. S. v. L. R. Thomson.</i>	923+C	4117	128-75-73.	TC-56..
(30) <i>U. S. v. C. Franks.</i>	952	4118	TC-59..	

Filed: Indictments returned October 13, 1936.

Charge: Violation of sec. 35 U. S. Criminal Code (sec. 30, title 18,
U. S. C. A.).

Disposition:

October 13, 1936: Held under bonds previously given U. S.
commissioner.

December 31, 1936: Notified to appear on January 4, 1937,
for arraignment and plea.

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 2.—PENDING CASES AND REPORTS—Continued

II. Criminal Cases—Continued.

2. Complaints

- (1) *U. S. v. Wilson Lechy*, Complaint No. D. J. 128-75-90; Tyler TC-95.

Filed: July 13, 1936.

Charge: Violation sec. 5 (b) of the Connally Act.

Disposition: Dec. 31, 1936: Not apprehended.

3. Informations

- (1) *U. S. v. J. M. Green* (Comp. 969 filed May 4, 1936) inf. no. 3929. D. J. 128-75-97; Tyler TC-69.

- (2) *U. S. v. J. M. Green* (Comp. 981 filed May 16, 1936) inf. no. 3930. D. J. 128-75-97; Tyler TC-85.

Charge: Violation sec. 5 (b) of the Connally Act.

Disposition:

Sept. 11, 1936: Informations filed.

Oct. 5, 1936: Defendant failed to make appearance in court; judgment nisi entered in each case; capias issued for the arrest of the defendant.

Dec. 16, 1936: Defendant apprehended at Wichita Falls, Tex., and made bond returnable to Tyler, Tex., February 8, 1937.

Dec. 31, 1936: Pending.

- (3) *U. S. v. Bill Lasiter* (Comp. 835 filed Nov. 21, 1935) inf. no. 3949. D. J. 128-75-43; Tyler TC-81.

- (4) *U. S. v. Herbert (Bill) Lasiter* (Comp. 972 filed May 4, 1936) inf. no. 3950. D. J. 128-75-104; Tyler TC-78.

Charge: Violation of sec. 5 (b) of the Connally Act.

Disposition:

Sept. 11, 1936: Informations filed.

Oct. 5, 1936: Defendant failed to make appearance in court; judgment nisi entered in each case; capias issued for the arrest of the defendant.

Dec. 31, 1936: Pending.

- (5) *U. S. v. W. E. Turner* (Comp. no. 1080 filed Sept. 9, 1936) inf. no. 3964. D. J. 128-33-11; Tyler TC-102.

Charge: Violation of sec. 5 (b) of the Connally Act.

Disposition:

Sept. 11, 1936: Informations filed.

Oct. 5, 1936: Defendant pleaded not guilty. Case set for hearing Oct. 7, 1936.

Oct. 7, 1936: Government's main witness, Arthur B. Wright, failed to appear and Government asked for a continuance.

Oct. 14, 1936: Writ of attachment issued for Wright, to compel him to appear and testify.

Dec. 31, 1936: Pending.

- (6) *U. S. v. C. Adams*, complaint no. 775, inf. 3935. D. J. 128-75-9; Tyler 92-A-12.

Filed: September 25, 1935.

Charge: Violations of sec. 5 (b) of the Connally Act.

Disposition:

Apr. 16, 1936: Apprehended on fugitive warrant.

Dec. 31, 1936: Case will be disposed of at February term of court.

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Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 2.—PENDING CASES AND REPORTS—Continued

II. Criminal Cases—Continued.

B. Shreveport, La.----- 1

1. Indictments----- None

2. Complaints----- 1

(1) *U. S. v. Arthur B. Wright, comp. no. 229.* D. J. 128-33-11; Tyler TC-102-A.

Filed: July 13, 1936.

Charge: Violation sec. 5 (b) of the Connally Act.

Disposition:

July 13, 1936: Apprehended.

Dec. 31, 1936: Pending.

C. Texarkana, Texas----- 8

1. Indictments----- None

2. Complaints----- None

3. Informations----- 8

(1) *U. S. v. W. D. Smith (Comp. no. 797) Inf. no. 3373.*
D. J. 128-75-3; Tyler 71-A.

(2) *U. S. v. J. R. Park (Comp. no. 793) Inf. no. 3921.*
D. J. 128-75-5; Tyler 72-B.

(3) *U. S. v. Preston Bobo (Comp. no. 792) Inf. no. 3923.*
D. J. 128-75-5; Tyler 72-B.

(4) *U. S. v. W. E. Orr (Comp. no. 790) Inf. no. 3923.*
D. J. 128-75-4; Tyler 72-B.

(5) *U. S. v. W. E. Orr (Comp. no. 789) Inf. no. 3924.*
D. J. 128-75-5; Tyler 69-A.

(6) *U. S. v. Preston Bobo (Comp. no. 791) Inf. no. 3925.*
D. J. 128-75-5; Tyler 72-B.

Filed: At various times.

Charge: Violation of sec. 5 (b) of the Connally Act.

Disposition:

Oct. 5, 1936: Transferred from Tyler Division to Texarkana Division for hearing during January 1937 term of court at Texarkana.

Dec. 31, 1936: Pending, set for trial Jan. 18, 1937.

(7) *U. S. v. Frank Stratton.* No. 17. D. J. 128-75-22; Tyler 94-A.

Filed: Mar. 13, 1936.

Charge: Violation sec. 5 (b) of the Connally Act.

Disposition:

Mar. 25, 1936: Arrested; released on bond.

Apr. 1, 1936: Supplemental report received.

May 3, 1936: Information filed.

May 11, 1936: Defendant pleaded not guilty and case continued.

Dec. 31, 1936: Set for hearing Jan. 18, 1937.

(8) *U. S. v. Joe House, — no. —.* Apprehended ———
D. J. —; Tyler TC-108.

Filed: October —, 1936: Complaint filed.

Charge: Violation sec. 5 (b) of the Connally Act.

Disposition:

Dec. 11, 1936: Information filed.

Dec. 31, 1936: Pending, set for trial Jan. 18, 1937.

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 2.—PENDING CASES AND REPORTS—Continued

III. Matters submitted by investigative units, Department of the Interior.

20

- (1) *Mathews Refining Co., A. R. Mathews, pres.* (K-05322-O. E.).
D. J. 128-75-121; Tyler TC-103.
Received: July 14, 1936.
Charge: Refusing to allow inspection of records and failure to file reports.
Disposition:
July 14, 1936: Submitted copy of report with comments to Washington office.
Dec. 31, 1936: Pending.
- (2) *Joy A. McCartney, receiver, and C. A. Craftob, auditor* (K-05140-O. E.). D. J.—; Tyler TC-105.
Received: July 14, 1936.
Charge: Making and filing false reports in violation of sec. 35, U. S. Criminal Code.
Disposition:
July 16, 1936: Submitted copy of report to Washington office with comments; to be referred to the Criminal Division for action.
December 31, 1936: Pending.
- (3) *A. & P. Pipe Line, A. F. Anding, owner* (K-369-O. E.). D. J. 128-75-123; Tyler TC-98.
Received: July 14, 1936.
Charge: Failure to file monthly reports.
Disposition:
July 21, 1936: Submitted copy of report to Washington office with comments.
Dec. 31, 1936: Pending.
- (4) *Panama Refining Co., A. F. Anding* (K-05078-O. E.). D. J. 128-75-122; Tyler TC-99.
Received: July 14, 1936.
Charge: Refusing to permit representatives of Government to inspect records, etc.
Disposition:
July 21, 1936: Submitted copy of report with comments to Washington office.
Dec. 31, 1936: Pending.
- (5) *Royal Oil & Refining Co.* (K-05340-O. E.). D. J. 128-75-117; Tyler TC-104.
Received: July 14, 1936.
Charge: Refusing to comply with rules and regulations promulgated under the Connally Act.
Disposition:
July 17, 1936: Submitted copy of report to Washington.
Dec. 31, 1936: Pending.
- (6) *C. W. Curtis, Receiver, Clay Refining Co.* (K-05348-O. E.). D. J. 128-75-119; Tyler TC-101.
Received: July 14, 1936.
Charge: Refusing to file reports and permit inspection of records.
Disposition:
July 21, 1936: Submitted copy of report with comments to Washington.
Dec. 31, 1936: Pending.
- (7) *Southport Petroleum Company* (K-05336-O. E.). D. J. 128-75-120; Tyler TC-100.
Received: July 21, 1936.
Charge: Failing to file reports and refusing to permit inspection of records.
Disposition:
July 21, 1936: Submitted copy of report to Washington.
Dec. 31, 1936: Pending.

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 2.—PENDING CASES AND REPORTS—Continued

III. Matters submitted by investigative units—Continued.

- (8) *Anding Oil & Refining Co. W. F. and A. F. Anding* (K-331).
R. D. Watson and Martin Flood. D. J. —; Tyler TC-97.

Received: July 28, 1936.
 Charge: False billing, etc.

Disposition:

July 28, 1936: Forwarded copy of report to Washington and also a copy of report to the U. S. Attorney, Shreveport. Complaints filed by U. S. Atty.

Dec. 31, 1936: Pending.

- (9) *Preston Bobo, trading as Independent Gasoline Co.* (K-05081-O. E.). D. J. 128-75-5; Tyler TC-60.

Received: February 20, 1936.

Charge: Violation of Federal injunction in case of *U. S. v. Preston Bobo*, Equity 940, U. S. D. C. E. D. Texas.

Disposition:

-----: Supplemental report received.

-----: Supplemental report (no. 2) received.

Dec. 31, 1936: Contempt proceedings will be filed against Preston Bobo during January 1937.

- (10) *Gilliland Refining Co. et al.* (K-05276-O. E.). D. J. 128-75-114; Tyler TC-62-A.

Received: June 9, 1936.

Charge: Transporting untendered oil in violation of the Connally Act.

Disposition:

June 17, 1936: Submitted copy of report to Washington office.

Dec. 31, 1936: Pending.

- (11) *Gilliland Refining Company, et al.* (K-05047-O. E.). D. J. 128-75-116; Tyler TC-62-B.

Received: June 19, 1936.

Charge: False billing, etc.

Disposition:

July 16, 1936: Transmitted copies of report to Washington office for review.

Dec. 31, 1936: Pending.

- (12) *Sklar Oil Co.—Gilliland Pipe Line Co., et al.* (K-05306-O. E.). D. J. —; Tyler TC-109.

Received: September 26, 1936.

Charge: Violation sec. 80, title 18, U. S. Code Annotated.

Disposition:

Oct. 16, 1936: Copies of report submitted to Washington office to be referred to the Criminal Division for action.

Dec. 31, 1936: Pending.

- (13) *Solver Refining Company, Inc.* (K-05321-O. E.). D. J. 128-75-127; Tyler TC-110.

Received: September 26, 1936.

Charge: Shipping cast Texas oil products in interstate commerce without Federal tenders.

Disposition:

Oct. 16, 1936: Copy of report transmitted to Washington.

Nov. 11, 1936: Received copy of Mr. Snyder's memorandum in which he concurs in the Tyler office's opinion that the report does not disclose a good cause of action.

Nov. 18, 1936: File closed.

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 2.—PENDING CASES AND REPORTS—Continued

III. Matters submitted by investigative units—Continued.

- (14)
- Channel Transport & Marketing Co.*
- (K-362). D. J. 128-74-4; Tyler TC-111.

Received: Oct. 16, 1936.

Charge: Violation sec. 37 U. S. C. Code, charging conspiracy to violate the Connally Act.

Disposition:

Oct. 16, 1936: Copies of report transmitted to Washington to be referred to the Criminal Division.*Dec. 31, 1936:* Pending.

- (15)
- McCutchin Drilling Co., et al.—C. C. Dennis*
- (K-390). D. J. —; Tyler TC-112.

Received: October 16, 1936.

Charge: Violation sec. 80, title 18, U. S. C. A., by making false reports to F. T. B.

Disposition:

Oct. 16, 1936: Copies of report transmitted to Washington to be referred to Criminal Division.*Dec. 31, 1936:* Pending.

- (16)
- Gilliland Refining Co.*
- (K-371). D. J. 128-75-126. TC-113.

Received: October 16, 1936.

Nature of report: Possibility of securing search warrant.

Disposition:

Oct. 16, 1936: Copy of letter of inquiry from Chas. J. Eastman, with accompanying papers, referred to Washington with comments.*Oct. 30, 1936:* Letter from Mr. Dickinson with suggestions.*Nov. 18, 1936:* Letter of suggestions to Mr. Eastman.*Dec. 31, 1936:* Pending.

- (17)
- Trinity Refining Company, David Donoghue, trustee; V. E. Jackson and Pete Skouby*
- (K-406). D. J.—TC-116.

Received: November 17, 1936.

Charge: Violation of sec. 80, title 18, U. S. C. A. filing false reports with F. T. B.

Disposition:

Nov. 17, 1936: Copies of report transmitted to Washington for reference to Criminal Division.*Dec. 31, 1936:* Pending.

- (18)
- Minnesota East Texas Oil Co.; Fred Pederson and W. I. Parker*
- (K-05112) D. J. —; TC-117.

Received: November 17, 1936.

Charge: Violation of sec. 80, title 18 U. S. C. A. filing false monthly reports with F. T. B.

Disposition:

Nov. 17, 1936: Copies of report submitted to Washington to be referred to the Criminal Division.*Dec. 31, 1936:* Pending.

- (19)
- Red Hat Oil Company*
- (K-05381). D. J. —; TC-118.

Received: November 25, 1936.

Charge: Violation sec. 5 (b) of the Connally Act.

Disposition:

Nov. 27, 1936: Copy of report transmitted to Washington with recommendation that no prosecution be instituted because violations were unintentional and had ceased.*Dec. 31, 1936:* To be transferred to closed matters in next report.

Part II.—Connally Act (Feb. 22, 1935 to Dec. 31, 1936)—Continued

SECTION 2.—PENDING CASES AND REPORTS—Continued

III. Matters submitted by investigative units—Continued.

(20) Brit Curtright (K-411-O. E). D. J. —; TC-119.

Received: December 16, 1936.

Charge: Violation sec. 5 (b) of the Connally Act.

Disposition: Dec. 31, 1936: Pending.

NOTE.—The section 80 cases, *supra*, are being handled by Honorable Steve M. King, United States attorney.

The so-called "refusal" cases involve companies doing an intrastate business only. It has been deemed advisable to withhold action pending reenactment of the Connally Act.

RICHARD H. HILL,
Special Assistant to the Attorney General.

Senator CONNALLY. Is there anyone else here who cannot conveniently be here Monday and who wants to go on at this time? If not, we will adjourn at this time until next Monday morning.

We thank you very much, gentlemen.

(Whereupon, at 12 m., the subcommittee adjourned until Monday, Feb. 15, 1937, at 10:30 a. m.)

REGULATION OF SHIPMENT OF PETROLEUM IN INTER-STATE COMMERCE AND FOREIGN COMMERCE

MONDAY, FEBRUARY 15, 1937

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON FINANCE,
Washington, D. C.

The subcommittee met, pursuant to adjournment, in room 450, Senate Office Building, at 10:30 a. m., Senator Tom Connally presiding.
Present: Senators Connally and Townsend.

Senator CONNALLY. The committee will come to order, please.

I have here a telegram from Governor Marland, of Oklahoma, dated February 13 and reading as follows:

DEAR SENATOR: I am very sorry that I will be unable to appear before the committee in support of the reenactment of your hot-oil law. Secretary Ickes is reported by the press to have testified that the Connally amendment made possible the enforcement of our oil conservation and proration laws. I sincerely endorse that view. In the interest of conservation of our petroleum resources I consider it most essential that the Connally amendment be reenacted and made a permanent law. Hope that you will express to your committee my regret at my inability to be present. If you think it necessary I will send a personal representative to Washington to appear for me.

I have also a telegram from Reford Bond, chairman, and A. S. J. Shaw, commissioner, of the Oklahoma Corporation Commission stating:

The Corporation Commission of the State of Oklahoma wishes to add their endorsement to and urge the passage of the bill extending the Connally hot-oil law.

Now, we have a number of witnesses this morning from distant points, and I want to try to hold these hearings in such a way as will be convenient for them.

Chairman Thompson, would you like to go on early?

Mr. THOMPSON. I believe I would defer to the attorney general, Senator. He is here and he comes ahead of me in dignity and rank.

Senator CONNALLY. I do not know about rank; we do not pay much attention to rank here.

If you will come right around here, General, and give your name to the stenographer.

STATEMENT OF HON. WILLIAM C. McCRAW, ATTORNEY GENERAL OF THE STATE OF TEXAS

Mr. McCRAW. My name is William C. McCraw. I am attorney general of the State of Texas and have been for a bit more than the past 2 years. Among the duties of the attorney general is the representation of the Railroad Commission of the State of Texas, which by

law was charged with the conservation of the natural resources that are embraced in the purposes of what is commonly known as the Connally Act; I think that is sufficient to describe me.

Senator CONNALLY. General McCraw, we have before this committee the matter of Senate bill 790, whose effect is to make permanent law the act sometimes called the Connally Act, which prohibits the interstate shipment of oil produced in violation of State laws or regulations. I will ask you whether or not in the course of your duties as attorney general in enforcing the State laws of Texas, if you have had occasion to observe the operation of this act and whether or not you care to express any opinion as to the desirability of its continuance.

Mr. McCRAW. Senator, I would say that Texas, I would feel, practically unanimously, both those in the industry and the general citizenship, are highly appreciative of the Connally Act, and I certainly feel deeply indebted to you as its author and to Congress for the passage of that act. At the time it was passed we were beginning for the first time to take control of the industry in Texas from the standpoint of conservation and its effect has been to close one avenue for the disposal of illegal production that could not have been closed in any other way.

During its almost 2 years of life, in conjunction with the Railroad Commission and the Federal Tender Board at Tyler I am certain that its efficacy has been demonstrated in two ways; first of all, so far as Texas is concerned, no other State has suffered by reason of any illegal production that might have taken place in Texas, and in the second place it gave to Texas an opportunity to judge the full effect and force of its conservation program as set out in the statutes. After these almost 2 years of operation under this law, illegal production in Texas has become negligible. The Connally Act has enabled Texas to clean up to a large extent the overproduction that has been in storage for a good many years. That disposal was made under our statutes providing for confiscation. The Attorney General's Department of the Federal Government has held that illegal oil may not in any way be blessed, if I may use that term, by any State proceeding, and that it must be disposed of within the State.

Senator CONNALLY. Let me ask you right there, General—I believe Texas has a State law authorizing confiscation of illegally produced oil?

Mr. McCRAW. That is correct.

Senator CONNALLY. Under the regulations of Texas, after that oil has been confiscated, may it or not be sold within the State?

Mr. McCRAW. It may be sold within the State, but it may not be shipped and put in interstate commerce.

Senator CONNALLY. This act prevents the shipment of that kind of oil in interstate commerce?

Mr. McCRAW. This act assures that every State in which illegal oil is produced will have to wash its own dirty linen, and if there is any injury resulting to any other State by failure to confiscate and dispose of that oil within the State, then the State on whose part the failure has occurred must pay for the delinquency.

In a single phrase I am certain that Congress through this act has given to the State interested and the conservation of oil an unparalleled and outstanding opportunity to conserve their own natural

resources. Personally and officially I trust that the Congress will reenact it.

Senator CONNALLY. I want to ask you this question, General McCraw: If that illegally produced oil, after it has been confiscated in Texas is sold within the State, does that liberate an equal amount of legal oil which can be shipped to other States and thereby exert a tendency to hold down the price and not require the consumer to pay more than a just and fair price? In other words, if Texas consumes a million barrels a month of illegal oil that otherwise would take out a million barrels of legitimate oil, it thereby reduces the amount of oil going to other States?

Mr. McCRAW. That is exactly how it works.

Senator CONNALLY. Senator Townsend, do you care to ask a question?

Senator TOWNSEND. No.

Mr. McCRAW. If I can add any to my enthusiasm for it, you are free to fill the record up with it, because it is a splendid bit of legislation that has brought tremendous benefit and no injury whatsoever.

I would not be here except for the fact the authorities have been beset with a great many difficulties, because in an industry as highly competitive and which involves as much money as this industry does, it is naturally one that presents tremendous difficulties regardless of the purpose of its regulation, and this Connally Act has done a lot for Texas and has put the industry on the finest footing it has been on since the discovery of the east Texas oil field.

I believe in discussing the price proposition; Colonel Thompson, chairman of the railroad commission has some figures that are quite interesting. The general effect is that a little of the Hoover gasoline has come into the picture, but the price of gasoline has steadily declined. Of course, it did not make any difference in those days what the price was, because we were all broke anyway, but I think his survey shows that the price has steadily declined.

Senator TOWNSEND. I have a letter from New York stating that while Congress passed these laws for conservation purposes they have been used for profit. Do you care to comment on that statement?

Senator CONNALLY. Where did you get that statement from, Senator?

Senator TOWNSEND. Rome, N. Y.

Mr. McCRAW. That is a little out of my jurisdiction. It is a matter of everybody for himself. The little boys in Texas are getting rich and the big ones can take care of themselves. About the New York fellows, I do not know much about them. If they are not doing so well, they could move to Texas. The little men in Texas fuss and fight, but on the whole have a good time, and I am sure they are all well nourished and well fed and that there are good folks on both sides of the docket.

Senator CONNALLY. What would you say as to whether or not the enforcement of the so-called Connally Act is helpful to the railroad commission and to the attorney general's office in the matter of enforcing the State law?

Mr. McCRAW. I think the commission will very heartily agree with me, and I know I feel it is the greatest thing that took place at that particular period, because we were really out hunting lions with a buggy whip and we needed a lot of help, and the Department of the

Interior, despite our differences over how we ought to run the business, Brother Ickes and his folks have done right well, and I do not think anyone could have any kind of complaint about the board at Tyler. Mr. Hill has done such a good job, he may be elected if he runs for office one of these days. They have all gone thoroughly democratic, and I do not see any trouble in the way at all.

Now, if you will excuse me, I will get back to Texas, because I am lonesome when I am this far away from home.

Senator CONNALLY. Any questions, Senator Townsend?

Senator TOWNSEND. No.

Senator CONNALLY. General McCraw desired to testify early because he wanted to go back on the 2 o'clock plane.

We have present this morning, Col. Ernest Thompson, of the Texas Railroad Commission, which agency has had the jurisdiction over the enforcement of all of our Texas oil-conservation laws since their inception. We would be glad to hear Colonel Thompson.

Just give your name to the stenographer, Colonel Thompson.

STATEMENT OF ERNEST O. THOMPSON, COMMISSIONER, RAILROAD COMMISSION OF TEXAS

Mr. THOMPSON. My name is Ernest Thompson. I am a member of the Railroad Commission of Texas and am chairman of the Interstate Oil Compact Commission.

The Railroad Commission of Texas, as the Senator has indicated, is a regulatory body within the State of Texas which has the duty of regulating the production of oil and gas with a view of conserving the natural resources of the State of Texas. It is an elective body and is composed of three members, who serve for a term of 6 years, and one member is elected every 2 years.

The conservation matter has been an active matter in the State and one of great interest, and naturally the people of the State have become conservation minded, because of the fact that we have in Texas 68,000 oil wells, more than 68,000 oil wells. We have in the State of Texas 254 counties, and of these 254, 141 have oils and gas and are oil- and gas-producing counties. This production is widely distributed all over the State. So you can see our State is intensely interested in conserving natural resources of the State. I mention that because in our political economy oil and gas conservation and proration have been widely discussed. In the last campaign it was a vital issue. It was discussed all over the State, and in that campaign I was reelected for a 6-year term.

Senator CONNALLY. You need not be unduly modest, Colonel Thompson—you might tell the majority by which you were elected.

Mr. THOMPSON. Since you raise that question I will say my opponent got 60,000 votes and I got 980,000. He was a Republican.

Senator CONNALLY. You might also state your primary majority, if you care to.

Mr. THOMPSON. That was 180,000 over my nearest opponent. The reason the Senator has been so good as to ask me for those figures is because the conservation of oil and gas in Texas and the manner and method of the railroad commission in exercising its authority during the past 5 years, during the time I have been chairman, has been under question and was a political issue of the race. So we believe we can speak about how the folks feel in our State about this matter.

The interstate oil pact is a treaty between six oil-producing States—Oklahoma, Michigan, Louisiana, New Mexico, Texas, and Kansas. Those six States have signed that treaty. The treaty is simply an agreement entered into by authority of Congress whereby the producing States agree to pass certain waste-prevention laws and to keep those laws in effect. It has solely the prevention of physical waste in the production of oil as its object. It has been working fine in the 16 months of its existence. We have had our meetings, and at the last meeting held in Oklahoma City 14 oil-producing States were represented by either official delegates from each of the signatory States or unofficial observers from the other 8 States.

The Oil States Compact Commission discusses in meetings all of the modern, up-to-date methods of preventing actual physical waste in the production of oil and gas, and we have found it most helpful to have quarterly meetings and to go into the exchange of ideas as to the best manner of preventing waste.

The compact itself specifically provides that any action by any of the oil-producing States that would make oil scarce or make the price high is prohibited, it being the express and set-out purpose of the compact that it is for waste prevention and nothing else.

I have a couple of exhibits here. (The exhibits referred to are on file with the committee.) This shows the East Texas field. That has 23,000 oil wells in it. This is the oil field that caused all of the excitement about conservation and regulation of production. Up until the time this field was discovered, the question of proration had not been a serious one in our State. With the discovery of that field it soon became apparent that here was an oil field big enough to supply all of the world and put all of the other fields out of the picture. The potential this field is able to produce is 113,000,000 barrels per hour.

Senator CONNALLY. Per hour.

Mr. THOMPSON. Per hour. It is so large in its potential ability to produce that we cannot take more than 1 hour potential and we do that only on key wells. The field, if allowed to produce unregulated, would blow its head off in 9 or 10 days.

On this map the wells indicated by the contour lines show the ability to produce. Every well in this contour can produce a thousand barrels per hour, clear down to zero. The figure I gave of 113,000,000 should be 13,000,000.

Senator TOWNSEND. Not 113,000,000 barrels?

Mr. THOMPSON. No.

Senator CONNALLY. You mean, by saying if they opened them up, if there was no restraint, they could produce 13,000,000 barrels an hour, but that in 10 days they would blow their gas pressure out and would be on the pump?

Mr. THOMPSON. They would be on the pump; yes. If you let them produce as they did in the so-called good old days of letting it flow over the derrick, that would happen. As a matter of fact, the way it has been run, 20 to 30 barrels is the limit. The best wells get 30 barrels and down to 20 barrels. It is limited to 2.32 percent of 1 hour's flow. So a well that would produce a thousand barrels an hour would get 23 barrels per day. Generally, when you take the potential of an oil field you take 24 hours' producing, but that would make this field so big it would make it out of line with any other figure in the statement.

This is as big as the next five fields in the United States put together. You can put them all in this field and still have room left.

Senator TOWNSEND. How do you check the flow and see that none of these oil wells produce more than their quota?

Mr. THOMPSON. They way we started was to take each well, and when it got up to five or six thousand wells, it became apparent it would be impossible to do that. So we then checked the tank cars and pipe lines and truck movement, and we issued an order which said that no oil should be transported in the State of Texas until it had a bill of health, tender, or manifest, from the Railroad Commission of Texas, showing it was produced from a specific well on a certain day. We opened an individual account and charged it with what they took out, and that looked like we "had" them, but in a few days the railroad attorneys got together and said, "We are in a predicament; you have a ruling of the Railroad Commission of Texas which says there is a penalty of \$1,000 a day if we move this oil until we have a manifest to show it was produced legally, and at the same time the Interstate Commerce Commission has a \$1,000 penalty if we refuse shipment; what are we to do; we want to obey both rules." We saw we were in a jam in trying to enforce our orders, and we saw they had us; so we did not press our injunction but sent a telegram to the Attorney General asking him to get out an Executive order, and that came out, as you know, S-C, and was stricken down by the Supreme Court, and then we asked Senator Connally to come to our rescue by passing a law, which he did, and for which we are very grateful, the Connally hot-oil law, and that is how it came about, Senator. I believe I am correct in stating the different steps.

Senator CONNALLY. Substantially.

Mr. THOMPSON. It was to prevent this movement of oil produced in violation of State orders and rules and regulations. So now we require each movement of oil before it is cleared to go before a committee at the railroad commission office called the tender board, and it gets its clearance if it can be shown the date as well as where it was produced, and we check it back against his requests, and no oil can be produced unless it is shown under the request. Under the Connally law, a man walks down to the tender board and presents his data, and if it is clear he gets clearance for interstate or foreign commerce. We found it such an effective check, Senator, as the Attorney General said a while ago, that hot oil has just about disappeared from the picture. They cannot move it or remove it, and we have two or three million barrels sealed away and they cannot move it.

Senator TOWNSEND. In what manner is that stored?

Mr. THOMPSON. We have two or three million barrels in tanks and we have the Commission's seal on it and refuse to allow it to move. An act was passed confiscating that oil to the State. We filed an action in rem against that particular oil and set it out at the courthouse door in 55,000-barrel tanks and some 80,000-barrel tanks—but that is not an appreciable amount of oil if you consider the users and the allowable production of this field, 450,000 barrels a day. So it would only be about 5 days' run.

Under this Confiscation of Oil Act, the State files an action in rem against the oil and it is sold to the highest bidder. The last batch, 156,000 barrels, brought \$156,000 to the State. So there is not much profit in having oil produced illegally when all of the money goes to the State.

I think the hot-oil troubles are over and with the Connally Act continued and vigilance exercised by both the State and Federal authorities, I do not think there is much danger from that source.

I want to bespeak, Senator Connally, and members of the committee, for the railroad commission and the Interstate Oil Pact Commission, the gratitude of members for the work done by Mr. Swanson, Mr. Hill, Mr. Steele, and Mr. Holland; they have cooperated with us in every way. This is the finest example in my experience and study of complete cooperation between State and Federal agencies, the State prescribing the rules of production within the State and the Federal Government prohibiting the movement of any oil in excess of that permitted by State law. We have been working in perfect harmony, each within its undisputed scope of authority.

In the beginning this oil field produced around a million barrels a day, and we had trouble having our order—on your left, Senator, that shows 635,000 to 680,000 of production in barrels per day at that time, and that is in 1933. That black line down below is the bottom-hole pressure of the field. It shows 1,240. Now, at the rate of 680,000 barrels a day, the pressure dropped to 1,201. So there is a 39-point drop in a 30-day period. That is the pressure determined by putting a bomb on the end of a piano wire and dropping it down 3,300 feet, which registers the pressure in pounds per cubic foot in the reservoir. So we took those tests in various key wells throughout the field, and during the past 4 years we have been taking the same tests in the same area so as to get the action in the same manner, and you will see the performance of that bottom hole pressure. As we get down to the bottom the rate of flow of pressure fills up, and as our experience has taught us there is a direct relationship between bottom-hole flow and pressure reaction. As long as we were able to demonstrate that, we could defend the order in the Federal court, because they said it was too much interference with an individual's property; they said we were restraining them beyond the necessity of the case. But the order in June 1933 demonstrated we had a scientific waste-prevention basis for controlling the flow of oil.

So we built it up from 1,285 or 1,240, showing if we did not take the oil out faster than the water could trickle through the sand, we could have water coming against the oil pocket and make a hydrostatic head. It took 2,000 lawsuits to arrive at that simple solution. We had 2,080 lawsuits to go through with before we could arrive at something we could prove. From monthly readings we find it responds and reflects itself immediately in the bottom hole pressure reaction; we finally found out what we should produce to keep the pressure constant. On the month ending June 12 we produced 13,480,000 barrels, in that 30-day period, and the pressure increased 1.21 pounds. So each man stands in the same relative position as the other. So what the Connally Act is for is to help us control the movement of oil so that no man can open up his well and cause this pressure to take a nose dive, because pretty soon it reaches 950 pounds, and when it reaches that, the gas goes out of solution; it mixes in the oil in solution in the reservoir, and it is in fine little pebbles, like froth or foam on beer, if you know what I mean, and with 1,240 pounds' pressure down there in a cavity that is sealed up with the oil in a foamy, mobile condition, it will drive oil through a brick, if there is any

porosity in brick, and you can tell by dropping the brick in water. This oil will be driven through a brick in that pressure, if you keep it in that foamy condition, with the gas in solution. So, you want to keep the pressure up to a point so it will stay in solution and so it will not get ahead of the water coming in. If you drive too many cattle to the spring they will drink it dry, and then you have to keep the cattle away until it fills up again, and the same thing happens with oil when you take it out faster than it will fill up.

That is the theory we undertook to find out how to handle this bill. We shut that field down for 21 days at Christmas 1933, and we took a test when it was flowing 680,000 barrels a day and we found it had gone up 17 pounds. That demonstrated the water was catching up with the oil; but to be sure about it, we waited a couple of months and then shut it down again for 14 days.

No person reacts twice in the same way unless you have a formula. We used to have trainloads of people coming to our free-for-all, knock-down, drag-out meetings, which were called the railroad commission hearings; we call in operators of all of the fields in the State and ask them if they have any complaint. This particular field had lots of complaints; they wanted to produce all they could, but since we have demonstrated this constant relationship between rate of flow and bottom-hole pressure, we have not had one complaint from the East Texas field with 23,000 oil wells operated by thousands of owners. That has been an interesting development. The railroad commission is now welcome to visit with these people. A couple of weeks ago I was invited to Henderson to address the chamber of commerce. That did not use to happen. Things are really peaceful over there and the people like the operation of this control of production, and we like the Connally Act because it helps us carry out the conservation policy, and if it were not for that there would be nothing to keep people from transporting across the State line. We naturally had to come to Senator Connally and ask him to help us out. Texas is proud of it and I am sure the railroad commission and the interstate compact commission are very thankful for this law and to those in the Federal Government who have had a part in administering it.

I have prepared a 15-page statement which I would like to ask permission to file.

Senator CONNALLY. I will be glad to put it in the record.

(The statement referred to will be found at the end of Mr. Thompson's testimony.)

Mr. THOMPSON. I wish you would, Senator. I have worked on it for 4 months.

Senator CONNALLY. I think 4 months' work deserves some reward. We will put it in the record.

Mr. THOMPSON. One table shows that in 1927 before conservation and proration was worked out, honestly, peacefully and thoroughly as it is now, the price of gasoline in 50 cities of the Nation, exclusive of tax, was 19 cents, and in 1936 it was 14 cents, showing that under this control of production gasoline is cheaper than it was before. Of course, some credit for that should be given to the fact the refiners have gone to cracking and get more recovery than before, but conservation had a lot to do with it.

This field, the expert said, would produce 2,000,000,000 barrels of oil when it came in, when they had 5 or 6 thousand wells. It has

already produced over a billion; it passed the billion mark on January 3 or 4. The experts now agree that instead of producing 2,000,000,000 barrels, if we control these pressures and keep that policy up, 4,000,000,000 barrels will be recovered from this field, and therefore 2,000,000,000 barrels of oil will be produced which must pay tribute to the wisdom of this law. What is true of this field is true of every other field in Texas and everywhere else, because what we have learned in this field has been widely distributed through the Petroleum News, the Oil and Gas Weekly, and the Journal—I hope these will go into the record so the boys can get some advertisement for their papers. It is being used in every field in America.

Senator CONNALLY. You have adverted to the matter of gasoline prices to the consumers. If this field, as you suggest, be permitted to be opened up without any regulation, you say it would blow its head off in 10 days and would be on the pump?

Mr. THOMPSON. Yes.

Senator CONNALLY. And instead of producing the 4,000,000,000 barrels you say you are going to produce under conservation, what would be your testimony as to the result if it was permitted to blow its head off; would it be 2,000,000,000 or 3,000,000,000 or 1,000,000,000 or what?

Mr. THOMPSON. It would probably be around 2,000,000,000, what they first had in mind.

Senator CONNALLY. And then, from the consumer's standpoint, is it better for it to produce 4,000,000,000 or 2,000,000,000, both from the price standpoint and the supply standpoint?

Mr. THOMPSON. The answer is obvious, because the less there is of a commodity the higher the price and dependability of the supply is a great thing.

Senator TOWNSEND. I notice you say the Texas reserve is 5,510,000,000 barrels.

Mr. THOMPSON. Yes, sir. This is just one field I am talking about here. We have 522 of them.

Senator TOWNSEND. Is this the reserve of one field?

Mr. THOMPSON. No; that is the reserve for Texas.

Senator TOWNSEND. Does the question of the amount you take out control this?

Mr. THOMPSON. If you have a field with a billion barrels and you take a billion barrels out, you, of course, are then out of business in that field. You will find another table which gives the whole United States. Texas has 52 percent of the total. The reserve for the whole country is about 12,000,000,000 barrels.

Senator TOWNSEND. Do you increase these reserves—you say 5,500,000,000—

Senator CONNALLY. That is in the ground.

Senator TOWNSEND. But you increase that by the manner in which you take it out?

Mr. THOMPSON. No; you cut it down.

Senator CONNALLY. This is the total amount of oil in the ground, estimated. The point the colonel is making is if you take it out in an orderly way, you get it all; if you do not take it out in an orderly way a lot of it will stay in there and not get out. I want you to develop that.

Mr. THOMPSON. There is a well right here [indicating] and the water comes in from the west through the sand at 3,400 feet and comes against the oil on the west side of the field. As the water comes in—as you take the oil out, the water takes its place. If you produce it properly and keep the water tight against the oil-saturated sand, then you will gradually produce all of the oil and the well will begin to show less oil and more water, but that increase will be gradual and eventually it will show 100 percent water. In one instance the water was coming in and we wanted to see what kind of a job we were doing, and we took a carefully made core, a section of the oil sand; we took it to the University of Texas petroleum laboratory and they made a careful analysis of that sand to see how much oil had been left in the sand, and we found less than 3 percent saturation. That indicated that 97 percent recovery had been obtained as against only 10 or 20 percent recovery in the old days.

Senator TOWNSEND. I gathered if the oil was taken out in an orderly manner you would increase the amount of the reserve.

Mr. THOMPSON. We would increase the amount on top of the ground. The score above ground would be increased unless you used it up currently.

Senator CONNALLY. The Senator is consulting the figures giving the oil in the ground.

Senator TOWNSEND. I gathered if that was taken out in an orderly, slow manner, the reserve in the ground might be increased, the final amount you could take out.

Mr. THOMPSON. No. They estimate how much oil they expect to get out of the ground—

Senator TOWNSEND. You can take it in either the short or long method?

Mr. THOMPSON. If you take it out fast they would be reduced because of the wasteful method of production.

Senator Connally, here is a letter that was sent by me to you and signed by a number of rather important independent oil producers of Houston, Tex.

Senator TOWNSEND. By whom?

Mr. THOMPSON. That is signed by a number of operators.

Senator TOWNSEND. Within the State of Texas?

Mr. THOMPSON. Yes.

Senator TOWNSEND. Is there any opposition from the other States adjoining, from the independent operators?

Mr. THOMPSON. I have had none brought to my attention, Senator. Pretty generally at the Oil Compact meetings the oil regulatory authorities have been in accord. I know of no discord on the Connally Act in its operation, Senator.

Senator TOWNSEND. I notice that California is the next largest producing State; do they cooperate?

Mr. THOMPSON. Yes, sir; they have had a man at every meeting of our compact commission. They do not have the law yet, but last year we saw Governor Merriam and he told us he was anxious to have California get into the compact and would do his best to help us out at this session.

Senator CONNALLY. He is one of the few Republican governors outside of captivity?

Mr. THOMPSON. He was very courteous to us and assured us of his cooperation. We hope California will come in.

Senator TOWNSEND. You wish to place these petitions in the record?

Mr. THOMPSON. Yes, sir; I hope so.

Here is a little map, Senator, that shows the developments since the Connally Act has been in effect—

Senator CONNALLY. If there is no objection, Senator Townsend, we will put these petitions and the signatures in the record.

(The petitions referred to will be found at the end of Mr. Thompson's testimony.)

Mr. THOMPSON. This map shows the new discoveries in Texas—new fields developed within the last 12 months. All over the State you will find forty-odd new pools—all over the State; 141 counties of the 254 have oil. That, to my mind, demonstrates the oil business is in a healthy condition, because new development does not come when there is too long a haul. It used to be that an oil man had a very difficult time in Texas, or anywhere else, to borrow money to do his development upon. To my certain knowledge, and I am sure the men here will bear me out, that within the last few months, in Texas, money has been seeking loans on oil-producing property at 4 and 5 percent for as long as 36 months.

(The map referred to is on file with the committee.)

Senator TOWNSEND. Could he not borrow money from the Government?

Mr. THOMPSON. I do not believe the oil men have that privilege.

Senator TOWNSEND. There must be something wrong; you want to look into that.

Mr. THOMPSON. They can find all of the money they need at 3 and 4 percent for 36 months' time.

This map shows the development that is going on in our State. Each of your voting districts are doing fine, Senator.

Senator CONNALLY. Thank you, Colonel. I wish you would develop that Jones County field pretty thoroughly; I have a tract of land down there.

Mr. THOMPSON. I thank you for the opportunity of appearing, Senator.

Senator CONNALLY. I am not through with you yet. Colonel Thompson, there have been certain interests that have filed a protest because of the continuance of this act, because they say we not do provide regulation of hours, wages, and things of that kind. I want to ask you whether or not the matter of the actual production of oil under your present set-up is wholly within State jurisdiction and that this act only affects the oil after it has been produced and brought to the top of the ground, and then only affects it as to its movement in interstate commerce?

Mr. THOMPSON. That is correct.

Senator CONNALLY. So we do not intend to do anything with regard to the actual production of the oil since that is regulated by the laws of Texas?

Mr. THOMPSON. The actual production of oil and the rules and regulations and laws covering it are strictly a State matter.

Senator CONNALLY. That has been the Railroad Commission's function from the beginning?

Mr. THOMPSON. Consistent, always.

Senator CONNALLY. And this act does not do anything more than to say that oil produced in violation of your laws and regulations shall not move in interstate commerce?

Mr. THOMPSON. Just like a stolen automobile cannot move across a State line, like the Dyer Act.

Senator CONNALLY. So the method of production is not within the scope of this legislation?

Mr. THOMPSON. It would not be germane, if that is the proper word in that connection.

Senator CONNALLY. Not germane, and incompetent, irrelevant, and immaterial.

Mr. THOMPSON. Yes.

Senator CONNALLY. I want to ask you one other thing about price—

Mr. THOMPSON. We never discuss price in our oil regulations.

Senator CONNALLY. I mean the effect of conservation on prices.

Mr. THOMPSON. Yes.

Senator CONNALLY. I understand the commission does not take cognizance of that, but as a matter of economics, would the steady and continuous and orderly production of oil have a better effect upon a consumer's price than a wildly, uncontrolled production in flash periods, and then a recession and collapse in subsequent periods; which is more desirable from the consumer's standpoint?

Mr. THOMPSON. You mean in the long run?

Senator CONNALLY. Yes.

Mr. THOMPSON. In the long run, a steady, dependable supply would be to the interest of the consumer, decidedly.

Senator CONNALLY. It has been testified by Mr. Swanson of the Bureau of Mines that there is a relationship between the wholesale price of gasoline and of crude oil, that the relationship is 18½ times. Have you anything to say about that as to whether it has been well maintained in the oil under the operation of this act, whether that relationship has been maintained?

Mr. THOMPSON. The price of gasoline at the refinery multiplied by 18½ would be the price of crude?

Senator CONNALLY. Yes. Has that relationship been maintained?

Mr. THOMPSON. That is about what it is. It used to be, Senator, that when oil went up a quarter, gasoline would go up 1 cent. That is, a 1-cent increase in the price of gas would justify a two-bit increase in crude, and if gasoline went down a cent, crude would drop a quarter.

Senator TOWNSEND. What is the price of crude oil now?

Mr. THOMPSON. It is about \$1.20, throughout the Nation. It is \$1.27 in this field because it is very highly desirable sweet crude and also is close to tidewater. The price varies according to the distance from tidewater, because they have to pay the pipe lines according to distance. This is only 15 cents to the Gulf, whereas in west Texas it is much higher. It runs from 81 cents to \$1.07 in west Texas.

Senator CONNALLY. Of course, the production cost of drilling wells and getting the oil out does not always decline or advance with the price of crude; in other words, in a period when crude is low when the price of crude oil is very low, is it not true that that spread between gasoline and crude is less than it is when the price goes up?

Mr. THOMPSON. When crude is very cheap, the consumer does not get a reflected benefit; that is, gasoline stays the same even though

the crude does not. Crude might go to 8 cents a barrel and gasoline would still sell for 10 cents a gallon.

Senator CONNALLY. In other words, the fixed charges involved in production cannot be always proportionately reflected in the price of gasoline?

Mr. THOMPSON. The cheaper you get the crude the more out of proportion it would be.

Senator CONNALLY. That is what I am getting at.

Mr. THOMPSON. I might say, Senator, in our law in Texas, the last section of the conservation law, says that we shall take crude in planning production to meet market demands. We would have a large waste above ground if we produced more than we could absorb. The oil evaporates and leaves the crude heavy and less desirable. The lighter you can get the oil, the more desirable. So, our legislature passed an act to prevent, as a form of waste, the production of more oil than the market provided for, but it provides also that the State railroad commission should keep the consumer of gasoline in mind. You know there are 6,000,000 consumers in Texas as against 11,000 producers, and, Senator, you know that being elected to office, like I am, we keep the 6,000,000 in mind against the 11,000.

Senator CONNALLY. If we do not, they are apt to keep us in mind.

Mr. THOMPSON. That is right. That is the safety of the folks who entrust the administrators to look after them; and also the consumer is benefited by our seeing that the oil is produced in an orderly fashion and that a low price of gasoline over a long period of time results.

Senator CONNALLY. The difference in this East Texas field of 4,000,000,000 barrels as now expected and the 2,000,000,000 barrels which were originally estimated means the consumer will have 2,000,000,000 barrels more of oil from which to get his gasoline.

Mr. THOMPSON. And for which they are indebted to you, Senator.

Senator CONNALLY. I do not claim that.

Mr. THOMPSON. At least, to the Connally Act.

Senator CONNALLY. What are the depths of these wells in the East Texas field?

Mr. THOMPSON. We have wells down as low as 10,000 feet.

Senator CONNALLY. I am speaking about the East Texas.

Mr. THOMPSON. 3,400; about the same, all of them.

Senator CONNALLY. What about the others?

Mr. THOMPSON. Anywhere from 1,200 to 10,000.

Senator CONNALLY. Where are the deepest wells?

Mr. THOMPSON. Around the northern part. We have the Abercrombie Harrison, 10,000, 35 pounds to the square inch pressure, the highest in the State. Those wells cost \$250,000 to drill, Senator.

Senator CONNALLY. I cannot handle them. In each field are the wells approximately the same general depth, as a rule?

Mr. THOMPSON. Yes; unless you have several oil-bearing strata. You may get three or four pays in the same well. Each drilling may produce separate oil-bearing strata.

Senator TOWNSEND. In this well where it is 10,000 feet, did you strike sand at any other depth?

Mr. THOMPSON. They hit three or four, but not in paying quantity, but they got a good well at 10,000 feet.

Senator CONNALLY. Under the laws of Texas and your regulations of the Railroad Commission, there is complete jurisdiction over the

whole matter of production. Do you have provisions as to when and where they may drill oil wells?

Mr. THOMPSON. They must first get a permit and then they drill under our direction, with a supervisor watching them. When the well is ready to drill in, we supervise that and the casing program and every detail. We have 370 men doing this work.

Senator CONNALLY. You have jurisdiction over spacing, acreage, and all of that?

Mr. THOMPSON. The whole thing, from inception to the final movement of the oil.

Senator CONNALLY. Is there any other matter, Colonel, you desire to develop?

Mr. THOMPSON. Nothing, except to thank you for the opportunity of coming.

Senator CONNALLY. We are very glad indeed to have you, Colonel; and I want to thank you and your commission for cooperating so well with the Federal authorities on this oil program.

Mr. THOMPSON. We found it a very pleasant experience to work with them and we hope they feel we have been of as much help to them as we know they have been to us. I think we have all done our best to help each other.

There has been some little difference between the Bureau of Mines' figures on estimated demand and Texas' actual production; but the trouble is, I think, that the Bureau of Mines has not caught up with the demand due to the prosperity that is in the land; we are closer to the market; but we think their figures will finally catch up; their figures are just a little slow.

Thank you, Senator.

Senator CONNALLY. You may make any further statements you desire, Colonel.

Mr. THOMPSON. I am through. If I think of anything else I will send it to you.

I might point out that this petition which I have just filed asks for only a 2-year extension of the Connally Act, but I believe the law should be made more permanent.

Senator CONNALLY. Thank you, Colonel.

Mr. THOMPSON. I will say further that these gentlemen who signed that petition instructed me that if it looked like it should be made permanent, they were willing that the petition should be changed from 2 years to make it permanent. I have that permission.

Senator CONNALLY. We are glad to have had you here, Colonel.

The statement and petitions referred to are as follows:

STATEMENT OF ERNEST O. THOMPSON, MEMBER OF RAILROAD COMMISSION OF TEXAS, CHAIRMAN OF INTERSTATE OIL COMPACT COMMISSION

THE OIL AND GAS INDUSTRY IN TEXAS

Texas eased unobtrusively into the petroleum-producing picture along about the year 1865 with the discovery of oil at Oil Springs, 15 miles south of Nacogdoches.

No intimation of the prolific reserves of this State was had, however, until the discovery of the Corsicana pool in 1895. The unprecedented rushing flow of oil from the Lucas gusher in Spindletop July 10, 1901, started the industry and etched the outline of Texas firmly on the background of world-oil reserves.

Gaining rapidly, Texas in 1902 produced over 18 million barrels of oil, or approximately 20.37 percent of the Nation's total. As of January 1, 1937, there

were 68,175 producing oil wells in the State, whose combined producing capacities exceed 34,000,000 barrels of oil daily. At the end of 1936 Texas had produced 15.83 percent of the total oil recovered in the world and 24.60 percent of the total United States production. That Texas is steadily advancing her position of dominance is evidenced by the fact that for the year 1936, she produced 30 percent of the United States production and 23.58 percent of that of the world.

It is significant that Texas, the world's foremost oil- and gas-producing area-- which at the end of 1936 possessed 52 percent of the reserves of the United States, and which was credited with approximately 50 percent of the newly discovered reserves during that year-- should also contain within her boundaries both the largest oil field and the largest gas field in the world. No other single reservoir in the world is comparable to the East Texas gas field with its 21,000 (Jan. 1, 1937) producing oil wells. Besides the Panhandle gas field, whose 1,303 producing gas wells have a combined producing capacity of approximately 22,000,000,000 cubic feet of natural gas daily, any other gas-producing area is insignificant. Other gas reserves, which in many cases are just now beginning to be tapped, bring the total State potential capacity to more than 30,000,000,000 cubic feet daily.

Through the wider appreciation of the benefits of conservation, the dissemination of more efficient production methods, and the insistent attitude of the Railroad Commission that waste be eliminated and production be limited to market demand, practical estimates of the total reserves of Texas have risen in many instances. Texas' position in the oil industry grows increasingly bright, as reflected in the following data:

ESTIMATES OF PETROLEUM RESERVES OF THE UNITED STATES

A study of the various estimates of petroleum reserves of the United States, which have been made from 1908 to 1936, shows that many types of yardsticks were used in estimating oil reserves. The growing importance of knowing the extent of oil reserves has demonstrated the need for more precise and uniform calculations. For that reason, the more recent estimates lend themselves better to comparison, one with the other, in the light of changing developments of known producing areas.

Outlined below are six of the most recent estimates of the oil reserves of the United States:

Year	Estimated reserves	Authority
	<i>Barrels</i>	
1932.....	10,000,000,000	Federal Oil Conservation Board "Known reserves". (Federal Oil Conservation Board, Rept. 3, 1932, p. 7.)
1933.....	12,000,000,000	Garrison--"Proven Oil Reserves--the oil that yet remains underground in the producing fields and their logical extensions." (V. R. Garrison, Am. Inst. Min. Met. Eng. Trans., vol. 103 (1933), p. 853.)
1934.....	13,860,000,000	Coal committee--"Reserves in Known fields on Jan. 1, 1934." (A résumé of the Geology and Occurrence of Petroleum in the United States by the U. S. G. S., p. 194.)
1935.....	12,177,000,000	Special committee of the A. P. I. "These estimates represent petroleum which may be extracted by ordinary current methods of production under prices prevalent on Jan. 1, 1935." (Bull. A. A. P. O., vol. 30, Jan. 1935.)
1936.....	12,692,000,000	Warren L. Baker, editor The Oil Weekly--"Extractable by Ordinary Producing Methods in Current Use." (The Oil Weekly, Jan. 16, p. 10), with assistance of leading geologists.)
1937.....	12,980,000,000	Warren L. Baker, editor The Oil Weekly--"Estimates of the Underground Supply of Crude Oil in known United States fields that is extractable by current producing methods," as of Jan. 1, 1937. (The Oil Weekly, Jan. 25, 1937, p. 20.)

62 REGULATE SHIPMENT OF PETROLEUM AND ITS PRODUCTS.

An analysis of the 1935, 1936, and 1937 estimates of petroleum reserves for the United States reflects the following:

	Reserves	Percent of the United States reserves
Jan. 1, 1935:		
California.....	3,500,000,000	28.7
Kansas.....	400,000,000	3.3
Louisiana.....	375,000,000	3.1
Michigan.....	45,000,000	.4
New Mexico.....	350,000,000	2.9
Oklahoma.....	1,200,000,000	9.8
Rocky Mountains.....	322,000,000	2.6
Texas.....	5,500,000,000	45.2
Other areas.....	485,000,000	4.0
Total United States reserves.....	¹ 12,177,000,000	100.0
Jan. 1, 1936:		
California.....	3,290,000,000	25.4
Kansas.....	395,000,000	3.0
Louisiana.....	625,000,000	4.8
Michigan.....	40,000,000	.3
New Mexico.....	480,000,000	3.7
Oklahoma.....	1,385,000,000	10.5
Rocky Mountains.....	352,000,000	2.7
Texas.....	6,010,000,000	46.3
Other areas.....	435,000,000	3.3
Total United States reserves.....	² 12,692,000,000	100.0
Jan. 1, 1937:		
California.....	2,700,000,000	20.8
Kansas.....	400,000,000	3.1
Louisiana.....	585,000,000	4.5
Michigan.....	40,000,000	.3
New Mexico.....	500,000,000	3.9
Oklahoma.....	1,205,000,000	9.7
Rocky Mountains.....	355,000,000	2.7
Texas.....	6,750,000,000	52.0
Other areas.....	385,000,000	3.0
Total United States reserves.....	² 12,980,000,000	100.0

¹ American Petroleum Institute estimate.

² Oil Weekly Estimate, aided by leading geologists.

It is worthy of note that one of the leading authorities on the reserves of Texas filed with the Railroad Commission expert testimony to the effect that "the estimated reserves of Texas as of November 1, 1936, amounted to 7,141,500,000 barrels", which amounts to approximately 322,000,000 barrels more than the Oil Weekly's January 1, 1937, estimate.

State of Texas, United States, and world production, by years, from 1900 to 1936

[In thousand barrels]

Year	Total Texas production	Texas percent of United States production	Total United States production	United States percent of world production	Total world production
1900.....	830	1	63,621	43	149,136
1901.....	4,304	6	69,389	41	167,441
1902.....	18,084	20	88,767	49	181,809
1903.....	17,050	18	100,461	52	194,789
1904.....	22,241	19	117,081	54	217,948
1905.....	28,130	21	134,718	63	215,091
1906.....	12,568	10	126,494	59	218,263
1907.....	12,323	7	166,095	63	263,956
1908.....	11,200	6	178,527	63	285,287
1909.....	9,534	5	183,171	61	298,709
1910.....	8,890	4	209,557	64	327,704
1911.....	9,526	4	220,449	64	344,361
1912.....	11,735	5	222,635	63	354,443
1913.....	15,009	6	248,440	64	385,345
1914.....	20,068	8	265,763	65	407,543
1915.....	24,943	9	281,104	65	432,034
1916.....	27,645	9	300,767	66	456,771
1917.....	32,413	10	335,316	67	502,890
1918.....	38,750	11	355,928	71	503,515
1919.....	70,360	21	378,367	68	555,875
1920.....	96,868	22	442,920	64	688,884
1921.....	100,166	22	472,183	62	766,062
1922.....	118,084	21	557,531	65	858,898
1923.....	131,023	18	732,407	72	1,015,736
1924.....	134,522	19	713,940	70	1,014,318
1925.....	144,648	19	763,743	71	1,068,933
1926.....	166,016	22	770,874	70	1,096,823
1927.....	217,389	24	901,129	71	1,262,582
1928.....	257,320	29	901,474	68	1,324,774
1929.....	296,876	29	1,007,323	68	1,485,867
1930.....	290,457	32	898,011	64	1,411,905
1931.....	332,437	39	851,081	62	1,373,656
1932.....	312,478	40	785,156	60	1,369,077
1933.....	402,690	44	905,656	63	1,442,112
1934.....	381,516	42	908,065	58.5	1,552,243
1935.....	391,007	39	993,942	60.5	1,641,030
1936.....	426,897	39	1,097,640	60.6	1,810,230

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Gasoline service station prices for 1936, exclusive of taxes, in 50 representative cities of the United States and gasoline taxes in effect Jan. 1, 1936, and Jan. 1, 1937

[From the Oil and Gas Journal]

	Price Jan. 1, 1936	Price Jan. 1, 1937	Differ- ence (+ in- crease; - de- crease)	Tax Jan. 1, 1936	Tax Jan. 1, 1937
Birmingham, Ala.....	15.5	15.0	-0.5	8.0	Same
Phoenix, Ariz.....	14.0	15.5	+1.5	6.0	Same
Little Rock, Ark.....	13.5	13.0	-0.5	7.5	Same
San Francisco, Calif.....	12.0	14.0	+2.0	4.0	Same
Denver, Colo.....	15.0	16.0	+1.0	5.0	Same
Hartford, Conn.....	13.5	12.6	-0.9	4.0	Same
Dover, Del.....	13.5	12.5	-1.0	5.0	Same
Washington, D. C.....	13.0	12.5	-0.5	3.0	Same
Jacksonville, Fla.....	13.0	13.0	0	8.0	Same
Atlanta, Ga.....	16.0	15.5	-0.5	7.0	Same
Boise, Idaho.....	18.5	18.5	0	6.0	Same
Chicago, Ill.....	12.0	13.2	+1.2	4.0	Same
Peoria, Ill.....	11.5	13.7	+2.2	4.0	Same
Indianapolis, Ind.....	14.4	14.4	0	5.0	Same
Dos Moines, Iowa.....	13.3	13.5	+0.2	4.0	Same
Wichita, Kans.....	12.4	12.6	+0.2	4.0	Same
Louisville, Ky.....	14.5	14.0	-0.5	6.0	Same
New Orleans, La.....	13.5	13.0	-0.5	9.0	10.0
Portland, Maine.....	13.5	13.3	-0.2	5.0	Same
Baltimore, Md.....	13.0	12.5	-0.5	5.0	Same
Bristol, Mass.....	13.5	12.8	-0.7	4.0	Same
Detroit, Mich.....	11.5	12.5	+1.0	4.0	Same
Duluth, Minn.....	14.3	14.5	+0.2	4.0	Same
Minneapolis, Minn.....	13.9	14.1	+0.2	4.0	Same
Jackson, Miss.....	14.0	15.0	+1.0	7.0	Same
Kansas City, Mo.....	12.9	13.1	+0.2	6.4	Same
Helena, Mont.....	17.5	18.5	+1.0	6.0	Same
Omaha, Nebr.....	13.9	14.1	+0.2	6.0	Same
Reno, Nev.....	14.0	15.5	+1.5	5.0	Same
Newark, N. J.....	13.3	12.0	-1.3	4.0	Same
Albuquerque, N. Mex.....	15.5	14.5	-1.0	6.5	Same
New York City, N. Y.....	11.8	13.0	+1.2	5.0	4.0
Charlotte, N. C.....	14.7	14.9	+0.2	7.0	Same
Fargo, N. Dak.....	14.9	15.1	+0.2	4.0	Same
Cleveland, Ohio.....	14.0	14.5	+0.5	5.0	Same
Tulsa, Okla.....	13.0	15.0	+2.0	5.0	Same
Portland, Oreg.....	12.5	14.5	+2.0	6.0	Same
Philadelphia, Pa.....	13.5	12.5	-1.0	5.0	Same
Providence, R. I.....	13.0	12.3	-0.7	3.0	Same
Charleston, S. C.....	13.0	13.5	+0.5	7.0	Same
Huron, S. Dak.....	14.4	14.6	+0.2	5.0	Same
Memphis, Tenn.....	14.0	14.0	0	8.0	Same
Dallas, Tex.....	12.0	12.0	0	5.0	Same
Salt Lake City, Utah.....	13.0	18.0	+5.0	5.0	Same
Burlington, Vt.....	15.0	13.4	-1.6	5.0	Same
Norfolk, Va.....	12.9	13.5	+0.6	6.0	Same
Seattle, Wash.....	12.5	14.5	+2.0	6.0	Same
Charleston, W. Va.....	13.8	14.3	+0.5	5.0	Same
Milwaukee, Wis.....	11.8	14.0	+2.2	5.0	Same
Casper, Wyo.....	15.5	16.5	+1.0	5.0	Same
Average price and tax.....	13.7	14.1	+0.396	5.3	5.3

1 These figures are based on pump prices of regular grade, 68-70 octane gasoline.

Year-to-year trend of retail gasoline prices

[Average service-station prices in cents in 50 representative cities, exclusive of Texas]

Date	1927	1928	1929	1930	1931
Jan. 1.....	20.25	16.41	18.32	17.23	14.56
Feb. 1.....	20.16	16.38	17.59	16.96	14.83
Mar. 1.....	19.63	16.80	17.21	16.28	14.86
Apr. 1.....	18.79	17.19	17.38	16.92	13.68
May 1.....	17.97	17.47	17.48	16.95	12.40
June 1.....	17.25	17.56	18.32	17.01	12.21
July 1.....	17.38	17.56	18.48	16.56	12.46
Aug. 1.....	17.39	18.12	18.22	16.47	12.41
Sept. 1.....	17.13	18.40	18.22	16.26	12.21
Oct. 1.....	16.81	18.70	18.32	15.93	12.34
Nov. 1.....	16.72	18.05	17.84	15.41	12.32
Dec. 1.....	19.71	18.39	17.51	14.96	12.89
Average.....	18.01	17.53	17.91	16.33	13.09

Date	1932	1933	1934	1935	1936
Jan. 1.....	12.87	12.54	14.32	12.90	13.70
Feb. 1.....	12.97	11.63	13.87	13.10	14.21
Mar. 1.....	12.91	11.49	14.18	13.22	14.22
Apr. 1.....	13.18	11.58	13.57	13.28	13.87
May 1.....	13.59	11.60	13.55	13.64	14.27
June 1.....	13.68	10.62	13.93	13.90	14.31
July 1.....	14.21	13.05	14.06	14.00	14.25
Aug. 1.....	14.02	13.52	13.98	14.10	14.24
Sept. 1.....	13.65	14.00	13.89	13.78	14.21
Oct. 1.....	12.40	14.45	13.55	13.42	14.07
Nov. 1.....	13.04	14.30	11.92	13.46	13.99
Dec. 1.....	12.06	14.17	12.43	13.69	13.97
Average.....	13.30	12.76	13.60	13.55	14.11

NOTE.—See article 6049d, sec. 6a, of conservation laws.

Statement showing refinery storage, lease storage, gathering system, tank farms, terminals, shipping tanks, oil in lines, and total storage for State

Month	Crude-oil storage		Closing storage used as opening storage following month			
	Oil in lines	In lease tanks	Gathering system storage	Refinery storage	Tank farms, terminals, and shipping tanks	Total storage
Jan. 1, 1936.....	9,106,660	3,816,609	8,227,082	10,080,704	76,761,982	107,963,038
Feb. 1, 1936.....	9,058,587	3,920,935	7,461,297	9,593,720	75,223,434	105,167,973
Mar. 1, 1936.....	8,983,492	3,698,327	8,457,813	9,454,187	74,648,205	105,242,029
Apr. 1, 1936.....	9,173,176	3,771,832	8,798,011	10,989,894	74,042,634	106,724,637
May 1, 1936.....	9,047,955	3,920,553	9,490,769	11,974,111	75,133,304	109,476,683
June 1, 1936.....	9,018,794	3,979,184	9,329,091	11,861,561	75,864,866	110,053,729
July 1, 1936.....	9,055,754	4,037,520	9,245,918	12,116,010	75,117,495	109,572,692
Aug. 1, 1936.....	9,089,136	4,024,092	9,935,826	11,914,189	74,467,060	109,430,242
Sept. 1, 1936.....	9,134,960	4,172,958	9,813,396	11,282,671	73,976,401	108,380,389
Oct. 1, 1936.....	9,196,561	4,175,723	9,352,140	11,082,040	71,483,927	105,299,391
Nov. 1, 1936.....	9,187,903	4,208,855	10,061,050	10,362,737	68,670,017	102,490,582
Dec. 1, 1936.....	9,114,349	4,312,761	9,444,888	9,752,451	67,964,907	100,679,856

Stocks of crude petroleum and storage changes by months for Texas¹

[Oil in barrels]

Month	In Texas	Net change	In United States	Net change
Dec. 31, 1935.....	100,217,000	-----	314,631,000	-----
Jan. 31, 1936.....	103,364,000	-2,853,000	313,081,000	-1,650,000
Feb. 29, 1936.....	103,000,000	-358,000	310,812,000	-2,269,000
Mar. 31, 1936.....	104,297,000	+1,291,000	313,189,000	+2,377,000
Apr. 30, 1936.....	106,742,000	+2,445,000	315,380,000	+2,200,000
May 31, 1936.....	107,679,000	+937,000	315,169,000	-220,000
June 30, 1936.....	107,777,000	+98,000	311,046,000	-4,123,000
July 31, 1936.....	107,805,000	+28,000	306,390,000	-4,656,000
Aug. 31, 1936.....	106,415,000	-1,390,000	301,757,000	-4,633,000
Sept. 30, 1936.....	103,230,000	-3,176,000	295,693,000	-6,064,000
Oct. 31, 1936.....	100,415,000	-2,824,000	292,271,000	-3,422,000
Nov. 30, 1936.....	99,285,000	-1,130,000	288,998,000	-3,273,000

¹ Bureau of mines data.

Commission and Bureau of Mines figures compared

[Oil in barrels]

	Commission figures	Bureau of Mines figures
January 1936.....	-2,825,065	-2,853,000
February 1936.....	+74,056	-358,000
March 1936.....	+1,482,508	+1,291,000
April 1936.....	+2,752,146	+2,445,000
May 1936.....	+577,048	+937,000
June 1936.....	-481,037	+98,000
July 1936.....	-142,450	+28,000
August 1936.....	-1,049,853	-1,390,000
September 1936.....	-3,049,948	-3,176,000
October 1936.....	-2,799,800	-2,824,000
November 1936.....	-1,911,226	-1,130,000
Net change, Jan. 1, 1936, to Nov. 30, 1936.....	-7,413,682	-6,932,000
Percentage reduction.....	6.8	

Days supply of crude oil and products as of Nov. 30, 1936

[Bureau of Mines figures]

All oils, crude oil and products:

Total stocks, all oils, Oct. 31, 1936..... barrels.. 527,431,000
 New supply, November 1936..... do..... 99,783,000

Total stocks, all oils, Nov. 30, 1936..... do..... 627,214,000
 Total demand, all oils, November 1936..... do..... 522,273,000
 Daily average demand, all oils, November 1936..... do..... 104,941,000
 3,498,000
 Days' supply, Nov. 30, 1936 $\left(\frac{522,273,000}{3,498,000}\right)$ 149

Crude oils:

Crude stocks, Oct. 31, 1936..... barrels.. 292,271,000
 November production in United States..... do..... 91,018,000
 November imports..... do..... 2,756,000

Total supply..... do..... 386,045,000
 Crude stocks, Nov. 30, 1936..... do..... 288,998,000

Total demand, crude oil, November 1936..... do..... 97,047,000
 Daily average demand, crude oil, November 1936..... do..... 3,235,000
 Days' supply crude oil, Nov. 30, 1936 $\left(\frac{288,998,000}{3,235,000}\right)$ 89
 Days' supply of products (all oils minus crude oils)..... 60

REGULATE SHIPMENT OF PETROLEUM AND ITS PRODUCTS 67

NOMINATIONS FOR CRUDE OIL FOR 6 MONTHS' PERIOD

[Tabulated from nominations of crude oil purchasers of Texas]

The conservation laws of Texas term "waste", among other things, "the production of crude petroleum oil in excess of transportation or market facilities or reasonable market demand. The Commission may determine when such excess production exists or is imminent and ascertain the reasonable market demand." (Art 6014, subdivision j.) Pursuant to this and other statutory provisions (Art. 6049d, sec. 6), the Commission has required all purchasers of crude oil in the State to file monthly nominations for their requirements.

Beginning November 1936, and each month thereafter, purchasers of crude oil have been directed by the Commission to forecast their requirements for a period covering 6 months. The first month of each period is to be definite and as definite a forecast as possible for each of the remaining months of the period. Tabulated below are nominations for the periods beginning December 1936, January, and February 1937:

District	1936 December	1937						
		January	February	March	April	May	June	July
1. Southwest Texas..	1 25,064	25,064	25,061	25,064	25,064	25,064	25,064	25,063
		1 24,853	23,053	23,653	23,653	23,653	23,653	23,653
			1 23,903	23,903	23,903	23,903	23,903	23,903
Average.....	25,064	21,059	24,207	24,207	24,207	24,207	23,778	23,903
2. Southwest Texas..	1 52,090	53,269	54,430	55,790	56,979	57,729	61,153	62,068
		1 58,433	57,308	58,803	60,238	61,153	62,068	62,068
			1 63,569	64,969	66,769	67,749	69,226	70,709
Average.....	52,099	55,851	58,459	59,827	61,329	62,210	65,649	70,709
3. Gulf coast district	1 221,766	223,366	224,466	224,966	229,836	230,846	234,423	235,483
		1 220,313	228,383	229,693	233,613	234,423	235,483	235,483
			1 237,937	240,397	241,917	243,427	244,787	246,147
Average.....	221,766	224,855	230,262	231,685	235,122	236,232	240,135	246,147
4. Southwest Texas..	1 150,952	152,952	152,952	153,717	154,472	155,227	152,484	138,709
		1 149,084	148,809	150,034	151,259	152,484	152,484	138,709
			1 162,983	168,433	170,643	172,903	174,543	177,793
Average.....	150,952	151,018	154,915	157,395	158,791	160,235	156,626	177,793
5. East central Texas	1 59,476	63,852	69,522	69,361	69,464	69,476	63,802	65,079
		1 59,667	64,817	64,517	64,292	64,067	63,802	65,079
			1 60,582	63,257	63,332	64,107	64,932	65,079
Average.....	59,476	61,710	64,974	65,712	65,693	65,884	64,412	65,672
6. East Texas.....	1 36,330	36,330	38,830	40,830	41,830	41,830	57,444	57,444
		1 57,444	57,444	57,444	57,444	57,444	57,444	57,444
			1 65,659	65,659	65,679	65,679	65,679	65,699
Average.....	36,330	46,887	53,978	54,478	54,984	54,984	61,862	65,699
6. East Texas field..	1 458,514	1 457,514	457,017	456,014	455,057	455,774	473,127	473,127
		471,127	472,127	472,627	472,627	472,627	472,627	472,627
			1 460,910	471,280	471,923	471,980	472,623	472,580
Average.....	458,514	464,321	466,354	466,640	466,538	466,507	472,876	472,580
7. West central Texas.....	1 39,755	39,610	39,605	39,815	39,825	39,880	39,002	39,002
		1 38,925	38,820	38,944	39,002	39,007	39,002	39,002
			1 40,850	41,075	41,085	41,100	41,125	41,185
Average.....	39,755	39,268	39,788	39,945	39,974	40,036	40,074	41,185
7. West Central Texas.....	1 31,315	31,315	31,315	31,335	31,335	31,335	32,565	32,565
		1 32,565	32,565	32,565	32,565	32,565	32,565	32,565
			1 33,740	33,640	33,640	33,640	33,640	33,640
Average.....	31,315	31,940	32,540	32,540	32,513	32,513	33,103	33,640

1 Represents firm requirements for months indicated.

District	1936 December	1937						
		January	February	March	April	May	June	July
8. West Texas.....	1 188,517	188,896	189,878	192,221	192,804	192,811	-----	-----
	-----	1 192,416	192,195	192,515	193,298	193,206	193,115	-----
	-----	-----	1 210,276	212,776	214,300	215,566	216,600	217,245
Average.....	188,517	190,656	197,449	199,271	200,130	200,527	204,858	217,245
9. North Texas.....	58,671	57,973	57,974	57,970	57,979	57,980	-----	-----
	-----	1 62,000	62,001	62,003	62,006	62,007	63,608	-----
	-----	-----	1 68,333	63,395	63,457	64,019	64,514	64,388
Average.....	58,671	59,987	61,103	61,125	61,147	61,335	64,011	64,388
10. Panhandle.....	1 61,424	61,424	61,434	61,444	61,444	61,454	-----	-----
	-----	1 66,070	66,080	66,080	66,540	66,550	66,560	-----
	-----	-----	1 73,400	73,400	73,850	73,850	73,850	73,850
Average.....	61,424	63,747	66,071	66,075	67,278	67,285	70,205	73,850
All districts, total..	1,333,883	1,391,595	1,402,494	1,407,952	1,416,078	1,418,640	-----	-----
	-----	1,438,796	1,444,262	1,449,178	1,456,636	1,459,245	1,449,146	-----
	-----	-----	1,606,151	1,622,184	1,630,614	1,637,973	1,645,425	1,552,811
Average total..	1,333,883	1,415,190	1,450,909	1,459,771	1,467,709	1,471,956	1,497,286	1,562,811

¹ Represents firm requirements for months indicated.

THE NATURAL GAS, NATURAL GASOLINE, AND CARBON BLACK INDUSTRY IN TEXAS

Gas.—The natural-gas industry in the State of Texas, where the production of natural gas is the most highly developed of any gas-producing State, accounts for 65 percent of the Bureau of Mines estimate of the open-flow capacity of gas wells in the United States. Since the State plays such an important role in the natural-gas industry, the Railroad Commission of Texas has interested itself in true conservation, or the wise use of its natural-gas resources.

At least 50 percent of the 8,000,000 natural-gas customers and the 45,000,000 people dependent upon natural gas for their cooking, heating, and lighting purposes in the United States are dependent for their supply upon the tremendous reservoirs within the State of Texas. Conservation, therefore, demands intensive, rather than extensive, use and takes cognizance of equitable distribution, aims to bring about social justice and the most good to the greatest number of people for the longest time.

The commission has made progress in the conservation of natural gas, not only in dry-gas fields, but also in oil fields, through decreased gas/oil ratios and better utilization of reservoir energy. As of January 1, 1937, Texas was producing 1,704,431,000 cubic feet of dry gas daily from 3,217 gas wells (2,847 currently producing). These wells are located in 294 sweet and 16 sour gas reservoirs. From 30,485 oil wells 805,797,000 cubic feet of gas was produced and utilized daily.

Gasoline plants.—As of January 1, 1937, 125 natural-gasoline extraction plants were operating within the State of Texas, processing a total of 1,911,612,000 cubic feet of gas daily. These plants were recovering 1,857,647 gallons of natural gasoline daily, which is equivalent to approximately 110,522 barrels of crude oil daily. The number of gasoline plants and the volume of gasoline produced has shown a steady increase for the past 3 years, there being 15 new plants placed in operation during the year 1936.

Carbon black plants.—As of January 1, 1937, there were 34 carbon black plants in the State of Texas, utilizing 647,516,000 cubic feet of casinghead and sour gas residue daily, the residue being purchased from gasoline extraction plants. The carbon black plants were producing 1,001,294 pounds of carbon black daily, which is a recovery of 1.55 pounds of carbon black for each 1,000 cubic feet of residue gas burned.

It is interesting to note that the State of Texas is producing approximately 90 percent of the total carbon black produced in the world.

On the following page is a compilation to show the monthly volumes of sweet, sour, and casinghead gas utilized in Texas in 1936 and the pounds of carbon black and gallons of natural gasoline produced.

Monthly volumes of sweet, sour, and casinghead gas utilized in Texas in 1936

[All figures in thousands of cubic feet]

Month	Sweet	Sour	Casinghead	Total
January.....	47,623,905	16,493,488	21,170,427	84,287,820
February.....	37,883,188	16,728,969	17,296,479	71,908,636
March.....	36,751,089	18,374,661	20,711,106	75,836,856
April.....	33,448,380	15,412,950	21,236,760	70,098,090
May.....	29,000,841	14,490,020	22,525,065	66,015,926
June.....	20,631,330	13,361,280	21,705,360	61,697,970
July.....	27,794,941	13,754,731	23,360,143	64,909,815
August.....	27,438,410	13,919,217	25,000,229	66,357,856
September.....	27,002,160	13,751,100	23,093,910	63,847,170
October.....	33,429,780	14,282,103	24,366,775	72,078,658
November.....	34,816,320	14,508,390	23,044,530	72,969,240
December.....	36,919,609	15,004,054	24,079,707	76,903,370
Year (366 days).....	398,439,953	180,080,963	269,090,511	847,611,427
Daily average.....	1,088,000	492,000	735,221	2,316,877

Products manufactured from natural gas in Texas during 1936

Month	Carbon black (pounds)	Gasoline (gallons)	Month	Carbon black (pounds)	Gasoline (gallons)
January.....	26,418,832	43,474,611	September.....	28,733,370	54,678,490
February.....	24,129,769	38,878,880	October.....	29,959,062	58,180,242
March.....	25,821,609	45,498,474	November.....	29,703,063	55,863,790
April.....	25,068,600	41,247,540	December.....	31,049,606	57,578,076
May.....	26,906,388	45,246,866	Year (366 days).....	328,415,632	608,457,093
June.....	26,587,560	52,498,370	Daily average.....	897,000	1,662,000
July.....	27,172,056	52,095,407			
August.....	27,055,436	50,310,760			

Total number of producing gas wells in Texas..... 2,847
 Daily open-flow capacity of all gas wells (M cubic feet)..... 39,376,063
 Oil wells delivering casinghead gas to gasoline plants..... 30,485

SUMMARY

- A survey of the foregoing data discloses the following facts:
1. Texas is the foremost producing area not only in the United States, but in the world.
 2. Texas alone now produces 39 percent of the United States' total and approximately 24 percent of the world's total production.
 3. Texas holds 52 percent of the proven reserves of the United States although Texas actually produces only about 39 percent of the daily United States production.
 4. Stabilization of production versus demand has effected a more stable and lower priced gasoline market under operation.
 5. Crude oil stocks in Texas decreased approximately 6½ percent during the first 11 months of 1936 on which there are actual figures, showing the exactness with which supply and demand have been balanced by the regulatory body in this State.
 6. Reports furnished by the Bureau of Mines show that as of November 30th the stocks of crude oil were sufficient for 89 days' demand and the stocks of products were sufficient for 60 days. These stocks are widely scattered and are not all immediately available. They, therefore, constitute a supply with a minimum safety factor. In fact, some operators have less than 5 days' supply of crude now available for operation of their refineries.
 7. The long-range forecasts for crude oil requirements for Texas indicates that there are no seasonal let-downs during the winter months. This condition is indeed remarkable and in direct contrast with popular belief.
 8. With reference to the magnitude of the gas industry in Texas, it is credited with 65 percent of the open-flow volume of the United States. It produces approximately 90 percent of the carbon black of the world. It is now credited producing approximately 43,000 barrels of natural gasoline daily which amounts

to the equivalent of 110,000 barrels of crude oil per day, when only the gasoline is considered extractable from the crude oil.

During 1936 54 new oil fields and 16 new gas fields were discovered in Texas. Seven counties secured oil production for the first time. As a result, 141 of the 254 counties of Texas now produce oil and gas. The discoveries mentioned are exclusive of new horizons and extensions in old producing areas.

ERNEST O. THOMPSON,
Member Railroad Commission of Texas,
And Chairman Interstate Oil Compact Commission.

HOUSTON, TEX., February 1, 1937.

In re Hearings on bill to extend Connally Hot Oil Act.

CHAIRMAN AND MEMBERS, SUBCOMMITTEE
OF THE SENATE FINANCE COMMITTEE,
Washington, D. C.

Gentlemen: Those of us whose names are signed to this letter are actively engaged in the business of producing oil, and each of us is an independent operator vitally interested in the welfare of the oil industry. We wish to present to your Committee this written communication requesting that the Connally Hot Oil Act be renewed and extended exactly as it now appears on the statute books. It is our feeling that it will probably have served its purpose if it is limited to an additional period of two years. We think the present act has been beneficial and that its extension will continue to serve a very useful purpose. We do not think the present act should be altered in any particular and urgently request that all efforts to alter or amend it be rejected as the act has been interpreted by the courts and has stood the test of actual operation which might be endangered by any alteration.

Respectfully submitted.

Dan J. Harrison, Houston, Tex.; H. Mecane, Liberty, Tex.; W. H. Hodnett, Houston, Tex.; Belmont Corporation, Houston, Tex.; Atlatl Royalty Corp., Houston, Tex.; W. Aubrey Smith, Houston, Tex.; Ennis W. Smith, Houston, Tex.; H. J. Porter, Houston, Tex.; Adrian Moore, Houston, Tex.; The Salt Dome Oil Corp., Houston, Tex.; K. F. Hauchmann, Houston, Tex.; R. O. Snow, Houston, Tex.; H. R. Cullen, Houston, Tex.; S. J. Garvin, Houston, Tex.; Mills Bennett, Houston, Tex.; J. R. Parton, Houston, Tex.; J. S. Abercrombie, Houston, Tex.; J. W. West, Houston, Tex.; D. H. McDaniel, Houston, Tex.; Chas. S. Reyer, Houston, Tex.; Harry W. Brown, Houston, Tex.; M. C. McGehee, Jr., Houston, Tex.; D. D. Bruton, Houston, Tex.; Harry C. Vaughn, Houston, Tex.; Geo. S. Buchanan, Houston, Tex.; Adams La. Co., Houston, Tex.; Clarence A. Wiggins, Houston, Tex.; Adams Royalty Co., Houston, Tex.; V. C. McKelly, Houston, Tex.; R. A. Wilsey, Houston, Tex.; J. W. Curtiss, Jr., Houston, Tex.; H. G. Nelms, Houston, Tex.; W. J. Goldston, Houston, Tex.; W. L. Goldston, Houston, Tex.

HOUSTON, TEX., February 1, 1937.

Col. ERNEST O. THOMPSON,
Austin, Tex.

DEAR COLONEL THOMPSON: It is our understanding that you intend to personally attend the hearings of the subcommittee of the Senate Finance Committee on the question of an extension of the Connally Hot Oil Act. We believe this act should be extended and have prepared a letter addressed to the committee,

bearing our signatures, which we herewith transmit to you with the request that you present it in our behalf at the time of your appearance before the committee.

Yours very truly,

Dan J. Harrison, Houston, Tex.; H. Mecane, Liberty, Tex.; W. H. Hodnett, Houston, Tex.; Felmont Corporation, Houston, Tex.; Atlati Royalty Corp., Houston, Tex.; W. Aubrey Smith, Houston, Tex.; Ennis W. Smith, Houston, Tex.; H. J. Porter, Houston, Tex.; Adrian Moore, Houston, Tex.; The Salt Dome Oil Corp., Houston, Tex.; K. F. Hauchmann, Houston, Tex.; R. O. Snow, Houston, Tex.; H. R. Cullen, Houston, Tex.; S. J. Garvin, Houston, Tex.; Mills Bennett, Houston, Tex.; J. R. Parten, Houston, Tex.; J. S. Abercrombie, Houston, Tex.; J. W. West, Houston, Tex.; D. H. McDaniel, Houston, Tex.; Harry W. Brown, Houston, Tex.; Chas. S. Reyer, Houston, Tex.; M. C. McGehee, Jr., Houston, Tex.; D. D. Bruton, Houston, Tex.; Harry O. Vaughn, Houston, Tex.; Geo. S. Buchanan, Houston, Tex.; Adams La. Co., Houston, Tex.; Clarence A. Wiggins, Houston, Tex.; Adams Royalty Co., Houston, Tex.; V. C. McKelly, Houston, Tex.; R. A. Wilsey, Houston, Tex.; H. G. Nelms, Houston, Tex.; J. W. Curtiss, Jr., Houston, Tex.; W. J. Goldston, Houston, Tex.; W. L. Goldston, Houston, Tex.;

Is Colonel George Hill here?

(No response.)

Mr. W. B. Hamilton?

(No response.)

Mr. Roeser, of Fort Worth?

STATEMENT OF CHARLES F. ROESER, FORT WORTH, PRESIDENT, INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

Senator CONNALLY. Give your name and business connection to the stenographer, please.

Mr. ROESER. My name is Charles F. Roeser, Fort Worth, Tex., independent oil producer. I have been in the oil business all my business life and my family before me. I am also president of the Independent Petroleum Association of America at this time, although I am not appearing for them, as we have prepared a brief, which our general counsel will present to you later, with the endorsement of all the oil- and gas-producing associations throughout the oil-producing States.

With regard to the desirability of continuing the Connally Act, I was a producer during the early development of the East Texas field, owning property in East Texas and other fields in different parts of the State, and I concur fully in the opinion that Colonel Thompson expressed, that the ultimate yield of the East Texas field has been doubled by adherence to the conservation methods in the production of the oil from the East Texas field. The great preponderance of opinion among outstanding petroleum engineers of the United States has been that the East Texas field under present control will produce double the amount of oil that it would under the old method of open flow. The advantage to the consuming public through the yield produced on that method of operation, is this: If you allow the East Texas field to flow wide open for a short period of time, you produce a tremendous amount of crude which would have to be stored in steel storage, above ground. The cost of that storage runs about 25 cents a barrel. The cost of the interest on the money necessary to carry that oil above ground, which would probably run 50 cents a barrel,

over a period of years is another item. Furthermore, the field would immediately go on the pump.

The difference between producing oil under pump and flowing method would amount to 65 to 75 cents a barrel, and the cost under the flowing method would be 65 to 75 cents a barrel, and under the pumping method \$1.15 to \$1.20. If you pump the oil at \$1.20, if the producer is to make a margin of profit, it would be necessary to get a price to sustain that cost. Therefore, through the method of operation of the East Texas field, in my opinion the consumer will be saved, I would say, at least a billion dollars over a period of 15 or 20 years. That is true all over the United States, of every other oil field. We have gone a long way in the conservation of oil in the last 20 years. I will go back to 1933, when the price of crude got down to 25 cents a barrel. I was operating in a field that had about 300 wells on it. That 25 cent price was inaugurated in May. So I shut those 300 wells down, thereby throwing a lot of men out of work. In addition to that a great many wells were abandoned which were capable of producing a little oil over a period of years. When we started that property up again in November—before that time I had been putting gas in the sand and the property had been producing 600 barrels a day. I made arrangements to get a gas supply and reintroduced that gas into the sand under pressure and in 10 months' time I had production up to 2,300 barrels a day.

Senator CONNALLY. You artificially pumped the gas into the sand?

Mr. ROESER. I did by artificial means what they are doing by natural methods in the East Texas field.

That has been at 2,300 barrels ever since, without drilling any more wells.

That is the theory as far as the State and consuming public are concerned. Under methods of that type there is not any doubt you can produce 100 percent more oil from the same field and at a lesser cost.

Senator CONNALLY. You speak about storage on top of the ground; is it true, or not, that oil authorities and experts generally agree that underground storage is better for oil than overground storage?

Mr. ROESER. There is not any doubt in the world about it. It should be left in its natural storage until such time as the consumers need it. That is simply a reasonable and logical conclusion.

Senator CONNALLY. The theory of all this regulation, proration, and conservation is to do that very thing?

Mr. ROESER. Fundamentally it is pure conservation, and nothing else. Conservation has a great effect, I think, on stabilizing prices, which, certainly from the oil industry standpoint and the Government standpoint and the consumer's standpoint, is a good thing. I will say that for his reason: Under the old wide-open flow we had prices of crude oil that ran from \$3.50 a barrel in the Midcontinent field in 1919 down to 25 cents a barrel in 1933. If you will check up the period of 3 years from the inauguration of the Connally Act, the 3 years prior to this against any 3 years which you have had in the history of the oil business, you will find your price of gasoline and lubricating oil to the public is 40 percent lower than under the open-flow wasteful methods.

Senator CONNALLY. Wholesale?

Mr. ROESER. And retail. The ultimate consumer has had the benefit of that. That will continue as long as we prohibit the waste-

ful methods of production. The Connally Act, what it does is to assist the regulatory bodies in enforcing their powers. In the East Texas field we had men shipping oil in interstate commerce over which we had no control. I would be observing the orders of the railroad commission and some neighbor producing a thousand barrels a day would not be and I had no defense against it.

Senator CONNALLY. And in addition, that neighbor was outcompeting you, was he not, and drawing your oil out?

Mr. ROESER. Yes; and selling four or five times as much as I was getting. It was the same thing as if you had a farm next to mine and I tunneled under the soil and took your cotton and sold it. I have no regrets if the other fellow takes my oil, and once we start to do that, prices go to pieces and the industry suffers.

Senator CONNALLY. Let me ask you this: In periods of wild flush production without conservation, that oil has to be stored; who gets the advantage of that, the big companies or the little companies?

Mr. ROESER. It has been the history of the oil business, and I think some of the great profits made out of that have been due to the fact that three or four companies not only had the storage facilities but the natural ability to do it and we did not have the money and could not store our crude. If we had a pipe line, that would be different, but we did not, and during a great many years that is what happened. I can show you where flush fields came in yielding \$2.50 a barrel and went down to \$1, or below; down below the cost of production. Our costs remained constant; that is, the cost of drilling, labor, and pipe-line transportation. When the price of oil got down to 50 percent of what our costs were, we were out of business, with the sheriff right behind us. When this oil was put in storage and sold, there was a scarcity in storage—

Senator TOWNSEND. What effect has your conservation policy had on the development of new wells?

Mr. ROSSER. On the new drilling?

Senator TOWNSEND. Yes.

Mr. ROSSER. It has been a fine thing for it. Today you have 12,000,000,000 barrels of reserve in the United States as a whole. Last year we lost ground, we probably developed seven or eight hundred million against a consumption—we lost about 400,000,000 barrels last year. Last year, but under the stabilized process everybody can make new explorations, whereas if you had a lower price it would kill it and the first thing you knew you would have a large quantity of oil and at the same time you would have high prices.

Senator CONNALLY. When oil is so low as to make the price destructive, who are the people who get the benefit of it? Is it not true the big rich, powerful oil companies can buy this distress oil and put it in storage and keep it, and then when the price goes back up they can sell it for a higher price and reap a profit, whereas the little fellow probably sells below cost of production, and that flush production operates to the advantage of the big companies?

Mr. ROSSER. That is undoubtedly true. The benefits of wide-open flow have been to the advantage of companies who are able to store it at the low price and sell it at the high. That has been proved. Five or six years ago an independent operator could not borrow money on his reserve in the ground. Our theory is if we can borrow money

for operation, for drilling, it prevents our losing any of our oil through drilling on adjacent land——

Senator TOWNSEND. You do not know whether your neighbor is taking oil away from you or not?

Mr. ROESER. On oil, if someone drills a well opposite you, you are forced to drill. For that reason the oil industry is peculiar and different from any other commodity and will always be from a conservation standpoint because it is a one-time, irreplaceable crop; you cannot grow it again next year.

Senator CONNALLY. There are certain folks here, representing marketers' associations, and others who are opposed to the reenactment of this law on the theory its operation is hurtful to the consumer because it affects adversely the price of gasoline; what have you to say to that argument?

Mr. ROESER. I would say those men are wrong in their analysis, and I can take them over a period of 20 to 30 years and prove it conclusively to their own satisfaction.

Senator CONNALLY. Are there any other matters you care to develop Mr. Roeser.

Mr. ROESER. I do not believe so. My association through Mr. Brown is going to offer a brief. Mr. Brown is going to appear on behalf of the association and you may ask him any other questions.

The CHAIRMAN. It is now 5 minutes to 12, and I do not know whether we can finish with another witness before noon. Mr. Collett, it will probably take you some time to develop your views?

Mr. COLLETT. Not very long.

(Discussion off the record.)

Senator CONNALLY. Are there any out-of-town witnesses who cannot be here tomorrow?

Mr. McNEELY. I would like to be heard today.

Senator CONNALLY. Come around and give your name to the stenographer.

STATEMENT OF R. M. McNEELY, CHICAGO, ILL., REPRESENTING THE CHICAGO WHOLESALE PETROLEUM MARKETERS' ASSOCIATION

Mr. McNEELY. My name is R. M. McNeely. I represent the Chicago Wholesale Petroleum Marketers' Association.

Senator CONNALLY. Are you a lawyer?

Mr. McNEELY. No, sir.

Senator CONNALLY. Tell us what your business is and all about yourself.

Mr. McNEELY. In our organization there are about 48 companies at the present time. Our function in the oil industry is the buying outright of finished products from the refiners and selling to the wholesaler or jobber.

Senator CONNALLY. You are, then, a sort of supersalesman?

Mr. McNEELY. If it might be called that. In other words, back when the industry started a great many refiners had no outlet at all for many of their products, such as fuel oil, and our company was——

Senator CONNALLY. What is your company?

Mr. McNEELY. Refiners Petroleum Co., of Chicago.

Senator CONNALLY. Do you have a list of the members of your association?

Mr. McNEELY. Yes, sir.

Senator CONNALLY. You might put that in the record.

Mr. McNEELY. I will put that, if I may.

Senator CONNALLY. You are not engaged in the actual production of oil?

Mr. McNEELY. Not in either production or refining, but merely marketing.

Senator CONNALLY. You are just oil merchants?

Mr. McNEELY. Yes.

Senator CONNALLY. Go ahead.

Mr. McNEELY. Our objection to this act, Senator, is not the fact—we have no fight with the producers; we appreciate the fact the producer of necessity must conserve his oil and must get a profit out of it. But, for instance, during the past 3 weeks I have just completed a tour of the so-called independent refiners of Texas, one of our semi-annual trips, which, from a pleasure standpoint, was very nice, but from a business standpoint it was a miserable flop. It was not possible for us to secure the product for our territory. The demand at the present time seems far in excess of the supply.

Senator CONNALLY. You mean you could not buy any oil or gasoline in Texas?

Mr. McNEELY. For northern shipment.

Senator CONNALLY. They do not discriminate against northern shipment, do they?

Mr. McNEELY. Interstate shipment. In other words, the prices at the Gulf were far in excess of what we could pay in the Midcontinent area.

Senator CONNALLY. Oh, I see; you could buy it, but not at your price?

Mr. McNEELY. At a competitive price. The product known as no. 2 gas oil, which is used for domestic heating, sold at the Gulf at 6½ cents for delivery in New York, and the New York market at that time was 6¾ cents, which meant, from a competitive angle, we naturally could not get in there.

Senator TOWNSEND. Where were they getting this oil from, these other sections, so they could make a price of 6¾?

Mr. McNEELY. I would say practically all of it was coming from that same section. That is material that has been contracted for at the established retail price of 6¾ in New York.

Senator TOWNSEND. Were they selling to New York cheaper than to your section; is that your contention?

Mr. McNEELY. Yes. I might cite our own particular condition in Chicago today. On no. 1 furnace oil we have an established retail price of 7 cents a gallon. The price in the field is 4 cents today, which means that the freight rate added to it, delivered in Chicago, would mean \$6.15 a hundred gallons—

Senator CONNALLY. Is that controlled by freight rate; do you mean the freight rate is higher to Chicago than to New York?

Mr. McNEELY. Naturally, that would not be sold by rail, but shipments by water to New York move at a lower rate. I am just citing the fact that the margin of profit in the burning-oil business at the present time is not really a profit at all, but it is a loss.

Senator CONNALLY. You are not kicking, then, about what the consumer is paying, but you are kicking because you cannot charge more?

Mr. McNEELY. I am coming to that.

Senator CONNALLY. Maybe the antitrust laws are being violated in Texas. Whom did you approach in Texas in an effort to buy this oil; give us the names of some of the concerns.

Mr. McNEELY. Do you want all of those refiners?

Senator CONNALLY. I want you to tell us some of the people that you approached in an attempt to buy.

Mr. McNEELY. The Humble, McNeil, Barnsdall—all of those small refiners in east Texas.

Senator CONNALLY. That is what I want to get, the little ones you could not buy anything from.

Mr. McNEELY. The Gainesville Refining Co., Gainesville, Tex., the Tyler Refining Co., the East Texas Refining Co., the K. D. Refining Co.—I could just go along with a long list here. We contacted every small plant in the State.

Senator CONNALLY. I am talking about when you were down there and not letters that you might have written.

Mr. McNEELY. I actually saw these men.

Senator CONNALLY. And as I understand you, none of them would sell you any oil?

Mr. McNEELY. I am not saying they would not sell it, but they were only willing to sell it at prices we could not use for northern shipment.

Senator CONNALLY. You could have bought it if you paid what they asked for it?

Mr. McNEELY. Absolutely.

Senator CONNALLY. But they would not sell it as cheap as you wanted to buy and therefore you say there was not any oil for sale for northern shipment, but any buyer could have bought it at their price?

Mr. McNEELY. Yes.

Senator CONNALLY. They had a right to say what they wanted, did they not?

Mr. McNEELY. Absolutely. I am not saying there is anything that would come under the antitrust law.

Senator CONNALLY. Will you put the rest of the names in the record, the parties with whom you had actual contact?

Mr. McNEELY. Yes. I might add that the bidding for crude oil at a premium of 15 cents a barrel is being offered at Houston for East Texas crude—

Senator CONNALLY. What do you mean by premium?

Mr. McNEELY. 15 cents over the posted price. That shows the amount of crude produced did not meet the demand.

Senator TOWNSEND. Your contention is the amount that is permitted to be sold is not as much as the market requires; is that your contention?

Mr. McNEELY. That is one.

Senator TOWNSEND. That is one of the things, I will put it that way.

Mr. McNEELY. Yes. Also, to bear out that contention, Senator, I believe any of these publications like the National Petroleum News will show a natural decline in the trend of stocks above ground; tremendous withdrawals of stocks of crude oil.

Senator CONNALLY. You take issue with the Bureau of Mines figures as to what demand and production ought to be?

Mr. McNEELY. I do not believe I do. I believe they will bear out the statement there have been heavy withdrawals from storage.

Senator CONNALLY. I am not disputing that they produce more at one period than at another and put it in storage.

Mr. McNEELY. During the past 2 years the retail price has risen $1\frac{1}{2}$ cents a gallon. The wholesale price at the refinery has risen 2 cents per gallon. That, I believe, is in direct contradiction to some statements that have been made, but I believe the publications will bear that out; they have the facts and figures.

Senator CONNALLY. You are speaking of the Chicago area?

Mr. McNEELY. Yes. I am very familiar with the facts. I do believe that the Connally bill was designed for different intent and purposes, but I believe it gave a tool to the major companies which seriously hurts the small independent.

Senator CONNALLY. Is not your attack on the State conservation laws rather than on the Connally Act? The Connally Act merely says if a State produces oil illegally they may not ship it in interstate commerce. Is not your quarrel with the State who says what the production should be? You do not mean to say you would favor a hot-oil violator of the law who steals his neighbor's oil—you do not think he should have the right to ship that in competition with legitimate oil, do you?

Mr. McNEELY. No, sir.

Senator CONNALLY. That is all the Connally law says. Is not your quarrel with the State law which regulates the amount of oil produced? Have you read the Connally Act?

Mr. McNEELY. Yes; but it gave them the necessary tool to shut off the source of supply.

Senator CONNALLY. The illegal source of supply.

Mr. McNEELY. I do not know whether it would be termed illegal or not.

Senator CONNALLY. If you have read the act you know it is only the oil produced in violation of law. Your complaint is the Connally law shuts off that avenue of production. Is that not what you said a minute ago? How do you square that with your statement you do not think he should be allowed to ship the illegal oil in interstate commerce and compete with the honest producer; how do you square those two statements?

Mr. McNEELY. We have no quarrel with the small producer, but I would like to say—

Senator CONNALLY. I did not say anything about the small producer. It does not make any difference if he is a big producer or a little producer; if a man steals my oil he is a crook, just the same.

Mr. McNEELY. We have no quarrel with the producer. We do believe under this Connally Act which, I will admit, was designed with the best intents and purposes, but it has given those men the power to regulate it in such a way the independents are suffering.

Senator CONNALLY. Who do you mean?

Mr. McNEELY. The larger companies.

Senator CONNALLY. They do not regulate how much can be produced; the railroad commission says that. Now, point out in the

Connally Act what it is you are kicking about. There is the act; point it out. It says they shall not ship oil in violation of law. Do you favor that?

Mr. McNEELY. This is the part, section 4, speaking of the amount of petroleum and petroleum products moved in interstate shipment.

Senator CONNALLY. Point out what is wrong with it.

Mr. McNEELY. It says—

is so limited as to be the cause, in whole or in part, of a lack of parity between supply (including imports and reasonable withdrawals from storage) and consumptive demand (including exports and reasonable additions to storage) resulting in an undue burden on or restriction of interstate commerce in petroleum and petroleum products, he shall by proclamation declare such finding, and thereupon the provisions of section 3 shall be inoperative until such time as the President shall find and by proclamation declare that the conditions which give rise to the suspension of the operation of the provisions of such section no longer exist.

Senator CONNALLY. What is wrong with that? That is just the preamble; that is just telling when the President can put the law into effect.

Mr. McNEELY. In this: I do not see there is any provision where we can ask for that.

Senator CONNALLY. How is that?

Mr. McNEELY. I say there is no provision for a small independent to come in and appeal to that particular part of the preamble.

Senator TOWNSEND. That is, an appeal for an increase in production; is that your idea?

Senator CONNALLY. You cannot appeal under the Connally law because it has nothing to do with production. You can appeal to the Texas commission or the Oklahoma commission.

Mr. McNEELY. As a marketer, I do not believe I can.

Senator CONNALLY. I want you to point out what is in this law that hurts anybody except the man who violates the State law.

Mr. McNEELY. I do not believe I could point that out.

Senator CONNALLY. This says that after that oil has been produced, if it has been produced legally, it can move in interstate commerce; if it is outlaw or contraband oil, if it is dishonest oil, it cannot move. Now, is there anything wrong with that?

Mr. McNEELY. No.

Senator CONNALLY. That is all the act does.

Mr. McNEELY. You were asking about the effect on the consumer, and I wanted to bring that out.

Senator CONNALLY. That was under the general proposition of conservation under the State law; to the extent that this act does reinforce the State law and aid them in enforcing the State law, it has related to conservation, but it does not prescribe the amount of oil and does not give the Federal Government power to say how much should be produced, because the Federal Government does not exercise that power. The power to say how much shall be produced is wholly within State jurisdiction and is not exercised by the Federal Government but by the State. All we say is if it has been produced according to law it can move freely and if it has not been, it cannot. Do you have any complaint about that?

Mr. McNEELY. Beyond the fact, Senator, that we still contend that under the guise of conservation it has not been fairly done to this extent; that it is shutting off our source of supply; that is the the only complaint we have against it.

Senator CONNALLY. Did you formerly buy this illegal oil?

Mr. McNEELY. Not illegal oil.

Senator CONNALLY. During the hot-oil orgy, did you not buy it in east Texas?

Mr. McNEELY. We deal only in the finished product.

Senator CONNALLY. There was hot gasoline as well as oil.

Mr. McNEELY. We have no way of knowing—

Senator CONNALLY. Tell the stenographer from whom you bought gasoline in the East Texas field prior to the enactment of this law, if you know; we would like to know the companies so we can check on them to see if they were obeying the law.

Mr. McNEELY. That was prior to February 1935?

Senator CONNALLY. Yes. Give us the names of some of the refiners in east Texas, the people you were buying from.

Mr. McNEELY. In east Texas?

Senator CONNALLY. Yes. You said you went down there lately.

Mr. McNEELY. I said I went to Texas. We made the tour completely.

Senator CONNALLY. Give us any of them, but I prefer east Texas; but give us the names of the concerns you bought gasoline from.

Mr. McNEELY. Without consulting any records, because I have not got them with me, naturally—

Senator CONNALLY. You have some of your records here now; you brought your recent record—

Mr. McNEELY. These are not recent ones; these are only in case anybody questioned about the market value.

Senator CONNALLY. You remember some?

Mr. McNEELY. The Falls Refining Co.

Senator CONNALLY. Of where?

Mr. McNEELY. Wichita Falls; the Pan Handle Refining Co., of Wichita Falls; the Tyler Refining Co.; the Texas Refining Co., and others I cannot think of just now.

Senator CONNALLY. Could you get that for us?

Mr. McNEELY. Surely.

Senator CONNALLY. Will you get that?

Mr. McNEELY. I will forward it to you.

Senator CONNALLY. We would like to get it as quickly as we can and put it in the record.

Mr. McNEELY. I will be glad to do it. I expect to be in Chicago tomorrow, and I will forward it to you.

Senator CONNALLY. Go ahead. I want to give you a fair opportunity to say anything you want.

Mr. McNEELY. That is all I have to say unless you have some questions to ask.

Senator CONNALLY. Senator Townsend, have you any questions to ask?

Senator TOWNSEND. No.

Senator CONNALLY. In short, your complaint is if they let them produce more oil you could get it at a cheaper price?

Mr. McNEELY. We would have a source of supply.

Senator CONNALLY. You would have a greater supply and the tendency would be to reduce the price, but from a competing standpoint would that help you; would not everybody else get it cheaper?

Mr. McNEELY. From my own company's standpoint, Senator, in the past year our sales of gasoline alone have decreased 35 percent, due solely to our inability to secure the material at competitive prices.

Senator CONNALLY. Maybe you charged them too much.

Mr. McNEELY. That is possible, but I do not believe it is true.

Senator CONNALLY. Can you not buy oil at the same price anybody else can?

Mr. McNEELY. No, sir.

Senator CONNALLY. Why not?

Mr. McNEELY. Because the source of supply is too limited.

Senator CONNALLY. But if you buy 5 barrels, can you not buy it at the same price anybody else can buy it?

Mr. McNEELY. I expect I could.

Senator CONNALLY. So, then, competitively, you are on the same basis with everybody else, are you not? When you were in Texas you talked about the posted prices; you could have bought gasoline, fuel oil, or crude at that price just like everybody else?

Mr. McNEELY. The crude is selling at a premium due to the demand.

Senator CONNALLY. But you were not buying crude?

Mr. McNEELY. No.

Senator CONNALLY. Could you not buy the things you buy in Texas the same as anybody else?

Mr. McNEELY. Yes.

Senator CONNALLY. And the reason you did not was you figured you could not pay those prices and make a profit at retail?

Mr. McNEELY. Yes.

Senator CONNALLY. So from a competitive standpoint you are on the same level as everyone else?

Mr. McNEELY. Yes.

Senator CONNALLY. Thank you.

(Whereupon, at 12:15 p. m., the hearing was adjourned until Tuesday, February 16, 1937, at 10 a. m.)

REGULATION OF SHIPMENT OF PETROLEUM IN INTERSTATE AND FOREIGN COMMERCE

TUESDAY, FEBRUARY 16, 1937

UNITED STATES SENATE,
SUBCOMMITTEE OF THE
COMMITTEE ON FINANCE,
Washington, D. C.

The subcommittee met, pursuant to adjournment, in room 312, Senate Office Building, at 10 a. m., Senator Tom Connally presiding.

Senator CONNALLY. All right, gentlemen, please come to order. Mr. Collette, will you come around here when you are ready, and give the stenographer your name, connection, business, and so forth.

STATEMENT OF J. D. COLLETT, PRESIDENT, GENERAL MID-CONTINENT OIL AND GAS ASSOCIATION, FORT WORTH, TEX.

Mr. COLLETT. My name is J. D. Collett, president of the O'Keefe & Collette Corporation, Fort Worth, Tex., an independent operator, producer of oil.

Senator CONNALLY. Have you a general statement that you desire to make before we ask you any questions, Mr. Collett?

Mr. COLLETT. I have prepared no statement, Senator Connally.

Senator CONNALLY. I did not mean a statement in writing, but if you have a general statement of the situation, you might go ahead and tell the committee of your former connections with the industry; you were at one time, I believe, connected with the codes of the N. R. A.?

Mr. COLLETT. Yes, sir; I was a member of the planning and coordination committee from December until the end of the code activities; I was serving as chairman of that committee here in Washington. I also served as chairman of region 4, under the code, which consisted of the States of Texas, Oklahoma, Kansas, and New Mexico.

Speaking as an individual operator, Senator, I have considerable interest in the reenactment of the Connally law. We have found from experience with it in its operation, particularly insofar as Texas is concerned, that it has had a remarkably stabilizing influence, and as an individual I would say that we would very much prefer the law to be made a permanent one rather than it be extended for a limited term of years. Specifically, the reason for saying that is this: That in the administration of the law, a very much more efficient corps for handling it can be set up and maintained if it is not going to be necessary every few years to know whether or not the law is going to remain in force; in other words, you get better trained men

and men who have had more experience in handling it, and as you go along it helps to iron out and smooth out the various difficulties that arise with the enforcement. So, I am unequivocally for the reenactment of the bill, and I hope it will be made permanent.

SENATOR CONNALLY. Mr. Collett, are you familiar, pretty well, with the conditions in the oil industry and the problems you have had, say, covering the past 6 or 7 years?

MR. COLLETT. Yes, sir.

SENATOR CONNALLY. Would you mind going ahead and detailing that situation, and what, if any effect, has resulted by reason of these measures? Were you in the East Texas field during the martial-law days?

MR. COLLETT. Yes, sir.

SENATOR CONNALLY. Give us an outline of that. These men make a noise like oil men, but they may not know about all of these things.

MR. COLLETT. The situation just prior to the enactment of the National Industrial Recovery Act was pretty thoroughly demoralized, not only with reference to the production of crude oil, which was being put above ground at an excessive rate and beyond the market demands, or any reasonable consumption of it, and that excess of crude necessarily produced demoralization in the refining end of the business, and from there it spread through the marketing, resulting in a general demoralization of the entire industry.

At the time of the enactment of the Recovery Act and in the inception of the code activities, the original effort, as everybody will recall, in connection with the curtailment of the excess of crude, was order 9-C. That was knocked out later by the Supreme Court, and then the effort of not only the administration but of the industry was the enactment of what finally was crystallized in the Connally Act. Prior to that time there was a great excess of production of crude oil going out of the East Texas field, particularly. That was our greatest source of trouble. The crude and the crude products were being spread over a tremendous area all over the country, and resulted in putting into the market more crude and more crude products than the market could normally absorb.

Then, along with the Federal Government administration, the Petroleum Administration Board, acting under Secretary Ickes, and our planning and coordination committee, which was the committee cooperating with the Government activities, as we began to get the crude situation under control, it became apparent that there was also going to be a necessity for some curtailment of the refining on some sort of a quota basis that would prevent an excessive amount of refined products going out into the market. The amendment to the code, and, as I recall, section 4 was the refiners' section, provided for, and we put into operation, a system of quotas for the refiners, dividing the country up into districts and the allocating to the refiners.

SENATOR CONNALLY. Who did the allocating? Who had the authority for that?

MR. COLLETT. That was done under a committee formed out of the P. and C. committee, and with the cooperation and approval of the Oil Administrator, Secretary Ickes.

Then a further step was the effort to handle the surplus, or distress gasoline supply of the country, and there were buying pools, pro-

grams with reference to purchase of distress gasoline. Those activities were the result of joint action between the P. and C. committee and the oil administrator; we were working together on that.

Those plans and programs were worked out and approved by the administrator. The first of them was not a success, but we went along and subsequently we had a later one organized on a little different basis, and it was operating right up very nearly to the close of the code activities.

The general result of that cooperation between the industry and the Oil Administrator was a very decided improvement, not only in the production, but in the refining, and there was a decided stabilization of the marketing activities throughout the country.

Senator CONNALLY. What period are you speaking of now; was this before the enactment of this act, or afterwards?

Mr. COLLETT. I was running from the beginning to down toward the close of the code. At the beginning there was a total demoralization. We had crude prices down in Texas, in my section of the country, down to 25 cents.

You speak of the martial law period. The price of crude in the East Texas field went to 10 cents, and of course that price was reflected all over that entire producing area down there, the whole of the midcontinent.

Senator CONNALLY. What happened when 9-C was declared unconstitutional?

Mr. COLLETT. Then the effort was to secure the enactment of something to take its place.

Senator CONNALLY. I mean what were the conditions after the codes were knocked out; what were the conditions in the industry?

Mr. COLLETT. You mean after the code was knocked out?

Senator CONNALLY. Yes.

Mr. COLLETT. My own personal view of that was that the industry still received a considerable benefit from the lessons they had learned under the code and from the stabilization that had occurred as a result of the code activities to curtail the production of crude and refining, and also stabilization of the marketing.

Senator CONNALLY. In other words, you had gotten them into the habit of doing these things?

Mr. COLLETT. Yes; when we started in with those code activities, it was a pioneering effort; the industry had never had an opportunity to do those things before. They had never gotten together and agreed upon plans, and so forth, and after having had the opportunity to get together and consult with the Federal administrator, the Petroleum Administration Board, and all of that, they began to see what the actual difficulties had been, and we found we had a way of curing them, and the result was most satisfactory.

Then, following that, the enactment of the Connally law maintained the limited flow of crude to, in a measure, keep it in balance with the market demand for the crude, and, basically, that was the first thing necessary to be done, to stabilize the crude, and then the manufacture of that into refined product, and then the stabilization of the marketing of the product.

Senator CONNALLY. What was the major difficulty originally in the putting into effect of codes; what was the major trouble with the industry you were seeking to correct; was it overproduction?

Mr. COLLETT. Primarily, it was overproduction; bad practices in marketing, bad practices all of the way through the industry, and some unfair competition and wasteful production; that was extensive.

Senator CONNALLY. What have you to say, Mr. Collett, with relation to when the price of crude is 25 cents, or 10 cents, or at a distressingly low price, whether or not the consumer gets a reflection of that in the price of his gasoline?

Mr. COLLETT. Not in proportion to the price of crude, he does not.

Senator CONNALLY. Why?

Mr. COLLETT. Because there are certain fixed charges which go into the manufacture that cannot be eliminated. There is not any difference in the cost of refining crude oil when it is up or down, materially.

Senator CONNALLY. How about digging wells and all of this other oil-field expense, the cost of the well, and so forth?

Mr. COLLETT. There is very little difference there. When there is an extreme condition of unemployment, some of your drilling costs may be a little less. That was one of the things the code originally undertook to do, primarily, first to improve working conditions, which meant shorter hours and higher wages, and then put the industry in shape where it could pay the bill. That is one of the things that was done.

Senator CONNALLY. What was the condition with relation to State administration of the act and State enforcement in Texas after the enactment of the so-called Connally Act? Was there any improvement?

Mr. COLLETT. A decided improvement, in this way, Senator. There was more than one factor that had to do with that. Prior to that time there had been a great deal uncertainty as to the constitutionality of some of the State regulatory measures, and some of our conservation laws in the State of Texas, and in the meantime there had been improvement in the conservation laws, that is, there had been enacted better laws and on a sounder basis, and those laws were being upheld by the courts. That enabled the Railroad Commission, which has the authority in administering the oil laws in Texas, to enforce in a much more effective way the laws that had been enacted. We had the improved statutes to start with, and then, better enforcement, and then we had the cooperation of the Federal Government through the Connally Act that finished the job, and since that time we have not had complaint about the conditions in the industry in Texas; they are very vastly improved, very much better.

Senator CONNALLY. Of course, Mr. Collett, we have to bear in mind the interests of the consumer as well as the producer, because there are more of them, and that affects the general welfare; what is your observation over a long period of years as to the benefit resulting to the public by virtue of stabilized production and stabilized supply, with relation to price?

Mr. COLLETT. You mean as against—

Senator CONNALLY. As against the wild, unrestrained production in flush periods, and with production tightened up in other periods.

Mr. COLLETT. The consumer, the industry, and the public are all better off on a stabilized basis than they are with the floods and famines. They do not get the benefit of floods of production. All

of those floods of production result in loss and waste, and the public does not itself get the benefit and it is simply reducing their future supply; it is just a wasteful situation. And then there is another phase of it, and pardon me for referring to it, but particularly in our State, Senator, the State of Texas is very greatly interested in oil so far as the university fund and the public-school fund is concerned, and with your prices of that product down to a low figure, the matter of taxation and revenue to the State is very materially reduced; that is a big item in our State. The university has now accumulated something better than \$26,000,000 from its land, with every field being opened up, and you know the status of the public-school fund.

Senator CONNALLY. Is there not a crude production price based on the selling price of oil?

Mr. COLLETT. Yes; the recommendation pending at the present time looks as if—this is prophesying—but the tendency of the Legislature of Texas now is not to put the price on a tax per barrel, but a percent of the value of the oil per barrel, and that, of course, means a very great difference in the revenue.

Senator CONNALLY. Some testimony here yesterday was to the effect that proration and conservation laws had operated to make the amount of possible recovery in the East Texas field probably double what was originally estimated; have you any information along those lines, or do you know about that from your observation or experience?

Mr. COLLETT. From my experience in producing there and in other fields, it is unquestionably true that under proper conservation laws and regulation and the limiting of the production from any given field to a basis upon which it could be done without waste, will increase the ultimate recovery of the pool, and I would say that the figure of doubling the recovery in the east Texas pool under proration and conservation as against unrestrained production, that that would easily be doubled, the ultimate recovery of that pool.

Senator CONNALLY. What do you say with regard to the ratio between the price of wholesale gasoline at the refinery and the price of crude oil per barrel; there was some testimony the other day that on the basis of a dollar or a dollar and a quarter, a fair ratio was 18½; I do not suppose those figures are fixed.

Mr. COLLETT. No; that would not be a fixed figure because it would vary some with the price of your crude product; if it got inordinately low, that ratio would not apply; but that figure was arrived at during the code days when there was a discussion of not only controlling production but fixing the price, and the 18.5 ratio, if I remember the way that was arrived at, was taking the long-range average price of crude and the long-range average price of gasoline; but that would vary some, that 18.5; it would vary some with the increase or decrease in price of crude, particularly if there was a material increase or decrease.

Senator CONNALLY. As to this particular figure, these figures of a dollar or a dollar and a quarter for crude, in that bracket, would that be a fairly accurate ratio?

Mr. COLLETT. Yes; around that figure it would be a fairly accurate ratio, I would say.

Senator CONNALLY. At this price, is the consumer getting a fair economic deal if he gets his gasoline for one-eighteenth of what a barrel of crude oil sells for, on a 1.10 or 1.15 basis?

Mr. COLLETT. Yes, sir. I think that insofar as the refined products are concerned, if we take gasoline, which is the main product the public is interested in, I think the public has been getting quite the best of it all of the way along, on an average; in other words, the point I am making, Senator, is that gasoline is today, I believe, the cheapest commodity that the public uses, generally.

Senator CONNALLY. You are speaking as a buyer of gasoline or as a producer of oil?

Mr. COLLETT. I am speaking as a consumer of gasoline in my car. If you take your commodity indexes and move them up and down for 15 years, you will find gasoline is down below the average.

Senator CONNALLY. It probably ought to be, because there is more oil produced now, relatively, and therefore a larger supply.

Mr. COLLETT. But there has also been a very greatly increased demand. Your number of cars, trucks, and transportation by bus is greater.

Senator CONNALLY. Have you anything further you want to add, Mr. Collett?

Mr. COLLETT. Nothing further, particularly, Senator.

Senator CONNALLY. If I may ask you, your final conclusion is this act ought to be made permanent law?

Mr. COLLETT. Decidedly.

Senator CONNALLY. Is there any amendment or change you might suggest?

Mr. COLLETT. No, sir; it has been upheld in the courts and has been effectively operated as it reads, so I do not see any reason why it should be changed in any way; all we need to do is eliminate the date and let her go; that is my idea.

Senator CONNALLY. Thank you, Mr. Collett.

We have some telegrams from various sources, and the first is from the Western Petroleum Refiners' Association, Mr. A. V. Bourque, secretary-treasurer, indicating his approval of the act.

(The telegram referred to is as follows:)

TULSA OKLA., February 12, 1937.

FAYETTE B. DOW,

Washington, D. C.:

This association, representing large number independent refineries in the mid-continent area, strongly urges reenactment Connally hot oil bill. Our members feel marked progress has been made under the present act and failure to reenact the bill would be a decidedly backward step. We request you do everything possible in behalf of the bill and request Senator Connally place this telegram in record of official hearings.

WESTERN PETROLEUM REFINERS' ASSOCIATION,
A. V. BOURQUE, Secretary-Treasurer.

Senator CONNALLY. We also have one from the Pennsylvania Grade Crude Oil Association, a similar wire.

(The telegram referred to is as follows:)

OIL CITY, PA., February 13, 1937.

FAYETTE B. DOW,

Vice President, Pennsylvania Grade Crude Oil Association,

Washington, D. C.:

Our board of directors has instructed me to request that you place in the record of the Senate the strongest possible endorsement of the pending bill,

which proposes to make the Connally hot-oil law permanent. Our entire membership appears to be unanimous in the conviction that the Government should continue to provide this measure of assistance to the States in the interest and for the protection of the small refiners and producers of our region.

PENNSYLVANIA GRADE CRUDE OIL ASSOCIATION,
J. E. MOOREHEAD, *Executive Secretary*.

Senator CONNALLY. We also have one from the Detroit Oil Marketers Association, in opposition. They did not ask that it go into the record, but I will put it in anyway. I want to be fair to them.

(The telegram referred to is as follows:)

DETROIT, MICH., February 15, 1937.

CHAIRMAN, SUBCOMMITTEE OF SENATE FINANCE COMMITTEE,
Senate Office Building, Washington, D. C.:

We request repeal of the Connally hot-oil bill, which gives Federal assistance to control or production of crude oil and defeat of 700 in the Seventy-fifth Congress.

DETROIT OIL MARKETERS ASSOCIATION.

Senator CONNALLY. At this point I want to put in the record a list of persons whom I invited to this hearing. Some responded and some did not. We had some objections from certain representatives of the Oil Workers' Association; Mr. W. W. Moore, secretary, Union No. 203, Gladewater, Tex.; and Mr. W. B. Smith, secretary-treasurer, East Texas District Council of Oil Workers, Kilgore, Tex.; and a number of others; so we will put that list in the record. We want to be fair in these hearings and give everybody who has views an opportunity to submit them within the limits of our time.

(The list referred to is as follows:)

INVITED TO APPEAR AT HEARINGS ON HOT-OIL BILL

- Hon. J. W. Steele, chairman, Federal Tender Board, Kilgore, Tex.
 Hon. Bryan Payne, president, Iowa Payne Oil Co., Tyler, Tex.
 Wilmer R. Schuh, president, National Retail Marketers' Association, Milwaukee, Wis.
 Hoch Homer, Corporation Commission of Kansas, Topeka, Kans.
 Gov. E. W. Marland, Governor of Oklahoma, Oklahoma City, Okla.
 Charles F. Roeser, president, Independent Petroleum Association of America, care of Roeser & Pendleton, Inc., Fort Worth, Tex.
 J. D. Collett, president, General Mid-Continent Oil & Gas Association, care of O'Keefe & Collett, Inc., Fort Worth, Tex.
 Jake Hamon, president, Mid-Continent Oil & Gas Association of Texas, care of Cox & Hamon, Dallas, Tex.
 George A. Hill, Jr., president, Houston Oil Co., Houston, Tex.
 Joe S. Bridwell, president, North Texas Oil & Gas Association, care of J. S. Bridwell & Co., Wichita Falls, Tex.
 W. W. Moore, secretary, Oil Field Workers' Union 203, Gladewater, Tex.
 W. B. Hamilton, Wichita Falls, Tex.
 W. C. Clark, Longview, Tex.
 D. Harold Byrd, Byrd-Frost Oil Co., Tyler, Tex.
 Dan Harrison, Houston, Tex.
 Rade Kangerga, Henderson, Tex.
 Ray Starnes, president, Lone Star Refining Co., Gladewater, Tex.
 J. Malcolm Crim, Kilgore, Tex.
 J. D. Rather, Tyler, Tex.
 R. W. Fair, Tyler, Tex.
 Tom Potter, Kilgore, Tex.
 M. T. Flanagan, Longview, Tex.
 Freeman W. Burford, president, East Texas Refining Co., Dallas, Tex.
 W. B. Smith, secretary and treasurer, East Texas District Council of Oil Workers, Kilgore, Tex.
 Col. Ernest O. Thompson, Railroad Commission of Texas, Austin, Tex.
 Hon. William McCraw, the attorney general of the State of Texas, Austin, Tex.

Senator CONNALLY. I think I will now hear Mr. Hadlick. Do you represent all of these marketers?

Mr. HADLICK. I represent the National Oil Marketers' Association; I do not represent all of the marketers.

Senator CONNALLY. Are there any marketers present who do not belong to Mr. Hadlick's organization who want to be heard?

Mr. DECKER. I represent a separate independent group and I have a prepared brief.

Senator CONNALLY. Tell us your name.

Mr. DECKER. R. E. Decker, Plymouth Isle, Detroit, representing the Dixie Distributors.

Senator CONNALLY. We will give you an opportunity to file your brief later, and if we have time we will hear you, also.

Mr. McCAIN. I represent four associations in Missouri.

Senator CONNALLY. What is your name?

Mr. McCAIN. W. R. McCain.

Senator CONNALLY. I think we will hear Mr. Hadlick now.

Mr. SCHOCK. I represent the Independent Oil Jobbers Association of Pennsylvania. I am on the calendar for tomorrow.

Senator CONNALLY. We are going to try to close these hearings today if we possibly can.

Mr. SCHOCK. I had a telegram from your chief clerk stating we might be heard today or tomorrow.

Senator CONNALLY. I advised the clerk we would prefer these marketers to get together and have a representative. I suppose their views are identical and their interests are pretty much identical. We can give one man more time than we can give four.

All right, Mr. Hadlick, tell us who you are, where you live, and what you do.

STATEMENT OF PAUL E. HADLICK, WASHINGTON, D. C., SECRETARY AND COUNSEL, NATION OIL MARKETERS' ASSOCIATION

Mr. HADLICK. My name is Paul E. Hadlick. I am secretary and counsel of the National Oil Marketers Association. I reside in Washington. This association is an association of independent oil jobbers. It is an organization that has been in existence since the fall of 1933, but was not incorporated until July 1935.

Senator CONNALLY. Have you a list of the members of it?

Mr. HADLICK. I have a list in the office which I shall be glad to submit.

Senator CONNALLY. I hope you will bring that up and let us have it. Subsequently Mr. Hadlick furnished the data requested and some is on file with the committee.

Mr. HADLICK. I shall be glad to do so.

First, let me state that our organization opposes the passage of the Connally bill, S. 790, for the following brief reasons:

First, it proposes to make permanent a piece of emergency legislation originally a part of and designed to be used in connection with the National Industrial Recovery Act.

Second, there should be true competition between the States producing oil for the business of the consuming States.

Third, the Connally Act, as it has operated, has played into the hands of the major oil companies, giving them practically monopo-

listic control of the production of oil; thus enabling and bringing about effective control of refinery runs and a false shortage of refined petroleum products.

Fourth, the country cannot be half slave and half free; nor can the oil industry be half controlled (at the source) and half competitive (in the marketing branch).

Fifth, the independent oil marketers have not enjoyed a free and open market to purchase their supplies since the Federal Government came into the picture and aided in holding supply of crude oil below market demand.

Now to take up these various points and elaborate on them.

First, it proposes to make permanent a piece of emergency legislation originally a part of and designed to be used in connection with the National Industrial Recovery Act.

Section 9 (c) of the National Industrial Recovery Act (act of June 16, 1933, Public, No. 67, 73d Cong., 1st sess.; C. 90, title I, par. 9; 48 Stat. 200) read as follows:

The President is authorized to prohibit the transportation in interstate and foreign commerce of petroleum and the products thereof produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any State law or valid regulation or order prescribed thereunder, by any board, commission, officer, or other duly authorized agency of a State. Any violation of any order of the President issued under the provisions of this subsection shall be punishable by fine of not to exceed \$1,000, or imprisonment for not to exceed six months, or both.

Early in 1935, before the main issues in connection with the National Industrial Recovery Act had reached the Supreme Court of the United States, the above section was held unconstitutional by that court in the case of *Panama Refining Company v. Ryan* (293 U. S. 388).

Promptly thereafter Congress remedied the defect in the legislation pointed out by the Court and on February 22, 1935, passed the present Connally Act (Public, No. 14, 74th Cong., ch. 18; 49 Stat. pp. 30-35). This act was made to expire on June 16, 1937, very obviously to correspond with the expiration of a 2-year extension of the National Industrial Recovery Act which was then in contemplation.

However, the Supreme Court nullified the principal features of the National Industrial Recovery Act in its decision in the case of *Schechter v. U. S.*, 295 U. S. 495. The Congress should then have repealed the Connally Act as it was originally a part of the National Industrial Recovery Act and was subsequently enacted to be an aid to carrying out the purposes of that act.

Senator CONNALLY. The court did what, you say; repealed the Connally Act?

Mr. HADLICK. No; I say the Court threw out the National Industrial Recovery Act and the Connally Act being part, originally—

Senator CONNALLY. That was not the Connally Act at all. That was section 9-C of the Industrial Recovery Act. The Connally Act was passed in 1935.

Mr. HADLICK. It was part of the original National Industrial Recovery Act.

Senator CONNALLY. No, it was not; section 9-C was. I suppose you want to be accurate and fair about it.

Mr. HADLICK. I absolutely do, Mr. Senator. Let me go back and read what I said there. After I said the Court, in the *Panama Refining Company v. Ryan case* threw out 9-C, I said: "Promptly thereafter Congress remedied the defect in the legislation pointed out by the Court and on February 22, 1935, passed the present Connally Act."

Senator CONNALLY. All right.

Mr. HADLICK. Then I said, "However, the Supreme Court nullified the principal features of the National Industrial Recovery Act in its decision in the case of *Schechter v. U. S.*", and that Congress should then have repealed the Connally Act, as it was originally a part of the National Industrial Recovery Act and was subsequently enacted to be an aid to carrying out the purposes of that act.

Senator CONNALLY. You are wrong; you are not accurate; the Connally Act was passed in 1935. The 9-C was a part of the National Industrial Recovery Act and was not an act of its own, standing alone. The principles are somewhat the same.

Mr. HADLICK. I take it you will agree that the Connally Act was passed promptly because 9-C was declared unconstitutional?

Senator CONNALLY. Exactly, yes.

Mr. HADLICK. Then I see no point in—

Senator CONNALLY. I regard as pettifoggery the way you try to bring that out.

Mr. HADLICK. I do not regard it so, Senator.

Senator CONNALLY. Go ahead.

Mr. HADLICK. Unless Congress takes affirmative action at this session the present Connally Act will expire on June 16, 1937. It is submitted that the act should be permitted to expire and not renewed or made permanent.

Second, there should be true competition between the States producing oil for the business of the consuming States.

Commerce may be likened to a stream of water. In interstate matters the Congress should protect the main channel of the stream, which is competition. It has done so in the past by enactment of the Sherman antitrust law, the Clayton and Federal Trade Commission Acts, and more recently the Robinson-Patman law.

These last-named statutes are protections and aids to the main channel of competition; we might liken them to jetties built to protect the channel.

But the Connally Act is not a jetty; it is a full-fledged dam that has built a well around the production of oil so that the lower riparian owners, the independent oil marketers, and the consumers have been grievously damaged without compensation.

Enactments of Congress should only protect the channel of competition, the stream of commerce, in the oil industry, so as to bring about healthy competition between the States and the companies for their share of the Nation's oil business. Any other procedure, such as the present Connally Act, retards competition and appropriates the property of one group of individuals and companies to another group, and from the group of consuming States to the oil-producing States.

Third, the Connally Act as it has operated has played into the hands of the major oil companies, giving them practically monopolistic control of the production of oil; thus enabling and bringing:

about effective control of refinery runs and a false shortage of refined petroleum products.

Someone once said, "teach a parrot to say 'supply and demand' and you have a political economist." Maybe that's harsh treatment for those of that chosen profession, but in the oil industry the loose way in which these words have been used remind me of the analogy.

The true facts are that supply has been artificially cut down while demand has been mounting; there has been no free flow of that competition which is necessary to our American system.

Through their control of pipe lines together with the aid of the Connally Act the major oil companies today have a virtual monopoly of the production, transportation, and refining of crude oil. If the Connally Act continues another few years their monopoly will include marketing to such an extent that the assets of the independent marketer will have become exhausted and the oil monopoly will be freed of any semblance of competition in all branches of the industry.

Pipe lines are common carriers in law but not in fact. The pipe-line leverage alone is almost enough to monopolize this oil business. But add to that the aid and assistance of the Federal Government and no more perfect control of production was ever vested in one group of private companies.

Control of pipe lines and control of production naturally gives control over supplies of crude oil to refiners. Consistent drawing on stocks of crude oil in storage, aided in and abetted by the Bureau of Mines of the Department of the Interior, has left the major oil companies in the driver's seat always letting out less than the market demand.

Just to make the vicious circle complete, the refiners then combined together to pick up any loose material that might be floating around to create a competitive market. I say they combined and conspired in violation of the anti-trust laws of the United States to bring about the perfect control of the sources of oil supply. And at least two Federal grand juries believe this to be true, for they have returned indictments at Madison, Wis., covering this pool buying and other restraints on trade in the following styled and numbered cases and on the following dates:

United States of America v. Standard Oil Co. (Indiana) et al. No. 11296, filed July 28, 1936;

United States of America v. Standard Oil Co. (Indiana) et al. No. 11365, filed December 22, 1936.

In addition to the above-mentioned indictments the same two Federal grand juries at Madison, Wis., have returned indictments alleging violations of the antitrust laws in the matter of the control of the markets for gasoline in cases styled, numbered, and dated as follows:

United States of America v. Socony-Vacuum Oil Co. et al. No. 11342, filed November 6, 1936;

United States of America v. Socony-Vacuum Oil Co. et al. No. 11364, filed December 22, 1936.

A reading of these indictments will give a clear picture of the manner in which the oil monopoly has exercised control over the oil markets of the Nation. This was made possible originally by virtue of the control of the supply of crude oil at the source through the

Connally Act. The conditions set forth in these indictments exist today and through one device or another will continue so long as the supply of crude oil remains bottled up by Federal aid.

May I respectfully refer this committee to the hearings conducted in 1934 by a subcommittee of the House Committee on Interstate and Foreign Commerce on House Resolution 441. These hearings consist of four large volumes and cover all the arguments of the oil producers and the major oil companies for production control. Everyone should be greatly indebted to the Honorable Samuel B. Pettengill, a member of the investigating committee, for his résumé of the hearings in his book "Hot Oil." Mr. Pettengill says:

No one could have sat in the Cole committee without becoming acutely aware that a majority of even the most sincere advocates of conservation were also interested in stabilization—and enhancement of price.

At another point in his splendid book, Mr. Pettengill says:

So we have this question: Which is more important, to actually conserve our oil, or to sell as much and buy as little as we can?

Not only are we not importing oil (in substantial quantities) in order to conserve our own supplies; we are exporting our own oil and thus exhausting our supplies.

How sincere is this claim for the necessity to conserve? Is conservation simply a stalking horse for stabilization? How much stabilization are we willing to sacrifice for conservation?

Artemus Ward once said about another subject, "For this cause I am willing to sacrifice all of my wife's relatives."

One can pick at random throughout the hearings and find the petition of the major oil companies on Federal oil legislation. Perhaps Judge Ames' statement in those hearings (vol. 1, p. 346) sets forth that position in less verbiage than the others. The meat of what Judge Ames thought the Federal Government could and should do may be taken from his eighth and tenth points, as follows:

Eighth, cooperation between the principal oil-producing States is, therefore, necessary and that can be achieved by agreement by some of these States with the approval of Congress. * * *

Tenth, Congress should prohibit the movement in interstate commerce of oil produced in violation of State laws, or products thereof.

And, gentlemen, the major oil companies got what they wanted. Did it please them? Apparently so, as we find the president of the American Petroleum Institute in his address before the 1936 annual meeting of that body saying:

The Connally "hot oil bill" should be made permanent, the life of the interstate compact extended, the adherence of the remainder of the oil-producing States procured and supported by sound State conservation laws.

Fourth, the country cannot be half slave and half free; nor can the oil industry be half controlled—at the source—and half competitive—in the marketing branch.

Were there no integrated oil companies in operation in the marketing branch, and were retail prices to reflect true competition for the business on a marketing basis, then the only effect of the Connally Act would be to raise the price of petroleum products to the consumer.

Any system of monopoly is eventually paid tribute to by the consumer; the consumer pays and pays.

The plight of the people I have the honor and privilege of representing is serious. They are caught between the upper and the lower

millstones. Their tribute to monopoly cannot go on forever; their tribute will cease when their assets are gone and their properties taken over, at bankruptcy figures, by the refiners.

The direct competition of the refiners in the marketing end of the oil business, wholesale and retail, has been hard and relentless. Fortified by large profits from their production, pipe-line and refinery operations, they have been careless or malicious in operating their marketing departments at a loss. The major oil companies parallel the marketing operations of our independent marketers but they are forefied by profits drawn from their other integrated activities, while we must sell in competition with them without outside profits or Federal aid.

Fifth, the independent oil marketers have not enjoyed a free and open market to purchase their supplies since the Federal Government came into the picture and aided in holding supply of crude oil below market demand.

Prior to the summer of 1933 the independent oil marketer had comparative freedom to buy supplies of petroleum products for resale in most of the markets of the country. While efforts were made to embarrass the independent marketers from time to time, they enjoyed a reasonable degree of prosperity and security up until the advent of the National Industrial Recovery Act.

Since that time independent marketers have, in certain localities, gone through a chastising the like of which has never been known to any industry. When I was in school I read Bogus Independents and Fighting Brands, but I never dreamed I'd live to see the day when supposedly reputable major oil companies would resort to such activities.

Independents have had their sources of supply ruthlessly cut from under them; they have found it almost impossible to change from one source of supply to another; they have even found it difficult at times to get any kind of a supply of petroleum products.

The aid of the Federal Government which has been accorded the major oil companies through the Connally Act has been taken as the signal for crushing the independent oil marketers out of the picture. We think it is time to call a halt and to restore this great oil industry to a truly competitive status.

One of the large daily papers in New York, catering to the commercial field, recently said editorially:

Those dissatisfied with the operation of the present regulatory scheme should propose specific measures for its improvement, rather than to criticize control as such.

Perhaps that same question has been running through your minds. The answer to that question is legislation to disintegrate the major oil companies.

It must be clear to you gentlemen that the people I represent cannot go on buying in a controlled market and selling in an uncontrolled market, against the competition of those fortified by profits from the controlled end. It means certain extinction to a fine class of independent merchants.

Should the Congress of the United States determine that regardless of the fact that the Connally Act has worked out as a price-fixing measure, that regardless of the present cost of petroleum the future

generations should be protected by a "conservation through price" policy, then, I most respectfully urge that you give consideration to amending the bill now before you, S. 790, by providing a section to be added to the Connally Act, reading as follows:

SECTION —. (a) It is hereby declared that the enactment of this section is necessary in order to encourage the conservation of deposits of crude petroleum situated within the United States, and to protect the commerce in petroleum and its products from restraints and monopolies which result in certain cases where persons are engaged in more than one branch of the petroleum industry.

(b) It shall be unlawful for any person or affiliate of such person to directly or indirectly engage in interstate commerce in more than one of the four principal branches of the petroleum industry, that is, production, transportation, refining, and marketing.

(c) For the purpose of this section—

(1) The term "person" or "persons" means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or an organized group of any of the foregoing, whether or not incorporated.

(2) A person shall be deemed to be an affiliate of another if such person controls or is controlled by, or is under common control with such other person.

(3) A person shall be deemed to control another person if having over the latter (A) actual or legal control, whether direct or indirect, or (b) any direct or indirect power or influence whether arising through direct ownership or control of stock or other capital, evidences of indebtedness of physical properties or equipment, through use of a trade mark, trade name, brand, contract, lease, or agency arrangements, through interlocking directorates or offices, or through any other means or circumstances, which can be used to affect, in any substantial manner, the policies or conduct of such other person affecting competitive relationships between persons engaged in different branches of the petroleum industry.

(4) The term "production" means the development of oil lands and the production of crude petroleum up to the time that the crude petroleum has been brought to the surface and placed in storage on the premises where produced.

(5) The term "transportation" means the transportation of petroleum products whether by pipe line, railroad, ship, or truck.

(6) The term "refining" means the refining or processing of crude petroleum, fuel oil, or natural gas into finished or semifinished products.

(7) The term "marketing" means the purchase and sale of refined petroleum products.

I might add just another word, Mr. Chairman. I would like to ask that the indictments that I referred to by the Madison grand jury be made part of your record. I do that upon the basis of the so-called pool buying that has been referred to by the testimony of Mr. Swanson of the Department of the Interior and has been referred to also by Mr. Collett again this morning, and I think the grand jury having spent many months investigating pool buying, has summarized in their indictments a picture that should be before the full committee and the other members of Congress when they consider this matter. I have them here and I would like to ask they be made a part of the record.

Senator CONNALLY. You may file them. I do not think we will print them. They are well known all over the country.

Have you anything else?

Mr. HADLICK. That is all I want to present.

Senator CONNALLY. Have you a list of the members of your association?

Mr. HADLICK. I have it at the office and would be glad to submit it to the clerk.

Senator CONNALLY. We would like to know who they are; are they wholesale jobbers?

Mr. HADLICK. Wholesalers and retailers. We do not take retailers into the association if that is all they do, but probably 90 percent of the members, in addition to operating wholesale terminals, operate retail stations, as well.

Senator CONNALLY. They sell at wholesale to other dealers but are also in the retail business?

Mr. HADLICK. Yes.

Senator CONNALLY. And they have their own stations?

Mr. HADLICK. Some of them. That condition arose by reason of the major oil companies building filling stations to secure outlets and leasing premises and they were forced into the leasing of pieces of property for this purpose rather than maintaining their efforts in the selling of the product.

Senator CONNALLY. You are secretary of the association?

Mr. HADLICK. Yes.

Senator CONNALLY. Did you organize it?

Mr. HADLICK. Yes.

Senator CONNALLY. You are on a salary, of course?

Mr. HADLICK. Yes.

Senator CONNALLY. How long has the organization been in existence?

Mr. HADLICK. It was organized in the fall of 1933 at the time of the adoption of the oil code and was incorporated July 1, 1935.

Senator CONNALLY. Were you ever in the oil business yourself?

Mr. HADLICK. No, sir. I have been connected with oil association work, however, Mr. Chairman, since January 1924 on the marketing end, always.

Senator CONNALLY. Were you in a similar capacity that you are now, with the association?

Mr. HADLICK. Yes.

Senator CONNALLY. Where were you located?

Mr. HADLICK. In January 1924 I became secretary and counsel for the Minnesota Petroleum Association, which later changed its name to Northwest Petroleum Association. In 1930 I joined the staff of the National Petroleum Institute and was secretary of their division of marketing.

Senator CONNALLY. Do the major oil companies belong to that?

Mr. HADLICK. Yes; I have been on both sides of the fence.

Senator CONNALLY. And your views are now the same as when you were connected with the A. P. I.?

Mr. HADLICK. Yes. One of the main reasons I left was because they did not have even a semblance of a representative of the independent marketers.

Senator CONNALLY. You got angry and quit?

Mr. HADLICK. Do not think it did not take guts to quit that kind of a job, too.

Senator CONNALLY. We congratulate you on having guts. Were you with the code administration?

Mr. HADLICK. When this association was organized, the group was to employ me to be their representative on the code authority—not on the code authority but on the marketing division, because the jobber was carefully excluded from membership on the large committee.

Senator CONNALLY. You mean they organized this for the purpose of creating a position for you so that you could serve on this committee; is that what you mean?

Mr. HADLICK. You can put it that way, if you want.

Senator CONNALLY. Is that not what you told me in your own words? Read his statement, the last few lines.

(Record read as indicated by reporter.)

Senator CONNALLY. Is that your statement, or do you want to modify it?

Mr. HADLICK. I can amplify it. When I left the institute, I had no connection whatsoever. I came down to Washington to sit in on the code conferences. I met the group of people I had represented in the Middle West and they asked me if I would form this organization and represent them here in Washington. It was so arranged, and I went to Chicago and a meeting was held. It originally consisted of an association of State associations. After the set-up of the codes I was appointed on the marketing committee to represent the independent jobbers. My office was here in Washington. The committee met quite often in my office, and my office was burdened with the work, and I finally rebelled at the idea of having to carry all of the committee work, and I was put on the marketing committee as their official secretary, at half pay. Later I was put on at full pay and the association operated for a time only with the office and a girl. I drew no pay from the association during the time I drew pay from the marketing committee of the Planning and Coordination Committee.

Senator CONNALLY. What were your duties?

Mr. HADLICK. I had a vote for the jobbers, but I acted as official secretary in the handling of meetings and handling of correspondence pertaining to marketing.

Senator CONNALLY. What did the committee do?

Mr. HADLICK. Mr. Chairman, I was not permitted to attend the meetings of the Planning and Coordination Committee.

Senator CONNALLY. You were not a member of that committee, were you?

Mr. HADLICK. No.

Senator CONNALLY. I am talking about your own organization; what were your duties in that?

Mr. HADLICK. Our marketing committee had the marketing end of the code. Our problem was the handling of meetings and the administration of the code. The marketing features of the code worked fairly well, except we had certain rules for disintegration apportioning cost, rules 4 and 6, which were not paid any attention to by the major oil companies.

Senator CONNALLY. You say the code authorities did not enforce them against the major oil companies?

Mr. HADLICK. The major oil companies never did obey them. I imagine we made—I do not know how many hours we spent trying to get those rules of the code enforced.

Senator CONNALLY. Do you mean to tell this committee that under the Oil Code the code authorities enforced the regulations against the independents and little fellows but not against the big companies?

Mr. HADLICK. I can tell you, Mr. Chairman, as to those two rules, the major oil companies paid no attention to them whatsoever.

Senator CONNALLY. What two rules?

Mr. HADLICK. Rules 4 and 6 of the marketing division of the code.

Senator CONNALLY. What were they?

Mr. HADLICK. They were rules that provided that inasmuch as the oil industry was composed of integrated companies operating in all four branches, they should operate each department on such a basis as to show a profit in each department.

Senator CONNALLY. How do you know they did not; did you examine their books, or anything of that kind?

Mr. HADLICK. No. There are plenty of records available, Mr. Chairman. The Petroleum Board—the Petroleum Administration Board—went into the records of costs. We tried to do everything to try to get the major companies to live up to those rules, but they consistently refused.

The records of investigations that have been conducted in Wisconsin and Michigan amply prove out that the costs of marketing—

Senator CONNALLY. Let us get down to what you were doing; I am trying to find out what you did in the Oil Administration in the enforcement of the codes.

Mr. HADLICK. We had no power to enforce them. We were a body trying to get compliance and enforcement of the marketing rules of the Petroleum Code. Unfortunately, we had nothing to say or do with the pool buying or manipulation of crude.

Senator CONNALLY. Your function was to see they were enforced. Do you mean to tell the committee that in the enforcement of the rules, the major companies did not pay any attention to them, and you went on and enforced them against the little fellows?

Mr. HADLICK. I mean to say that rules 4 and 6 applied principally to the major companies because of integration, and they refused to comply with them.

Senator CONNALLY. Did they file any written statements that they would not?

Mr. HADLICK. No.

Senator CONNALLY. How do you know they did not?

Mr. HADLICK. They told me they would not.

Senator CONNALLY. Who told you?

Mr. HADLICK. The members of the marketing committee.

Senator CONNALLY. Give us some of the names of the men who told you that; we want to go into this thing thoroughly.

Mr. HADLICK. Mr. Chairman, I really wish you would.

Senator CONNALLY. We have been hearing you for quite some time. I do not appreciate your insinuation at all. You just go ahead and blow off all you please. We are going into it thoroughly. You are insinuating the committee is not going into the thing, and we are trying to get the facts out of you now. So, tell us who it was who told you they were not going to pay any attention to those rules.

Mr. HADLICK. I very distinctly recall the conversations in the marketing committee—I can just tell you the names of the committee, but I cannot say so and so said he would not.

Senator CONNALLY. You testified they told you they were not going to pay any attention to it.

Mr. HADLICK. And I testify also that they did not pay any attention to those rules.

Senator CONNALLY. Who told you? You testified here that they told you they were not going to pay any attention to them; tell us one man, at least, who told you that.

Mr. HADLICK. I cannot do that without mentioning the membership of the marketing committee of the major oil companies.

Senator CONNALLY. Did they all tell you?

Mr. HADLICK. I think everyone.

Senator CONNALLY. Give us the names.

Mr. HADLICK. C. E. Arnett, of the Socony Vacuum Oil Corporation; J. W. Carnes, of the Sinclair Refining; H. W. Dodge, of the Texas Co.; Allen Jackson, of the Standard of Indiana; C. J. Jones, of the Socony Vacuum. They were substantially the major representatives. The committee was enlarged at one time. The only refiner on the committee that I recall making a sincere effort to have rules 4 and 6 enforced was B. L. Majewski, of the Deep Rock Oil Corporation.

Senator CONNALLY. I believe your testimony now is you think all of these people told you that?

Mr. HADLICK. I believe at some time or other they made those statements in the committee meetings.

Senator CONNALLY. That is what we want. They told you that, as far as their company was concerned, they would not pay any attention to these rules?

Mr. HADLICK. Yes; they had various excuses; they pointed out competition—

Senator CONNALLY. I do not want to put any words in your mouth; I want you to tell the stenographer what they told you. Did they say their companies were not going to pay any attention to the enforcement of the code?

Mr. HADLICK. That they were not going to pay any attention to rules 4 and 6 of the marketing code.

Senator CONNALLY. Those were the ones you had to deal with?

Mr. HADLICK. We had other rules in the code to deal with.

Senator CONNALLY. You did not tell us about those; I assumed you only had those two.

Mr. HADLICK. There were 28 rules in the marketing end.

Senator CONNALLY. Did you enforce the others?

Mr. HADLICK. To a great extent, compliance was obtained to those rules.

Senator CONNALLY. But not 4 and 6?

Mr. HADLICK. That is correct; relating to operating the departments of the large oil companies on a profitable basis.

Senator CONNALLY. Those are the two rules that affected the people you now represent?

Mr. HADLICK. And I represented at that time on the committee.

Senator CONNALLY. That is right. Why did you not raise a row about it?

Mr. HADLICK. We did.

Senator CONNALLY. Where did you go?

Mr. HADLICK. To the marketing committee.

Senator CONNALLY. Did you go to Secretary Ickes?

Mr. HADLICK. Yes.

Senator CONNALLY. When and where?

Mr. HADLICK. We did not go to Secretary Ickes, but we went to his appointed representative, Mr. Fahy, and also Dr. Frye. I do

not know whether I talked to Ed Swanson, or not. I think he was working on refinery matters entirely at that time.

Senator CONNALLY. Did you or not see him, that is what I want to know.

Mr. HADLICK. I do not know whether we saw Ed Swanson or not, but we made complaints to Dr. Frye and Mr. Fahy and various employeess, Mr. J. H. Marshall and Nelson Meyer.

Senator CONNALLY. Do you withdraw your statement that you talked to Mr. Swanson?

Mr. HADLICK. I will; I do not know whether I did or not. We talked to anybody who would listen.

Senator CONNALLY. Did you file a complaint with some one?

Mr. HADLICK. We filed complaints with Dr. Frye, and I took a trip to Charleston to go over the situation and work out some rule or order. I drew an order and submitted it, but it was never approved.

Senator CONNALLY. Did Dr. Frye refuse to do anything about it?

Mr. HADLICK. I think he tried to do something about it, but I think the major oil companies probably gave him the same answer they gave our committee.

Senator CONNALLY. That is, that they were not going to pay any attention to it?

Mr. HADLICK. Yes.

What we are up against, Senator, and I make this plea sincerely, is simply that our people did not get taken care of in any way under the code. This rise in the price of gasoline—gasoline was down to a cent and a half or 2 cents or $2\frac{1}{2}$ when the crude oil was low, and it was raised gradually. It is raised now to anywhere from five and a half to six and a half, and, as Secretary Ickes or Mr. Swanson has testified, the public has only had a three-quarter of a cent increase, and it is apparent that this came out of somebody's pocket, and it came out of the pockets of the people I represent.

Senator CONNALLY. The consumer was getting the benefit, then; you admit that?

Mr. HADLICK. But when the independent oil jobbers, handling about 50 percent of the oil products going to the public, when you eliminate them from business—as they are being eliminated every day—in the small State of Kentucky, where there were something like 50 or 75 jobbers, 4 of the best jobbers had to, or did, sell out to the major oil companies; the margin was too small to operate on. When you drive those people out of business and you have the control of the marketing in the hands of the major oil companies—

Senator CONNALLY. Is your complaint now that under the operation of State and Federal laws the profits of the people you represent have been cut so low you cannot do business?

Mr. HADLICK. Yes.

Senator CONNALLY. If that is true, the consumer is getting benefit of it, is he not?

Mr. HADLICK. But why should there be a law to appropriate the money of the people I represent to the people in Texas unless we can get a corresponding amount back from the public?

Senator CONNALLY. You say taking the money of your people?

Mr. HADLICK. Yes.

Senator CONNALLY. It does not belong to them until they make it, does it?

Mr. HADLICK. That is right; but they are taking their properties back.

Senator CONNALLY. You are a lawyer, are you not?

Mr. HADLICK. Yes.

Senator CONNALLY. You have read the Connally Act?

Mr. HADLICK. Yes.

Senator CONNALLY. Is there anything in the Connally Act more than this—that it simply prohibits the interstate shipment of oil and products of oil which are produced within a State in violation of the laws and regulations of those States?

Mr. HADLICK. I think that is right, Mr. Senator; but I do not think you can separate these Federal aids into one. It is like a dam with four pillars, one of which is the Connally Act, and when you take one out the dam goes down. You also have the interstate compact and the figures of the Bureau of Mines, which have been mentioned, bearing on storage; and if you set the supply below market demand you set the price.

Senator CONNALLY. Talking about these various dams, with pillars, you want to take away the Connally Act, and the effect of taking that law away would be to permit the interstate shipment of oil and oil products which were produced in violation of State law, would it not?

Mr. HADLICK. Yes.

Senator CONNALLY. Your complaint is that under this law illegal products cannot be shipped, and if this law is not reenacted then they can be shipped, and you want them shipped?

Mr. HADLICK. Our people do not—I do not know any of them—

Senator CONNALLY. You know whether you can answer that question, yes or no, and then you can amplify it. Now, is that true?

Mr. HADLICK. Speaking specifically of the Connally Act; yes.

Senator CONNALLY. That is all we have jurisdiction over.

Mr. HADLICK. You have the interstate compact and the control of the Bureau of Mines.

Senator CONNALLY. We are not talking about that.

Mr. HADLICK. I am talking about it. I say you cannot segregate these things and pass these various laws and give complete Federal control and still say we are not only going to consider these things one at a time.

Senator CONNALLY. That is what we are doing here, we are considering this one. Now, you know whether or not you can answer my question. You say the effect of not reenacting this law will be to permit the shipment, interstate, of hot oil and hot-oil products; do you favor that?

Mr. HADLICK. That is right.

Senator CONNALLY. In other words, your people want to buy from "hot-oil" producers, from people who are bootlegging oil and stealing another man's oil from an adjoining well and competing with legitimate producers; you think you are entitled to that market?

Mr. HADLICK. No, sir. We are trying to buy from the market as created by competition. Now, it is just like Colonel Thompson testified yesterday; they have 3,000,000 barrels of "hot oil" they confiscated, and they sold it, and someone asked him, while that cannot enter into Federal commerce because of the Connally Act, does not

3,000,000 barrels of legal oil go into interstate commerce, and it does. We have not raised the question of these State proration laws; we are raising the question of the propriety of the Federal Government forcing or aiding the States in combining together so that the rest of the consuming States are practically paying tribute to them.

Senator CONNALLY. Are you in favor of State conservation laws, or do you not think they should all be abolished?

Mr. HADLICK. No; I think conservation from the standpoint of conserving for preventing waste has a place in the picture; but when you carry it so far as to dam up the supply and consistently keep the supply moving out to the public, to the people who are independent merchants, below demand, I think the Federal Government has gone too far.

Senator CONNALLY. Do you favor each State having its own oil-conservation laws under its sovereign powers?

Mr. HADLICK. And its healthy competition for the marketing of oil.

Senator CONNALLY. Do you or not favor each State controlling its own resources under the sovereign power of the State?

Mr. HADLICK. Only—

Senator CONNALLY. Will you please wait until I finish the question and answer or not, as you see fit?

Mr. HADLICK. Very well.

Senator CONNALLY. Do you or not favor each State controlling conservation of its own resources and conservation policy of the State?

Mr. HADLICK. Do you want me to answer yes or no?

Senator CONNALLY. If you can.

Mr. HADLICK. I can answer it qualifiedly.

Senator CONNALLY. Go ahead.

Mr. HADLICK. Yes; so far as the prevention of waste is concerned.

Senator CONNALLY. You favor that?

Mr. HADLICK. Yes.

Senator CONNALLY. And if you favor that, you favor enforcement of it, do you not, living up to the law?

Mr. HADLICK. In the State.

Senator CONNALLY. All right, in the State. You favor the enforcement of the State law and the effective enforcement; now, what objection have you to a Federal law that aids the State in doing what you say ought to be done?

Mr. HADLICK. Do you want a yes-or-no answer?

Senator CONNALLY. Any way you want.

Mr. HADLICK. I again point out that you cannot dissect these enactments of Congress and say that the Connally Act just aids in this, whereas we know the same people are interested in the State compact and we know they openly state they were able to get appropriations from the Bureau of Mines for fact finding and forecasts; we have to hook the whole thing together.

Senator CONNALLY. Then you are against Federal control?

Mr. HADLICK. Yes.

Senator CONNALLY. And you are against interstate compact?

Mr. HADLICK. Yes.

Senator CONNALLY. And you are against the Connally Act?

Mr. HADLICK. Yes.

Senator CONNALLY. You want the illegal oil shipped all over the United States so you can buy it cheap; is that right?

Mr. HADLICK. I think your question is a little unfair, Senator.

Senator CONNALLY. Just say "no", if it is not right; just say "yes" or "no." If that is not true, say "no."

Mr. HADLICK. Will you read the question?

(Question read by the reporter.)

Mr. HADLICK. No.

Senator CONNALLY. You do not want it shipped all over the United States; do you, or not?

Mr. HADLICK. It is pretty hard to answer that question, Senator; you are trying to deal with only one law——

Senator CONNALLY. That is all we have jurisdiction of and that is all you appeared here on.

Mr. HADLICK. I am looking at the picture from the marketing end only.

Senator CONNALLY. You are looking at this whole problem through your own little slit, representing your group, and your complaint is that under the operation of these laws you are kicking because the effect of the law is you are not making enough money?

Mr. HADLICK. It is not a free market.

Senator CONNALLY. Why is it not a free market; can you not buy gasoline and oil in Texas just like anybody else?

Mr. HADLICK. I doubt if I can.

Senator CONNALLY. Do you know?

Mr. HADLICK. I know it is tremendously difficult to find supplies in Texas, principally due to the pool-buying operations of the major oil companies, made easy by these statutes.

Senator CONNALLY. Where do they buy it, the major companies?

Mr. HADLICK. At the Gulf.

Senator CONNALLY. If you paid the same price you could buy it, could you not?

Mr. HADLICK. I am talking about the pool buying, the violation of the antitrust laws in buying gasoline at the Gulf and picking it up in cargo lots before it has a chance to get on the market.

Senator CONNALLY. Is there not a posted price in Texas and other producing States for crude-oil prices and everything else?

Mr. HADLICK. I am told there is a posted price; it is reported as such.

Senator CONNALLY. You know something about the oil business, do you not?

Mr. HADLICK. Marketing; yes.

Senator CONNALLY. Is there not a regular market for oil just like there is for bacon or beans or calico or what not?

Mr. HADLICK. No; suppose I want to buy 10,000 barrels today in Texas, how would I ship it in tank cars; how could I ship that over the pipe line?

Senator CONNALLY. I do not know whether you have a pipe line to your office or not.

Mr. HADLICK. Could I ship it in a pipe line from East Texas to the Gulf?

Senator CONNALLY. I suppose you can; other people do. The pipe line is a common carrier and would take anybody's oil that is tendered to it.

Mr. HADLICK. The pipe lines are common carriers in law, Senator, but they are not in fact. They place the amount that you must tender at such a high figure that it makes it impossible.

Senator CONNALLY. It makes what impossible?

Mr. HADLICK. To use the pipe line as a common carrier in fact.

Senator CONNALLY. That is news to me, because our railroad commission has control of it, and a law has been passed making the pipe lines common carriers. I thought they had to carry anybody's oil who was willing to pay for the carriage; of course, they make them pay for it.

You testify in the main that the antitrust condition in the industry caused by the Connally Act—and I think you used this language, "controlling the supply through controlling the production." There is nothing in the Connally Act that has anything to do with how much oil any State may produce, is there?

Mr. HADLICK. Mr. Chairman, can I say this in answering your question: We much view the Federal control by the various things we see, not only your act—

Senator CONNALLY. You are a lawyer and a pretty shrewd one—

Mr. HADLICK. I thank you, but I do not agree.

Senator CONNALLY. Now, you know whether you can answer the question or not. Is there anything in the Connally Act against which you are appearing that says how much or how little oil a State can produce?

Mr. HADLICK. No.

Senator CONNALLY. Certainly not. So your statement that the Connally Act controlled the amount of production in producing areas is not true, is it?

Mr. HADLICK. My statement is made in connection with other statements, Senator, to the effect we must approach these things from what we see. We see the Connally Act, the Interstate Compact Act, the issuance of figures by the Bureau of Mines, and an import tax on imported oil. They are all control measures. I pointed out to you the testimony of the principal code committee, showing those are features the major oil companies wanted. It gives them absolute leverage over the crude oil matter. The price is raised by the major oil companies. We are in the marketing end. Our oil marketers pray that Standard will raise the price so we will have a margin to work on, just like the oil producer prays the major crude-oil producers will raise the price of crude. We are victims of integrated competition.

Senator CONNALLY. That is something we are not responsible for, the organization of these companies; we have to take them as we find them. But your complaint is you cannot buy gasoline and oil at a figure you can make a profit; that is the gist of your complaint?

Mr. HADLICK. Yes.

Senator CONNALLY. If they would sell gasoline a little cheaper at the refinery and let you sell it a little higher there would be nothing wrong with the Connally law, would there?

Mr. HADLICK. The objections might be just the same to leaving the control—we perhaps might not voice objection for the same reason the crude producer is not now; because he is making a profit, although at one time some of them did object.

Senator CONNALLY. If you could buy gasoline at the refinery cheaper and if you could sell it to your customers in your area higher, you would be satisfied?

Mr. HADLICK. That is right. In other words, we are pleading for our existence. I submitted in my brief a form of law, and I recommend that in all seriousness that you cannot go on taking care of one group of people in the United States and breaking another group. If you are going to save the oil industry, let us save all of them, not only the producer but the marketer.

Senator CONNALLY. Do you believe in absolute Federal control instead of State?

Mr. HADLICK. No.

Senator CONNALLY. You do not favor Federal control of the whole industry to the State control within every State?

Mr. HADLICK. If you are going to go on with the Connally Act I say you have to pass something to disintegrate the major oil companies.

Senator CONNALLY. You are getting away from the question. You are very shrewd.

Mr. HADLICK. Thank you for the compliment.

Senator CONNALLY. Do you favor absolute Federal control by one director all over the United States?

Mr. HADLICK. No.

Senator CONNALLY. Then, there is no other way to control it except for each State to regulate production, is there?

Mr. HADLICK. That is right, speaking of production, but I would like to talk about my marketers.

Senator CONNALLY. But this act does not deal with marketing, but purely with the transportation of oil.

Mr. HADLICK. But it affects marketing.

Senator CONNALLY. You do favor each State regulating its own production of oil?

Mr. HADLICK. Yes; if I may add the statement, to prevent waste.

Senator CONNALLY. We assume the State knows what it is doing in controlling production and that it regulates waste. After the State regulates the production and carrying out the theory of preventing waste, and passes its laws and regulations, do you think they should be enforced?

Mr. HADLICK. By the State.

Senator CONNALLY. You do not believe in the Federal Government aiding the State?

Mr. HADLICK. No, sir.

Senator CONNALLY. You do not?

Mr. HADLICK. No, sir.

Senator CONNALLY. Then, if the State should try to regulate internally, and the regulations and laws should be defied by those who produce in violation of them and ship in interstate commerce to States over which it has no jurisdiction, do you think that should be permitted?

Mr. HADLICK. Yes or no?

Senator CONNALLY. Let me qualify it and say "then."

Mr. HADLICK. Again I say I cannot dissect the Connally Act from these other acts.

Senator CONNALLY. Then you should not be before the committee. That is all we are considering. I do not want to be rough with you, but we have no jurisdiction over any other legislation except this act. The only question is, Shall this act be retained or shall we let it die?

I am trying to get your reasons why you think it should die, and I am asking you if you think that oil produced in violation of State law, hot oil, probably pumped off a neighbor's land, should be permitted free shipment in interstate commerce. You know whether you favor that or not.

Mr. HADLICK. Yes; because I favor freedom of commerce.

Senator CONNALLY. Then you are opposed to State laws. Do you not think they should turn it loose and ship it everywhere?

Mr. HADLICK. I would not say that.

Senator CONNALLY. Is there anything else you want to say?

Mr. HADLICK. That is all.

Senator CONNALLY. We will hear you as long as you care to be heard.

Mr. HADLICK. I thank you.

Senator CONNALLY. Mr. Hadlick, I want to ask you one other question, if you do not mind. I want to direct your attention to section 4 of this act. Now, under section 4 there, the Oil Administrator, Secretary Ickes, has power to lift these restraints under certain conditions, has he not? Read that over.

Mr. HADLICK. Yes; apparently so.

Senator CONNALLY. Have you taken it up with him at any time?

Mr. HADLICK. No, sir.

Senator CONNALLY. In other words, under section 4, anyone in the industry who has a complaint as to those conditions may take it up and make representations and have a hearing, I assume. Has your association ever taken any action of that kind?

Mr. HADLICK. No, sir.

Senator CONNALLY. All right; thank you.

Is Mr. Schock here?

Mr. SCHOCK. Yes, sir.

Senator CONNALLY. All right, Mr. Schock; tell us who you are and all about yourself.

STATEMENT OF CLARENCE SCHOCK, MOUNT JOY, PA., REPRESENTING THE INDEPENDENT PETROLEUM JOBBERS ASSOCIATION OF PENNSYLVANIA

Mr. SCHOCK. Mr. Chairman, my name is Clarence Schock, and I reside at Mount Joy, Pa. I am here representing the Independent Petroleum Jobbers Association of Pennsylvania.

As to my competency, I will say that the business in which I am interested originated in a small way in 1876. I have been associated with it since 1886, and during all that time we have operated as independent jobbers.

I am appearing here today, as stated, as a representative of the Independent Petroleum Jobbers Association of Pennsylvania in the interest of its members. Senate bill no. 790, introduced by Senator Connally, of Texas, proposes to amend the Connally hot-oil law, making it permanent instead of allowing it to expire by limitation on June 30, 1937.

Many interests are involved in this proposal. Chiefly, there is the interest of the oil industry and the public interest. The interest of the oil industry involves the interest of the oil producer, the interest of the oil refiner, and the interest of the oil marketer. The

public interest involves the cost to the consumer and the question of national defense and safety. The interest of the refiner—and I refer to the refiners who are not producers—is to get a price on crude oil which will give him a fair opportunity to compete with such refiners as are producers of crude oil. The interest of the marketer is to get a fair margin on which to operate and earn a fair profit. So far as the interest of the oil industry is concerned, I am speaking on behalf of the oil marketer and particularly the independent oil jobber.

Under the existing Connally hot-oil law, the State compacts, the approval thereof by Congress, and the cooperation of the Interior Department, the producers of crude oil are working in perfect concord, and we have a monopolistic control of both supply and price more complete and powerful than ever has occurred in the past 50 years. There is no genuine open tank-car market. There is no genuine open-cargo market. All is artificially controlled. The supply and price of petroleum has been more or less controlled ever since the days of the Oil Trust, but never has that control been so complete as it is today.

Today it is impossible for the oil jobber to buy gasoline in the open tank-car market and be able to earn a profit on the basis of such cost. It is necessary for the jobber to go to the major integrated supplier and secure a contract which will give him a cost on gasoline lower than the posted open market tank-car price. In bygone days there was always a posted spot market for gasoline at which tank cars of gasoline could be purchased by anyone normally entitled to tank-car price. Today this price is purely artificial and is intended to compel the purchaser to secure a contract with the major oil companies, with the result that today unbranded gasoline is quoted at a higher price than the advertised branded merchandise. In ordinary commercial practice in general lines of merchandise unbranded commodities of the same quality are quoted and sold at a lower price than advertised branded merchandise, presumably and properly to cover cost of advertising. In the oil business it is different, because of monopolistic control. This control is so complete at present that many large independent purchasers of petroleum who have local customers who prefer to give to them their business find themselves discouraged when seeking a new source of supply, indicating that there is some agreement between suppliers which keeps suppliers from entering into active competition at any price.

Platt's Oilgram, under date of February 8, 1937, indicates the present price of 6 cents per gallon for 65 octane and above gasoline f. o. b. Gulf ports. Transportation rate for moving gasoline from Gulf ports to Atlantic seaboard under same date is 0.90 cent per gallon, which makes the delivered most of a gasoline to the cargo buyer purchasing on the present spot market 6.90 cents per gallon. The average tank-car price at New York, Philadelphia, and Baltimore on February 8 was 7.08 cents per gallon, allowing a cargo marketer only 0.18 cent per gallon margin. It is easily seen that it is impossible at this margin to operate a cargo terminal, supply tank cars, sales expense, and so forth, on this small margin. This price was the spot price on unbranded gasoline. Retail prices in eastern Pennsylvania and Delaware on the same date ranged from 7½ cents per gallon to 10 cents per gallon, with an average freight

rate of approximately 0.65 cent per gallon. It is readily seen that a jobber purchasing gasoline on the spot market at the average price of 7.08 cents per gallon plus an average freight rate of 0.65 cent, making a total cost of 7.73 cents, would only have a maximum gross operating profit of 2.27 cents per gallon between tank-car cost and retail price, provided, however, that it was sold at the top retail price in the area, namely, 10 cents per gallon.

In the case of jobbers operating in areas where the retail market is $7\frac{1}{2}$ cents per gallon, he would actually have to sell the material at 0.23 cent per gallon less than his cost of merchandising only, not to mention his operating costs and overhead. In the same area mentioned above, branded merchandise sold by major or integrated companies is being sold to jobbers marketing the branded material in the same area at an average delivered cost price of 7 to $7\frac{1}{4}$ cents per gallon, against the unbranded cost of 7.73 cents per gallon, delivered by tank wagon to commercial consumers' premises. It hardly seems possible that any major integrated company can justify selling branded gasoline to consumers in lots of 500 gallons at delivered tank-wagon prices less by as much as from 1 cent to 1.73 per gallon than the jobbers' cost on quantities of 10,000 gallons delivered by tank car.

Integrated companies also at the present time are leasing expensive service stations at rentals of one-fourth to 1 cent per gallon, such service stations having an average monthly gallonage of 3,000 to 8,000 gallons. It is impossible to justify leasing expensive locations for practically no return whatever on the investment. These are some of the evils fostered by Federal oil control. It is within the power of Congress, and it is worth while to investigate; and it is worth while to investigate and learn the facts from the books and records of the major oil companies. These expensive methods of marketing would not be possible if free competition were prevalent instead of the present monopolistic control. This profligate expenditure of money in operation of service stations indicates the excess profits enjoyed by major oil companies and their ability to conduct ruinous competition against the same jobbers whom they supply.

We cannot too strongly emphasize the fact that the integrated major oil companies are given a great and unfair advantage over the nonintegrated marketer. The control of production provides for them an excess profit in production which they can use to cover losses in marketing. Let me point out the extent of this increased profit from the standpoint of one of the members of this association. In 1935 it required the refining of about 1,000,000 barrels of east Texas crude oil to supply the gasoline required by a member of this association. The cost of crude oil was then, because of production control, \$1 per barrel. Without production control the price of crude oil might have been as low as 25 cents per barrel, and certainly not over 50 cents per barrel. In other words, by act of Congress this supplier was benefited as much as \$750,000, or not less than \$500,000. The purchaser of the gasoline in this instance lost money in his jobbing business. This can hardly be called a fair disposition of excess profits acquired because of control of crude-oil production by act of Congress.

It is generally conceded that the independent marketer can do business at less cost than the large integrated oil companies. That

fact is the only reason that independent oil marketers find it possible to buy supplies from the integrated major oil companies. There is not sufficient gasoline produced by independent refiners, even before the present control law, to supply all independent marketers. Accordingly, independent marketers who had a clientele who preferred to deal with them have been purchasing most of their supplies from the major oil companies.

We independent jobbers wouldn't have a chance at any time, either under control or before control, of buying our supplies from major oil companies if it were not for the fact that we are able, by our lower marketing costs, to give a major oil company a better return than they can get themselves. Today, however, the major oil companies are closing in on us; they are using their profits in production to cover losses in marketing in such manner that it is difficult for the independent jobber to keep out of the red. Many have gone under. Many are too deeply in debt to stand the battle. Those of us who are economically sound and free from debt are not having a good time. We independent jobbers developed the distribution of petroleum products for the refiners; and as the integrated companies waxed stronger and richer by excessive profits wrung from the people during the long period of monopolistic prosperity, these rich and powerful integrated companies have stepped into the marketing end of the business with the candid declaration to many of us independents that we would be gradually put out of business. The independent marketer can render better service at the same cost and equal service at lower cost than the major oil companies can do, but we can't compete in marketing against integrated companies who, under special privilege granted them by the Connally hot-oil law, now under consideration, are permitted to make excessive profit in controlled crude-oil production. It is to the interest of the consumer to preserve the existence of the independent marketer in order that his efficient competition in marketing may be utilized in keeping down costs to the consumer.

It is manifestly unfair to protect the producer of crude oil by price fixing, which is the unavoidable result of controlled production; and at the same time fail to give the same protection to the independent refiner and the independent marketer. Some members of the oil industry have believed that it is possible to accomplish price control in every department of the oil industry. I think it is safe to say that at the present day most of us are convinced that the control of retail prices by the retail dealer to the consumer is practically impossible. This seems to be a local problem in each community and cannot be regulated either by a national association or the Federal Government. If it be impossible to control prices in all departments of the industry, with a fair allotment of opportunity for profit to each department of the industry, then it is unfair to give the advantage of price control to any one division of the industry, as is being done under the Connally hot-oil law, the State compacts, the approval of Congress, and the cooperation of the Interior Department. From the standpoint of those in the industry who do not profit by this control it seems that, so far as the oil business is concerned, the Department of the Interior is a department of a federation of integrated oil companies. The balance sheets of the large oil companies are beginning to reflect this advantage, and it is

conceivable that there is much advantage that will not be reflected in the financial statements. All of which seems to violate the Sherman Act.

We ask no special privilege. We ask no protection. We simply ask that the Federal Government withdraw in some manner the advantages of price control by act of Congress, which the integrated oil companies and producers now enjoy, in order that independent marketers may be able to buy in a competitive market and sell in a competitive market, instead of the present situation which compels us to buy in a controlled market and sell in a highly competitive market.

Now, as to the public interest, let us speak of the cost to the consumer. This committee will probably be supplied with detailed statistics showing how little increased cost to the consumer has resulted from control of crude-oil production. In an industry so thoroughly artificially controlled, both as to supply and price now and before Federal control, it is probably difficult to get statistics that will prove anything. Nobody can say today what the price of gasoline would be if there were no Federal control. Nobody can say that the price today without Federal control would be just the same as it was immediately before Federal control. The operation of free competition following the advent of the east Texas field did not have time to develop fully and prove just how the price would have been if controls of various sorts had not been immediately applied. It is inconceivable to me that anybody should claim that control of production, with resulting increase in price of crude oil, will not make the price of gasoline to consumers, ultimately, on the average, higher under such control than without such control. I see no sane reason for submitting statistics to try to prove that a higher price of crude material will not commensurately increase the price of the finished merchandise.

It seems to me axiomatic that increased cost of raw material, all other things being equal, will necessarily increase the cost of the finished product and consequently the selling price of the same: and accordingly we contend that the result of controlled production and consequent controlled price and higher price will necessarily, ultimately, in the long run increase the cost to the consumer. Much sophistry will probably be used in the handling of statistics to prove that the consumer does not suffer, but I am unwilling to believe that it can be argued that because 25 divided by 12 equals $2\frac{1}{2}$ it can be proven that 100 divided by $18\frac{1}{2}$ equals $2\frac{1}{2}$. I refer you to Mr. Swanson's statements before this committee.

The only reason for control of production which deserves any consideration is the claim that it must be done to conserve our natural resources. Much has been said, both pro and con, about the possibility of exhausting our petroleum resources. This cry began many years ago when the production of petroleum after the war caught up with demand and the price structure was threatened. The major oil companies never made any plea for governmental control so long as the demand exceeded the supply and nobody gave heed to the subject. This cry of conservation only came to the public ear after the supply of crude oil became greater than the domestic and foreign demand. It was then that the masters of the oil industry

who had reaped fabulous profits during the long period of monopolistic control and excess demand, asked the Government to sustain them.

It is difficult to believe that the masters of the oil industry were seeking other than economic conservation, conservation of the earning power of excessive capitalization, produced by excessive profits over a long period of unparalleled monopolistic prosperity. If conservation of natural resources had been the real purpose, there would not have been a duty of 2½ cents per gallon on gasoline and one-half cent per gallon on crude oil. The same people who advocate the continuation of production control also advocate the continuation and increase of the tariff on crude oil. If conservation of our natural resources be the purpose, then we should permit and invite the importation of foreign oil in order that our own reserves may be kept intact.

As to that part of the public interest included under the designation "the national defense and safety", I am willing to concede that this subject deserves fair consideration. How much consideration it deserves depends upon the accuracy of the prognostications about the volume of our reserves of petroleum. The leaders of the oil industry made a great cry about this, as previously stated, just after the World War, telling us that our reserves would not last over 10 years. Subsequently, the story was reversed and testimony of oil experts was presented claiming that our petroleum reserves were inexhaustible. The truth is that nobody knows. For myself, I have faith in the ingenuity of man to find ways of disemboweling this old earth sufficiently to provide for the United States abundant supply of petroleum indefinitely. Geologists may know better, but they did not when they condemned the territory within which the east Texas oil field was developed. It is possible that those who fear exhaustion are wrong again and that nature will supply what we need if we diligently seek it.

If, however, it be true that we are in peril of an exhaustion of our petroleum reserves, then it is up to us to conserve them. Under the hot-oil bill we have been exhausting our resources for both domestic and foreign demand, and the production has increased instead of growing less. This cannot be called conservation except so far as it may conserve the gas pressures which make it possible to produce more oil ultimately than would be possible without the present control as described by Secretary Ickes.

If, however, there is peril of exhausting these reserves, then it is up to us to conserve them even more than, it is alleged by Secretary Ickes, they have been conserved under the present control. Secretary Ickes points out the fact that the "United States is using up its oil reserve faster than the rest of the world, as a result of which there will be an oil shortage in the United States long before there is an oil shortage in the rest of the world", after which we will "pay the higher prices for oil which foreign producers will demand when our production fails to meet our needs." If this be true, and I can neither confirm or deny it, and if for this reason it be deemed necessary to continue Federal control, then there should also be a repeal of the duty on crude oil, in order that we may use the petroleum reserves of foreign nations which are freely offered to us, while it is possible for us to get them in competition with our own supplies. To control

production in the United States of America by act of Congress in the name of conservation and at the same time refuse to accept the reserves, which other nations are willing to give up to our use, is indefensible. Such a program is not in the interest of the consumer of the Nation, but solely in the interest of those who own the oil reserves of this country. To continue control and shut out foreign oil will continue the depletion of our reserves, will enrich the owners of these reserves, will enrich the few at the expense of the many. It is an indefensible proposition and should not receive the approval of the Congress of the United States of America.

If Congress should see fit to insist upon Federal control and extension of the present tariff of one-half cent per gallon on crude oil and $2\frac{1}{2}$ cents per gallon on gasoline, I then suggest the following method to avoid enrichment of private owners at public expense: (a) Consolidate all petroleum-producing property, pipe lines, and tank farms into one national corporation.

Senator CONNALLY. Do you think the Federal Government has power to do that?

Mr. SCHOCK. I doubt it, but let me suggest the idea, and I have some other things that are coming along that may be helpful. I think this is, ideally, the situation.

Senator CONNALLY. If you do not think the Federal Government can do it, why do you suggest it?

Mr. SCHOCK. I will suggest a modification of the idea a little later, if you will give me the chance.

Senator CONNALLY. All right; go ahead.

Mr. SCHOCK. (b) Issue stock of said corporation to present owners of such property at a fair valuation (at cost or market whichever is lower). Prohibit stock dividends. (c) Operate such corporation at a sufficient profit to provide a dividend of not over 4 or 5 percent and sufficient surplus to take care of future development in order to meet demand for crude petroleum and provide for obsolescence, depreciation, and so forth, as any prudent management would do. (d) In case of liquidation, give stockholders par value of their shares plus dividends due and impose tax of 100 percent on surpluses. (e) Sell crude oil to all buyers, large and small, at same price for each grade. (f) Let the competitive system continue to operate in refining and marketing under statute law, protecting labor and the public.

The above may be constitutionally impossible, but it is ideal and would provide all the advantages of Government ownership without the evils thereof. If this plan or its equivalent cannot be used, then if we must for the national defense have control, let it be accompanied by free entry of foreign crude and its products in competition with the controlled domestic crude and its products.

Let me add that the ideal condition above referred to might be accomplished by passing the bill (S. 790) here under consideration, amended so as to provide that all persons and corporations who produce, sell, buy or possess crude petroleum above ground shall pay to the Federal Government a tax equal to the amount which their net incomes exceed 4, 5, or 6 percent on the actual value of their investment (market value or cost, whichever is lowest). That is a simple solution and within the broad powers of Congress to tax. Such a provision would protect the small independent

producers against the distresses complained of and it would put a check on the purposes of the oil monopoly which lie hidden behind this program of control. This plan of control was doubtless hatched out in the councils of the major oil companies and is offered under the pretext of "protection to the independent producers" in order to win the sympathy of the public and our legislators. By far the chief beneficiaries of this legislation are the major oil companies who own or control probably 75 to 90 percent of our oil reserves. Congress might well investigate and determine the proportionate ownership. It is easy for the majors to pay the small producer a premium of as much as a dollar when thereby for every dollar of premium given to the small producer they enrich themselves to the extent of eight or nine dollars. The same game is practiced in buying up of gasoline at Gulf ports from independent refiners. The majors pay the independent refiner a higher price for gasoline than they sell it for. For every cent which they lose on the independent refiner's gasoline, they make 8, 9, or 10 cents on gasoline refined by themselves.

That means a lot of money for the majors. One cent per gallon on the annual sales of about 20,000,000,000 gallons of gasoline is \$200,000,000. If control be made permanent, crude oil will doubtless go to a premium of \$1 or more per barrel above what it would sell for with wide-open competition. One dollar per barrel on the annual production of 1,000,000,000 barrels is \$1,000,000,000. Are we willing to pay that amount of tribute to the oil monopoly in order to protect the independent producer?

I am unwilling to believe that the independent producers as a whole are in favor of the present State and Federal control. They are the pioneers who discover new oil fields, and should enjoy their reward without adding burdens on the public by controlled production and controlled price. The independent producer dare not oppose the major oil companies who own and control the pipe lines through which the crude oil is most economically transported. Pipe lines have a way of getting out of order or for some reason are not available when unsubservient independent producers have oil to move.

Proponents of control have much to say about "stolen oil." Ethically and ideally all crude oil which is above ground and privately owned is "stolen oil." The God-given mineral wealth of this country should belong to the whole people. Our forefathers when they founded this country made a great mistake when they failed to reserve for the State or the Nation the ownership of the mineral wealth below the surface of the earth. If this had been done the problem of control could be exercised for the benefit of the people instead of for the enrichment of the oil monopoly.

Senator CONNALLY. What does the gasoline sell for, wholesale?

Mr. SCHOCK. That 8 or 9 or 10 is not on every gallon. Let me finish the reading and then you can come back at me.

Senator CONNALLY. I cannot remember everything that you are talking about.

Mr. SCHOCK. What I mean is the majors sell 8 or 10 times as much as the independents.

Senator CONNALLY. Is that 8 or 9 cents a gallon?

Mr. SCHOCK. No.

Senator CONNALLY. Or is it 8 or 9 cents a barrel, or a tank?

Mr. SCHOCK. No; I am talking about totals. For every cent they lose on the independent refiners' gasoline—they may buy only one-tenth of the volume—they make 8 or 9 or 10 times as much because their volume is greater. Let us thrash that out afterward, if you will permit me to go on.

Secretary Ickes has pointed out that control of production was undertaken by the Governors of Texas and Oklahoma including the use of the State militia for such purposes prior to the advent of Federal control under the Connally hot-oil law. The opponents of the pending bill have no desire to convey any other thought. The question here is one of Federal control and it has been freely admitted that without the Connally law the effort at control by the States would have failed. Therefore, it seems proper to place upon the Federal Government the responsibility for continuance of control as expressed in the act of Congress herein opposed.

Secretary Ickes has made criticism of a certain pamphlet and the quotations he makes are quotations from pamphlet entitled "The Oil Monopoly", etc., issued under my direction by the Schock Independent Oil Co., of Mount Joy, Pa. In answer to criticism of Secretary Ickes, I present herewith a copy of said pamphlet and request that it be made a part of the record of this hearing. Let me add that the term "flush production" as used in this pamphlet is intended to cover all crude production flowing from oil wells without the aid of pumps. As I understand the term, it is "flush production" no matter whether the valve of the well is full open or only a small fraction of full opening.

The only reason we independent jobbers get any consideration from the major oil companies, is because of the fear of legislation adverse to their selfish interests, and because we can give them a better return. Otherwise, we would be slaughtered without a quarter. In the absence of genuine open competition and of an open market of petroleum and its products, it is necessarily, figuratively speaking, to kneel at the feet of our economic masters and beg them for a few crumbs from their abundant profits. Our only protection lies in the enactment of laws which will strip special privilege from those who have it and put us all on a fair competitive basis. We little fellows in the oil industry are confronted with other dangers which should be corrected but this enrichment, by act of Congress, of owners of crude oil who are our competitors is a special privilege which should be nullified in some manner or other in order that all elements of the industry may have fair play. We do not want to oppose anything that is in the interest of the national defense but we demand that in providing for the national defense the special privilege which has accompanied the control of crude oil be corrected and the excess profit be taken out of the production of crude oil.

Do not be deceived if a comparatively small number of independent marketers shall appear in opposition to this bill. When we independents appear before you against this bill, we are striking at the vitals of the oil monopoly which will not look with favor upon such attackers. Accordingly, many thousands of independent marketers who thoroughly agree with those of us, who openly oppose this bill, will not appear in opposition because they fear the disfavor of their

suppliers of petroleum products. Under normal business conditions the seller seeks the buyer in the wholesale division of an industry as well as in the retail division. In the oil industry it is different, especially in the wholesale division. Here the buyer seeks and kowtows to the seller. This condition varies sympathetically with the effective degree of prevailing control.

In our attempt to take excessive profit out of crude-oil production let us not be disturbed by the cries of confiscation on the part of owners of crude-oil reserves who have greedily advocated and accomplished Federal legislation to enrich themselves. If the masters of the oil industry do not mend their ways, some day the Government will see fit and find a way to take over the oil reserves of this country and manage them in the public interest. There is much to be said against governmental management of business. There is also much to be said against the past history of the oil industry. Taken as a whole, the large units in the oil industry who have been the masters thereof for 50 years and longer, and some of their junior allies, would have little to complain of if, in the interest of the national defense, the Government should see fit to confiscate their entire property and use it for the public good.

If the record of original cash investment, profits, and cash dividends of all these large controlling units were consolidated into one account, you would find that the total original actual capital investment has been paid back in cash dividends many times over and that present capital values are the accumulation of excessive profits extracted from the American public by these masters of the oil industry. They will have gotten back more than a reasonable and equitable reward for the services rendered, even though the Government should confiscate their entire present property. A thorough investigation by Congress of the economic record of the oil industry would be something worth while for the edification of the American public. The story has never been fully told.

Senator CONNALLY. Mr. Schock, would you also advocate taking over all of the stock?

Mr. SCHOCK. No, control only, crude oil, pipe line, and tanker transportation.

Senator CONNALLY. Under your ideal plan you would make one big corporation and take over all of the oil reserves and production?

Mr. SCHOCK. If it can be done legally, but I am afraid it cannot be done, constitutionally.

Senator CONNALLY. You would not touch the marketing?

Mr. SCHOCK. No; the purpose is to conserve the reserves and public safety. So if you discover crude and have marketing as you plan to do in Texas, make a public utility out of pipe lines, that does not exist in other States.

Senator CONNALLY. The only way to take care of it would be to take care of everything?

Mr. SCHOCK. I am afraid that would be too much politics. But I think you could handle the crude oil. I do not think it would cost the public any more than it has.

Senator CONNALLY. You are willing that the Government take over our oil reserves, but you do not want them to handle the marketing at all in Pennsylvania?

Mr. SCHOCK. Senator, if it be decided for the public good that certain things must be confiscated, I think we must take our medicine as it hits. That happened in the liquor industry; the liquor business properties were confiscated, and they were ruined.

Senator CONNALLY. Well now, Mr. Schock, are you against all pro-ration and conservation laws?

Mr. SCHOCK. I believe in wide open competition except so far as necessary for the public defense. I would not stand against that.

Senator CONNALLY. You want your own idea as to what is necessary for the public defense and conservation?

Mr. SCHOCK. Save the oil, but do not put a burden on the public in prices. I have suggested a remedy.

Senator CONNALLY. But we do not have that before us today.

Mr. SCHOCK. Oh yes, you have.

Senator CONNALLY. This committee does not have that entire problem, the main problem, before it; we have only this bill.

Mr. SCHOCK. But without this law we are opposing here none of this stuff could be done.

Senator CONNALLY. All right. Do you favor each State controlling its own oil production and conservation?

Mr. SCHOCK. Personally, I do not believe the Government should regulate the production of anything. I believe we should let the law of supply and demand rule. The only reason for asking the Government to come in is to protect the existing units of the industry and to prevent anybody else having a chance to come in.

Senator CONNALLY. You are opposed to oil regulation of production in any State?

Mr. SCHOCK. I would rather say so, except it must be done for the public safety, and then in a manner with safeguards to protect the public against extortion.

Senator CONNALLY. Those are generally platitudes.

Mr. SCHOCK. No; they are facts.

Senator CONNALLY. We must accept the world like it is now. Are you in favor of the States controlling their production in the interest of preventing waste and conserving?

Mr. SCHOCK. Yes.

Senator CONNALLY. Are you in favor of the Federal Government aiding the States in enforcing their laws?

Mr. SCHOCK. I am not in favor of the Federal Government aiding a State to enforce a State law which is against the interests of other States.

Senator CONNALLY. Do you get a good many of your oil supplies from Texas, or the Gulf coast?

Mr. SCHOCK. Yes.

Senator CONNALLY. Did you, during 1930 and 1931, when they had this wild production and martial law, and all of that sort of thing, were you buying there at that time?

Mr. SCHOCK. I do not know whether we were buying from that field or not. We may have been buying from California at that time.

Senator CONNALLY. No matter where you were buying from, when crude was selling for 25 cents a barrel, where were you getting your supplies?

Mr. SCHOCK. Senator, I really cannot answer that without looking up our records.

Senator CONNALLY. For what price were you selling gasoline at that time?

Mr. SCHOCK. I cannot tell you that. I would have to look that up in the records.

Senator CONNALLY. You are appearing here and I thought you would bring your data.

Mr. SCHOCK. No; I did not.

Senator CONNALLY. How does the price of gasoline vary, or, when oil was selling at 25 cents a barrel, how did the price vary to what it was when it was selling at when it went to a dollar?

Mr. SCHOCK. My recollection is that the lowest tank-car price on the eastern seaboard at that time was about $4\frac{1}{4}$ on gasoline, the lowest I can remember. Mr. Pindall has those things in his head better than I have.

Senator CONNALLY. What is it selling for now?

Mr. SCHOCK. 7.08 is the average.

Senator CONNALLY. So, when oil was 25 cents, the lowest price on gasoline was $4\frac{1}{4}$, and now it is 7.08?

Mr. SCHOCK. Yes.

Senator CONNALLY. So the relationship was not maintained in that particular instance?

Mr. SCHOCK. I think that can be safely said to be due to the interference with free competition that has always prevailed.

Senator CONNALLY. I am speaking of when there was no artificial control.

Mr. SCHOCK. There has always been that during the 50 years since I have been in it.

Senator CONNALLY. Before this act went into effect?

Mr. SCHOCK. It has been controlled all of the time.

Senator CONNALLY. All boiled down, your testimony amounts to the fact you are against the conservation laws of the State and you are against the Federal Government aiding in enforcing them?

Mr. SCHOCK. Except—

Senator CONNALLY. How far do you think we should go?

Mr. SCHOCK. Except as may be necessary for national defense.

Senator CONNALLY. Who is going to say what is necessary, the States or Congress?

Mr. SCHOCK. Congress.

Senator CONNALLY. Do you think Congress has power to step in and take charge of all of the oil production in the United States?

Mr. SCHOCK. If it be necessary for the national defense.

Senator CONNALLY. Did not the Supreme Court hold the Federal Government could not do that; that it did not have power to do that in the N. R. A., the unanimous Court?

Mr. SCHOCK. Yes; but that has been defeated by this law we now oppose.

Senator CONNALLY. This law does not relate to anything except interstate shipment.

Mr. SCHOCK. But Secretary Ickes, as I have quoted here, said that control was ineffective and a failure until this law was put into effect. That puts the responsibility on this act.

Senator CONNALLY. You are against State control and regulation; but assuming a State passes a law saying how the oil in that State should be produced, do you think that law should be enforced; is it right and honest to enforce the law?

Mr. SCHOCK. I do not think either the State or the Nation should have such a law as will control price.

Senator CONNALLY. But suppose Pennsylvania had such a law.

Mr. SCHOCK. That is up to the State to enforce.

Senator CONNALLY. If the State in its sovereign capacity decides it ought to regulate and control the production of crude oil and it has that kind of a law, do you think it should be enforced, or do you think some people ought to be permitted—

Mr. SCHOCK. I think the State should enforce it itself and that the Federal Government should not aid.

Senator CONNALLY. Then you would be in favor, if the State had such a law and there were a lot of people who violated it and defied it and pumped their neighbor's oil out while they were asleep, if they could ship in interstate commerce, they should be permitted to do it?

Mr. SCHOCK. I do not think anybody should be sent to jail for violating such a State law. I am opposed—

Senator CONNALLY. You are opposed to the law, but after it has been enacted by the State and the body of the people are obeying it, do you think those who are criminally minded who defy the law and pump out their neighbor's oil while he is asleep, that they should be permitted to ship that oil in interstate commerce in defiance of the State laws and reap a profit out of it?

Mr. SCHOCK. Yes; if the State is unable to take care of its own affairs; that is up to the State; it is no business of the Federal Government.

Senator CONNALLY. You do not think the State can control interstate commerce?

Mr. SCHOCK. They can control the shipments out of the State if they try to prevent it.

Senator CONNALLY. They can prevent a man from stealing an automobile, but if he gets across the State line, then what?

Mr. SCHOCK. I do not think the Federal Government should help something that is not in the interest of the Federal Government.

Senator CONNALLY. Take the automobile law; of course, we are all in favor of that; if a man steals your automobile in Pennsylvania in violation of State law and runs over into Ohio, are you opposed to the Federal Government saying, "You cannot carry a stolen automobile in interstate commerce"; do you think the Federal Government should do that, or do you think it should let Pennsylvania enforce its law?

Mr. SCHOCK. I think the Federal Government should aid in doing that provided it agrees it is a stolen automobile and that the law of the State is ineffective. Some things are legal and not ethical.

Senator CONNALLY. Why is it wrong in the case of an automobile and not in the case of oil?

Mr. SCHOCK. I think I have expressed myself in my paper. I think the mineral resources should belong to the whole people and that the man who takes them out of the ground is simply performing a service in taking them out of the reservoir. Nature has provided and sell-

ing it to the public. That reserve should belong to the whole people, whether of the State or Nation, but I do not think it is right for the Federal Government to help the State to put a corner on crude oil so that the rest of the 45 States have to pay tribute to the three big producing crude-oil States in the country.

Senator CONNALLY. Well, of course, that question about whether the public ought to own the oil, the founding fathers did not think about that, because there was not any.

Mr. SCHOCK. But there is no reason we should not think about it now.

Senator CONNALLY. That is a question this committee has no jurisdiction of at the moment.

Mr. SCHOCK. All of those considerations affect the approval or disapproval of this bill.

Senator CONNALLY. As I understand it, you are against the bill?

Mr. SCHOCK. I thought I made that clear; there is no doubt about that.

Senator CONNALLY. Have you anything else, Mr. Schock?

Mr. SCHOCK. If possible, I would like to have this pamphlet go into the record.

Senator CONNALLY. We will let that go in as your peroration.

(The pamphlet is as follows:)

THE OIL MONOPOLY GETS SUBSIDY OF MILLIONS OF DOLLARS BY ACT OF CONGRESS AND THE CONSUMER PAYS

The oil monopoly by authority of unjust Federal laws is today in control of volume of production of crude oil and the price thereof. This monopoly today includes integrated major oil companies and other producers of crude oil. (An integrated oil company is one that engages in all of the four great divisions of the industry, namely, production of crude oil, pipe line, or marine transportation, refining and marketing.)

In 1931 the posted price of midcontinent crude oil was as low as 10 cents per barrel; in 1933 before control by Federal authority it was as low as 25 cents per barrel. Under acts of Congress passed in 1933 and later, the oil monopoly has controlled production and raised the posted price of midcontinent crude oil to \$1 per barrel. Other crude oils fluctuate in sympathy with midcontinent. In January 1937 a movement was under way to raise the price of midcontinent crude to \$1.17 per barrel.

The total production of crude oil in the United States is about 1,000,000,000 barrels. A barrel of crude oil contains 42 gallons. Considering production as a whole it takes two barrels of crude to make one barrel of gasoline. Gasoline is the best seller among petroleum products. In the long run gasoline carries the major load of cost of production, and consumers of gasoline pay the bill. The excess cost to the public brought about by Federal control is easily calculated.

Passage of present control laws was accomplished under pretext of "conservation of natural resources." The real purpose was conservation of economic resources, conservation of the earning power of excessive capitalization, excessive capitalization produced by excessive profits over a long period of unparalleled monopolistic prosperity. If conservation of natural resources had been the real purpose there would not be a duty of 2½ cents per gallon on gasoline and one-half cent per gallon on crude oil. If conservation of our petroleum be necessary for the public defense and safety, then we should admit foreign crude free of duty and save our own crude for future use and prohibit exportation of petroleum and its products. At present no real conservation is accomplished. Under present laws Congress is permitting the exhaustion of our petroleum reserves to supply both domestic and foreign demand and the only accomplishment lies in the fact that private owners of crude oil are producing more crude oil and are getting a higher price by Government edict at expense of the consuming public.

If for any reason the Federal and/or State Government should continue to control production of crude oil, then the Federal Government should regulate

such business, including pipe-line transportation, either by taxation or otherwise, limiting dividends to 5 or 6 percent on the actual value of the investment (market value or original cost whichever is lowest) prohibiting stock dividends, and requiring the sale of crude oil to all buyers at the same price, and permitting competition to prevail in the refining and marketing divisions of the industry. If such complete regulation of price and profit be constitutionally possible, then good old-fashioned competition in every department of the petroleum industry is the best protection to the public.

Under existing Federal laws and laws of oil-producing States the markets have been more completely controlled than ever has occurred in 50 years past. There is no genuine open-tank-car market; there is no open-cargo market. All is artificially controlled. There must exist a conspiracy in restraint of trade in violation of the Sherman Act. Present conditions can be explained by no other hypothesis. In other words the oil monopoly still lives.

CONSERVATION FOR WHOM?

The 1935 session of Congress (74th, 1st) passed two laws that have had far-reaching effect on the public and the oil industry. They were:

1. The Connally bill forbidding the interstate transportation of petroleum products made from crude oil produced in excess of State "quotas" or "allowables" (Public, No. 14, 74th Cong., ch. 18; 49 Stat., pp. 30-35), which expires automatically on June 16, 1937, unless extended by the present Congress.

2. The Cole resolution permitting "State compacts"—i. e., approving an agreement between the few States that produce crude oil permitting them to control the production of crude oil (Public Res. 64, 74th Cong., ch. 781; 40 Stat., pp. 939-941), which expires automatically on September 1, 1937, unless extended by the present Congress.

THE CONNALLY BILL

This bill, among the proponents, is referred to generally as the "hot-oil" bill. It declares that any oil produced in excess of the "quotas" or "allowables" set by any State is "contraband" and cannot be shipped in Interstate Commerce, section 9 (c) of the National Industrial Recovery Act had the same purpose but it was declared unconstitutional by the Supreme Court. Elaborate machinery has been set up by the Federal Government to enforce this statute. It has placed the Federal Government in the business of aiding the major integrated oil companies, the producers of crude oil and the oil producing States in curtailing the production of crude oil below market demand, thus holding the price above ordinary competitive levels and exacting tribute at the expense of consumers of petroleum. Senator Connally, of Texas, has introduced a bill (S. 790) in the present Seventy-fifth Congress to make this act permanent.

THE COLE RESOLUTION

The Cole resolution gave the permission of Congress to an agreement entered into by the several States producing oil; with such permission specifically granted complaint cannot be made that the agreement violates the antitrust laws. It enables the oil producing States to do about as they wish by agreement—all at the expense of, and to the great detriment of, the majority of the States in the Union that are consumers of oil. These oil-producing States can resist the production of crude oil below market demand, thus giving them a leverage to raise the price. The States of Texas, Oklahoma, and California produce 80 percent of the total crude-oil production of the United States. These three States are the chief beneficiaries. Percentages of production among States are as follows:

State	1933	1934	1935	State	1933	1934	1935
Texas.....	44.5	42.0	39.4	Michigan.....	.9	1.2	1.5
California.....	19.0	19.2	20.9	Pennsylvania.....	1.4	1.6	1.6
Oklahoma.....	20.1	19.9	18.6	Arkansas.....	1.3	1.1	1.1
Total, 3 States.....	83.6	81.1	78.9	All others.....	3.8	4.4	4.3
Kansas.....	4.6	5.1	5.5	Total, United States.....	100.0	100.0	100.0
Louisiana.....	3.8	3.6	5.0				
New Mexico.....	1.6	1.9	2.1				

FORECASTS OF MARKET DEMAND

The Bureau of Mines of the Department of the Interior since June 1935 has been issuing forecasts of market demand for crude oil and refined petroleum products and recommended production to come from the respective States.

To prevent the further issuance of these forecasts Congress should immediately pass legislation providing "that the Department of the Interior shall not prepare or issue estimates of motor fuel demand and required crude oil production in any manner whatsoever."

These forecasts constitute the third link in the chain of Federal aid to oil monopoly.

WHO PROFITS?

Who were the proponents of these laws? They included the major integrated oil companies, the oil producers, and the oil-producing States. The beneficiaries are this same group, and the consumer pays the bill.

Both laws were sponsored and their enactment urged by groups that expected to and now do benefit from their passage. They enable these groups to hold production of crude oil below market demand and thus exact a higher price than competition would otherwise provide.

WHO SERVES BEST?

This favoring of the production division of the oil industry with positive control of crude-oil production permitted by existing Federal laws makes it impossible for independent operators to compete in the marketing divisions of the industry because they are compelled to buy at these regulated prices and yet to sell on an open competitive market, competing with the integrated companies who are frequently marketing at a loss and using the excess profits in production, pipe line, and refining to absorb that loss.

The independent marketers have always marketed a large majority of petroleum products because they can market with less cost than the integrated companies. The unfair advantage enjoyed by integrated companies under existing Federal law is making it possible for the large oil companies to unethically "squeeze" many independent marketers out of business. If this situation be continued the public will lose the good faithful competitive service of the independents and ultimately will pay still heavier tribute to the oil barons. The independent marketers can render better service at the same cost or the same service at a lower cost than the major oil companies can do, provided the rules of the game are fair and he has an opportunity to buy his supplies in a true competitive market instead of the present controlled source of supply.

AN OPEN MARKET FOR OIL

Competition is the antithesis of monopoly—both cannot survive. Competition, meaning an open market in the oil industry, is well nigh impossible so long as these two statutes and the issuance of forecasts of market demand continue. In fairness to the public they should be promptly repealed.

It is time also to seriously consider immediate repeal of the tariff of 2½ cents per gallon on gasoline and ½ cent per gallon on crude oil. This tariff was smuggled through Congress as a rider to the Revenue Act of 1932 (sec. 601-C-4) at the instance of the same group who advocated the Connally hot-oil bill and the Cole resolution permitting "State compacts", all of which was done inconsistently under the pretext of conservation of natural resources. And now that the tariff is about to expire Congressman Sanders of Texas has introduced a bill (H. R. 88) in the present Seventy-fifth Congress to not only continue this tariff, but, if you please, to increase it. The oil industry of this country is the oldest and biggest in the world. It does not need and should not ask tariff protection. In 1935 world production of crude oil was as follows:

	Barrels
United States.....	993, 042, 000
All other countries.....	648, 668, 000
Total world production.....	1, 642, 695, 000

ENFORCEMENT OF ANTITRUST LAWS

The shocking revelations of a Federal grand jury at Madison, Wis., during 1936 (in four indictments involving most of the major oil companies) show how necessary it is that the antitrust laws be enforced. If you have not read these indictments you should get copies promptly and read them. The Department of Justice numbers on these cases are nos. 11293, 11342, 11364, and 11365.

To enforce the antitrust laws it is quite apparent that the Antitrust Division in the Department of Justice must have at its command a sufficient legal staff to adequately handle the problem.

If the disclosures made before the Federal grand jury at Madison, Wis., are typical of what has been going on elsewhere in the United States, enforcement of the antitrust laws in the oil industry becomes a large enough problem to utilize the entire staff of the present Antitrust Division. To do this would leave other small industry at the mercy of predatory monopolistic concerns. Hence an adequate appropriation by Congress for the Antitrust Division of the Department of Justice is essential.

DIVORCEMENT OF PIPE LINES

As long ago as 1904 Ida M. Tarbell, in her famous history of Standard Oil Co., said:

"In spite of the Interstate Commerce Commission, the crucial question is still a transportation question. Until the people of the United States have solved the question of free and equal transportation it is ideal to suppose they will not have a trust question. * * * That our first task is to secure free and equal transportation privileges by rail, pipe, and waterway is evident. It is not an easy matter. It is one which may require operations which will seem severe; the whole system of discrimination has been nothing but violence, and those who have profited by it cannot complain curing the evils they have wrought bring hardship in turn on them. At all events, until the transportation matter is settled, and settled right, the monopolistic trust will be with us, a leech on our pockets, a barrier to our free efforts."

A few years later Congress enacted legislation (sec. 1, par. 8, of the Interstate Commerce Act, commonly known as the commodities clause) which divorced the railroad companies from the operation of coal mines, timberlands, and any other commodities which it resold. There is no reason why, even at this late date, the Congress should not enact a further amendment to the Interstate Commerce Act divorcing pipe lines and tankers from the oil companies. Every consumer of petroleum, in other words every citizen, and voter should contact or write his two United States Senators and his Congressman urging them to initiate and/or support Federal legislation which will accomplish the following purposes:

(a) Repeal of the Connally hot-oil bill (Public, No. 14, 74th Cong., ch. 18; 49 Stat., pp. 30-32) and defeat of S. 700 in the Seventy-fifth Congress.

(b) Repeal of the Cole resolution permitting "State compacts" (Public Res. No. 64, 74th Cong., ch. 781; 49 Stat., pp. 939, 941).

(c) Withdrawal of Interior Department from service to the oil monopoly.

(d) Repeal of the tariff of 2½ cents per gallon on gasoline and one-half cent per gallon on crude oil and other products of crude oil (sec. 601-Ca of Revenue Act of 1932) and defeat of H. R. 88 in the Seventy-fifth Congress.

(e) Severance of pipe lines and tankers from control by oil companies.

Form 716A

SCHOCK INDEPENDENT OIL CO.,
Mount Joy, Pa.

Senator CONNALLY. Mr. Hill?

**STATEMENT OF GEORGE A. HILL, JR., HOUSTON, TEX., PRESIDENT,
HOUSTON OIL CO.**

Senator CONNALLY. Give the stenographer your full name, business connection, and so on, Mr. Hill.

Mr. HILL. My name is George A. Hill, Jr. I am president of the Houston Oil Co., an independent operator. I am a director of the Independent Petroleum Association of America and the Mid-

Continent Oil and Gas Association of Texas, and vice president for production of the American Petroleum Institute.

I have taken an active interest to the extent of my limited capacity in the problems of the oil industry. I attended the first meeting of the various oil associations, consisting of about 90 associations in Chicago, for the promotion of a tentative code of fair competition. At that meeting I was an alternate delegate of the Independent Petroleum Association of America. At that meeting there was elected what was known as the Emergency National Committee, consisting of 32 members, 26 from the production end of the business and 26 from other branches, and I happened to be selected as one of the 26 members of the Emergency National Committee on Production.

I attended various proceedings in Washington throughout the formation of the oil code. I have attended from year to year the various meetings of the oil associations and happened to be a member of the committee that made the original recommendation for an interstate oil compact and for the regulation by the Congress of the interstate shipment of oil produced in violation of State law.

I have taken a modest part in the formulation, as far as the industry is concerned, of the conservation laws of the various States.

It has been my judgment and experience that no successful effort at State conservation can be accomplished, first, without adequate conservation laws within the State.

Second, the cooperative effort of the oil-producing States in a compact such as we now have in the interstate oil compact authority.

Third, that State enforcement of conservation laws cannot have practical accomplishment without such a law as the Connally hot-oil law.

I think that these three species of legislation permit the State government within the exercise of its exclusive powers, to regulate production.

Second, under the Constitution, the oil-producing States can then confer and cooperate in the enforcement of conservation laws.

Third, the Federal Government can, in the exercise of its exclusive powers, aid in prohibiting the shipment in interstate commerce of oil or product in violation of State law.

I think that these laws have proven to be salutary and beneficial and are all that I think that is required in the way of enforcement of conservation.

I would not have the temerity to appear before the chairman of this committee and assert that my own judgment or experience was of any special value, but I have had occasion to contact hundreds and even thousands of independent as well as large producers, refiners, and marketers, and I think that I reflect in my testimony the overwhelming consensus of opinion of thousands of those engaged in the business with whom I have been privileged to confer upon this subject.

Senator CONNALLY: May I interrupt you, Mr. Hill. Is your company a major, independent, or what?

Mr. HILL: It is an independent company, strictly independent. Our production, which is about 10,000 barrels a day of oil, is sold primarily to independent refiners. I can give the names of them if it were necessary or if the committee desires.

Senator CONNALLY. If you have it convenient, we would be glad to publish the list.

Mr. HILL. We sell light crude to the Crown Central Refining Co.; we sell heavy to the Corpus Christi Refining Co.; the Pettis, Refugio, and such independent refiners as the Phoenix Refining Co., and the Cooper Petroleum Co., and various others who purchase in small tank-car shipments. We sell cargo lots to various purchasers and it depends upon who the purchaser is who offers to buy and the price he offers to pay. In recent months I have sold cargo shipments to Belgium refiners, French refiners, and Italian refiners, all of them independent, as far as I know, and in the open market, based entirely upon the offers that are made for our crude from time to time. In every aspect that the term "independent" could be applied, I think my company is independent. It certainly is independently owned and managed, and most of its business relations are with those who classify themselves as independents.

I had thought it might be of some interest to the committee to give some statistical information about the enforcement of this act and how it applies to the other laws that have been under discussion here, and if the committee thinks that would be of aid, I will be very glad to give that.

Senator CONNALLY. We will be very glad to have it, Mr. Hill.

Mr. HILL. The revised Connally Act (Public, No. 14, 74th Cong., S. 1190) was enacted in its present form by the Seventy-fourth Congress and approved February 22, 1935. This enactment came as the result of a court decision rendering a prior similar act invalid.

Pursuant to its provisions, the Hon. Harold L. Ickes, Secretary of the Interior, was, on the 28th day of February 1935, designated by the President of the United States to act as his agent in executing all of the powers and functions vested in the President by the act, under which authority the Secretary of the Interior, on March 1, 1935, by executive order, designated the counties of Gregg, Upshur, Smith, Rusk, and that part of Cherokee County covered by the Santos, Coy, Pratt, and Dikes surveys, to be known as the east Texas field and constituted it as a "designated area" within the purview of the Connally Act and his prior executive order setting up regulations under the act. There was created, in the same order, a board to be known as the Federal Tender Board No. 1, with its principal office at Kilgore, Tex., and with jurisdiction to issue certificates of clearance, or tenders, for the movement of petroleum and its products originating in said area.

Subsequently, on April 25, 1935, the Secretary of the Interior issued his executive order creating the Federal Petroleum Agency No. 1 to exercise all duties and functions pertaining or incidental to investigations provided for by prior order and requiring that all applications for tenders be submitted to the agency before being acted upon by the Tender Board.

The Federal Tender Board No. 1 and the Federal Petroleum Agency No. 1 are jointly charged with the responsibility of carrying into effect the provisions of the Connally Act, the main purpose of which is to prevent the movement in interstate commerce of petroleum and its products which is produced, transported, or withdrawn from storage in excess of the amounts permitted under the laws of any State or any rule, regulation, or order of any State board,

bureau, commission, or officer. As a legal aid in administration of the act, a special assistant to the Attorney General of the United States has been designated as adviser to the Tender Board and Petroleum Agency conducting both criminal and civil prosecutions.

Section 6 of the Connally Act reads as follows:

Any person knowingly violating any provision of this Act or any regulation prescribed thereunder shall, upon conviction, be punished by fine of not to exceed \$2,000 or by imprisonment for not to exceed six months, or by both such fine and imprisonment.

Since the effective date of the act, to wit, February 22, 1935, the records of the special assistant to the Attorney General reveal that 220 criminal cases have arisen under the provision above quoted. Of this number, 176 have been disposed of, all of which resulted in convictions, with 44 now pending.

At the time of the preparation of this statement the Federal Court for the Eastern District of Texas had not been in session, and notice from the press a number of convictions were had by Judge Bryan under this law within the last 3 or 4 days, which would increase the number of convictions and decrease the number now pending.

In some of the criminal cases, where more than one complaint was pending against the same defendant, convictions have been had on one complaint and the other or others dismissed, but no instance is found where an acquittal has been secured against the United States Government.

The civil actions arising under the act are those provided for in section 5 (c), wherein a review of an order of the Tender Board denying an application for tender is permitted to be had in the United States district court for the district wherein the Board is sitting.

Under such provision of the act, 26 civil actions have arisen, in 24 of which the action of the Tender Board has been sustained. Of the remaining two civil cases, one was decided against the Board and one is still pending.

In numerous instances the Board has exercised its authority to seek and obtain injunctive relief against the movement of oil and products produced or manufactured in excess of State allowable, and likewise, in all but one instance, has successfully defended its position when injunctive relief was sought against the Tender Board by parties undertaking to move oil and/or products. In most of these cases no proceedings were had beyond the United States district court, but in at least two such cases the validity of the Connally Act was expressly upheld, namely *East Texas Refining Co. v. Meyers, et al.*, filed April 13, 1935, and the *East Texas Refining Co. v. The Federal Tender Board No. 1*, filed April 26, 1935. The result of these cases has been to define the circumstances under which the Tender Board can enforce the provisions of the Connally Act by injunction and the extent to which it can defend its actions when attacked.

At least two cases have been carried to the Circuit Court of Appeals for the Fifth Circuit sitting at New Orleans, in one of which the Board's contention was sustained as well as the validity of the Connally Act and the injunctive powers of the courts thereunder. (*United States v. Griswold*, 82 Fed. (2) 922). In this case Judge

Hutcheson, speaking for the circuit court of appeals, used the following language in his opinion:

I think it plain that the act (Connally Act) validly authorizes district courts (United States district courts), upon allegation and proof that persons are dealing or about to deal interstate in contraband oil, to enjoin them from doing so.

Continuing in the same opinion, Judge Hutcheson expressed the real purpose and effect of the act as follows:

It takes up where State power ends, and by supplementing State legislation it makes completely effective the general will of the people of the State of Texas, expressed in its conservation laws.

There has been a constantly diminishing overproduction since the effective date of the Connally law, commencing in March 1935, when there was an estimated overproduction of about 33,250 barrels a day in the east Texas field, and that has constantly diminished from week to week and month to month; and the latest estimate that I have, which was December 21, 1936, it was slightly in excess of 6,000 barrels.

These figures were arrived at in the following manner: The daily average allowable connections to all refineries in the field is deducted from the daily average of crude oil run to stills, which represents one method commonly used in the field to estimate overproduction. As a further calculation, the daily average gasoline shipments are reduced to crude oil, based upon the average refinery gasoline yield in the field, and from this figure is deducted the daily average allowable connections, the remainder representing an approximation of overproduction. The figures above listed represent a mean average of the two results obtained as outlined immediately above.

The increase in estimated overproduction during the months of July, August, and September 1935, is, no doubt, materially influenced by confiscation proceedings had in the State courts and upon which oil no tenders were ever granted by the Federal Tender Board.

As explained above, the figures herein cited are not presented as representing, in anywise, exact amounts of overproduction, as it is impossible to take into account all factors that enter in; but from the method used and the long period of time covered, they are, no doubt, sufficiently accurate to reflect the general trend.

The subject matter of confiscated oil, which here refers to illegal oil confiscated by the State of Texas pursuant to the provisions of House bill 581 of the regular session of the Forty-fourth Legislature of 1935, is logically considered in connection with the above estimations. Since the effective date of said House bill 581, to wit, May 12, 1935, there has been confiscated and forfeited to the State of Texas a total of 3,422,734 barrels of oil and/or products, which figure does not include 159,000 barrels sold February 1, 1937, under confiscation proceedings and from which an appeal has been taken. (Much of this oil had been produced a long time prior to the confiscation act and had been stored in earthen pits or steel storage. It does not represent the overproduction during the period from February 22, 1935, to date.) This oil, upon being forfeited to the State and sold, is cleared by the Texas Railroad Commission and permitted to move in intrastate commerce, but tenders on all of such oil and/or products have been consistently denied by the Federal Tender Board.

This amount has, therefore, been prevented from moving in interstate commerce by the operations of the Connally Act.

In addition to the criminal and civil cases above outlined, the special assistant to the Attorney General reports having made 60 additional investigations, of which 40 have been closed and 20 remain pending. Aside from these investigations, the Federal Petroleum Agency operates continually in the investigation of all applications for tenders that are presented to the Board and all incidental matters connected therewith. In this connection the Agency now has under investigation approximately 250 leases on which are located approximately 1,000 wells, with the view of ascertaining the eligibility of such wells to remain on the allowable schedules. As a result of this type of investigation, a great number of wells have been discovered as either dead or unable to produce their allowable and reductions have been made in the tenders granted in accordance with the findings of the Agency.

The Agency is likewise conducting at this time an extensive investigation of the actual amounts of legal oil on hand and carried on the records as tenderable balances. Investigations of this type lead often to the necessity of reducing such tenderable balances as they appear on the operators' reports and constitutes a necessary correlation between the record information and the actual condition as it exists on the physical properties.

Now, to show the beneficial effects of the Connally Act in preserving and bringing about actual conservation and the prevention of waste, the effect of the act has been to reduce bottom-hole pressure from September 1934 to March 1936 only about 57 pounds. In September 1934 in the east Texas field, it was 1,233; and in December 1936, 1,175. That shows a very small reduction of bottom-hole pressure in that period during which a great amount of oil was produced. Prior to that time, when we did not have the effective aid of the Federal Government, there was a tremendous loss of recoverable oil due to the too rapid depletion of the gas energy in the sands in that great field.

While I do not attempt to make the statement that the Connally Hot Oil Act exclusively was responsible for these desirable ends, it was necessarily a vital and requisite law to fit in with the efforts of all of the States, oil-producing States, to bring about real conservation and prevention of waste in the public interests and their efforts could not have been appreciably enforced without the benefit of this concurrent legislation.

I believe, Mr. Chairman, that covers what I had to say, unless the chairman has some questions.

Senator CONNALLY. I would like to ask you, Mr. Hill, from the standpoint of the gasoline buyer or consumer, what are your views with reference to the general effect of conservation laws and so-called stabilization of the oil industry?

Mr. HILL. Well, in the first place, Mr. Chairman, the question of what is or is not conservation is not only a question that arises under complex and different circumstances in each field, but also in each producing horizon in each field; and listening to the testimony this morning, in which there was an effort to point out that the Connally Act was an integral part of a greater picture, it occurred to me, and I do not assert there is any merit to my suggestion, that the place for

complaint is, for the one having such a complaint, to go to the State regulatory bodies; and if he thinks that production is being too greatly restrained, a forum exists there for each purchaser to show that it is restrained beyond what physical waste would require, and we are a potential buyer and we desire to buy oil in east Texas or in this or that or the other field, and make the proof, because this act unquestionably relates only to the enforcement of what State bodies have, in accordance with State law, determined to be regulation in restraint of waste. I think it is not only highly important but I think it is of greater public interest than it is of private interest to the owner. I am answering your question the hard way, Senator; I do not know whether I am giving you an explicit answer or not.

Senator CONNALLY. What I had in mind was—is the consumer who buys his gasoline better off or worse off over a long period with a stabilized industry and control and conserved methods than under the wasteful system of flush production and recession?

Mr. HILL. He is infinitely better off, without question, because that is one place where statistics are not deceitful. We have a constantly diminishing price of gasoline to the consumer, even bearing the load of enormous taxes, and at the same time, the price of production, the cost of labor, and the cost of materials has progressively increased. To my mind, that is proof of the fact that all of these conservation and stabilization efforts bring about a saving to and a greater economy for the ultimate consumer or buyer of gasoline.

Senator CONNALLY. What, if any, effect, from your observation and experience, has been the potential increase in the reserve in the ground by reason of conservation? Of course, the amount of reserve is fixed, but I mean the recoverable amount of those reserves?

Mr. HILL. It is easily demonstrable that the amount of oil that you can get from a pool under conservation practices that exist at this time is tremendously in excess of that recoverable before conservation was put into effect and enforced. That, of course, is in the public interest as far as the consuming public is concerned, and also in the interest of national defense, and also restrained production and the development of these reserves puts the purchaser in a position to have a very great expansion where national defense should require it.

Senator CONNALLY. I want to ask you, Mr. Hill, as a producer of crude and oil, from your experience and observation in the Texas oil fields, is there, or not, a free, open market for gasoline, either at the wholesale market for crude or at the refineries—can anybody buy at the quoted prices?

Mr. HILL. Yes, sir; that is my judgment.

Senator CONNALLY. Have you ever had occasion to observe anything to the contrary?

Mr. HILL. No, sir.

Senator CONNALLY. In the sales of your crude products I believe you named a lot of independent companies to whom you sold; do you make any discrimination as to whom you sell, provided the price is satisfactory?

Mr. HILL. None whatsoever; it is a day-to-day transaction with us, except where we are covered by a contract; and, being an independent operator and an independent producer, I may have some slight leaning toward an independent buyer; but, in the last analysis,

it is a question of price, financial responsibility, and ordinary business transactions.

Senator CONNALLY. Is there usually in an oil-producing area—an oil field—is there from day to day usually a definite price level of gasoline, crude oil, and other oil byproducts—a standard price?

Mr. HILL. Yes, sir; and there are posted prices, and sometimes buyers will pay a premium. But to give you an illustration, my East Texas crude-oil production is sold to the Crown Central Refining Co. They do not have any pipe line to the east Texas field but use the Houston Ship Tunnel. They tender that to a pipe-line company, and it transports that oil for them at the tariff on file with the Railroad Commission of Texas. Their transportation charge is regulated by the Railroad Commission of Texas, and it is received there from my tanks for the account of the buyer and delivered to him at a terminal for his account. He pays the transportation charge; I have nothing to do with it. I sell oil in Refugio. I have no pipe line to Corpus Christi. I sell it to a Belgian, and I sell it f. o. b. pipe line at Refugio; I deliver to a pipe-line company there, and they deliver it over their docks to a designated tanker at seaport. That is the ordinary way in which that sort of business is transacted.

Senator CONNALLY. Under the laws of Texas and under the administration of the railroad commission, are all pipe lines common carriers?

Mr. HILL. It has always been my understanding. As a lawyer I always so considered it when I practiced law, and I have always so considered it as an oil operator.

Senator CONNALLY. As a matter of practice, do or do not the pipe lines, in the cases that you have instanced, accept oil from people who are not a part of their company and transport it for the shipper and charge the regular rate allowed by the railroad commission?

Mr. HILL. Yes; and many of them are very active in the solicitation of that business. A great part of their revenue comes from transportation of other people's oil or the pipe-line tariff fixed by the railroad commission. I have never heard that refuted before in my presence.

Senator CONNALLY. You have never heard it denied.

Mr. HILL. I will accept the correction; I have never heard it denied before.

Senator CONNALLY. Is there anything else you want to say, Mr. Hill?

Mr. HILL. No, sir.

Senator CONNALLY. We are very glad to have had you come, Mr. Hill.

Mr. HILL. Thank you.

Senator CONNALLY. It is my disposition to adjourn these hearings until tomorrow unless there is some gentleman from out of town who cannot be here tomorrow.

Mr. DECKER. Mr. Chairman, I have a brief which I can leave with you; I can finish before 1 o'clock.

Senator CONNALLY. All right. We will take your brief and hear you, too.

Mr. DECKER. I will have to get back to Michigan and start shoveling snow. I am really substituting in this matter for another.

Senator CONNALLY. Is this statement you want to read the brief you want to file?

Mr. DECKER. If you are crowded for time you can just file it.

Senator CONNALLY. We will put it in the record, and we can hear you if you want to say anything.

Mr. DECKER. I did not prepare this and I am substituting for another person.

Senator CONNALLY. Will you give your full name and connection, and so forth, to the stenographer.

STATEMENT OF R. E. DECKER, PLYMOUTH ISLE, DETROIT, MICH., REPRESENTING DIXIE INTERSTATE

Mr. DECKER. My name is R. E. Decker, and I represent the Dixie Interstate.

I can say briefly the Dixie organization comprises independent marketers in 10 States, and we are only interested in this bill so far as it affects marketing. I believe, from hearing the statements, and personally I feel, if we are going to have Government control, whether Federal or State, we should have it all of the way from the ground to the consumer.

As far as production, I know nothing about production or refining and very little about transportation. I do feel I know something about marketing, but evidently it does not come under this act.

Senator CONNALLY. This bill only touches transportation interstate of oil or products which have been produced in violation of State law.

Mr. DECKER. We are only interested in it as it affects marketing, and I feel personally if there is going to be Government control it should be all of the way, and I believe we will have some fair-trade bills in Michigan affecting marketing.

Senator CONNALLY. Do you have any difficulty in buying gasoline or oil products in the open market at the same price that other people buy them?

Mr. DECKER. We are marketing at full price, and ethylized gasoline. I do not believe that is offered on the open market, because anyone who markets it must have a franchise from the Ethyl Corporation.

Senator CONNALLY. That is treated with some particular patented process?

Mr. DECKER. Yes.

Senator CONNALLY. And anyone who handles that has to get a license from the patent holder?

Mr. DECKER. Yes, sir.

Senator CONNALLY. Do you deal in ordinary gasoline?

Mr. DECKER. No; we do not.

Senator CONNALLY. We will be glad to hear anything else you have to say.

Mr. DECKER. I have only this brief. I appreciate the opportunity of presenting it at this time. I am not here to argue about production, because I am not qualified, but I have learned a lot here this morning.

Senator CONNALLY. This is a free school; there is no charge. (The brief offered by Mr. Decker is as follows:)

Dixie Interstate is an association of independent oil jobbers operating in 10 States. It numbers 134 members, located in the States of Michigan, Wisconsin, Illinois, Missouri, Iowa, Kansas, Nebraska, Colorado, Oklahoma, and Texas. In each of these States there is a State organization, and these organizations, in turn, head up through their representatives into Dixie Interstate. A list of the jobbers is attached as an exhibit.

This group of independent marketers distributes over 100,000,000 gallons of gasoline annually and also sell motor oil, batteries, tires, and other such merchandise usually sold by petroleum marketers. These goods are sold under the trade name Dixie, and the merchandise sold must be equal to the best available to the public. It is not a cut-price organization. Each member owns his own business and operates it to suit himself, except that he has to comply with the requirements as to specifications on all articles sold under the Dixie brand. Compared to the so-called major oil companies, all Dixie jobbers must be described as "small business" men.

This group oppose the enactment of Senate bill 790, because the effect of this act is to make permanent what was originally emergency legislation designed to be used in connection with the National Industrial Recovery Act. That act has been unenforceable for nearly 2 years, but the Connally Act, like the human tonsil and appendix, has remained to give trouble instead of serving any useful purpose. The act will expire by its own limitation on June 16, 1937. Senate bill 790 proposes to continue it, and Dixie Interstate opposes its continuation for the following reasons:

First. The Connally Act in operation has enabled the major integrated oil companies to control at the source the production of oil. The main reason for the present plan of proration of production is not so much the conservation of natural resources as to maintain the price of crude oil.

Instead of letting the laws of supply and demand regulate the production of oil, an attempt is made to limit production below the natural demand, thereby maintaining a price based on scarcity. The consumer, of course, pays the bill.

The limitation on the free production of oil enables integrated major companies, through their control of pipe lines, to more easily "corner the market", and they have largely done so. The Department of Justice has just secured the indictment of many of these companies in the district court at Madison, Wis., for unlawfully combining to do just that.

One of the main defenses of those indicted will be that Secretary Ickes encouraged the companies to follow the practices for which they are now indicted. There is apparently a considerable difference of opinion between the departments of the Federal Government. It is clear that one of two courses should be followed. The oil business, from production to ultimate consumption, should be fully regulated, or the oil business should be left entirely alone. There should be a free market all the way from the oil well to the consumer's gas tank, or there should be regulation not only in production, but in refining, transportation, and marketing. Such bills as the Connally Act, which try to control production but leave marketing unregulated, afford the major integrated companies, engaged in all briches of the oil business, an opportunity to choke off competitors engaged in only one branch. The effect of such regulation is to compel independent marketers, such as the jobbers composing the Dixie group, to buy in a controlled market, while they have to sell in an open market and in competition with the very people from whom they are compelled to secure a supply of merchandise. It has resulted in many instances in the loss by independent marketers of their entire business, because they were unable to secure a source of supply. This state of affairs has not been confined to any one section or locality. Legislative investigations in States as widely separated as Michigan, New York, and North Carolina have found practically the same state of affairs to exist. All over the country independent jobbers have been forced out of business as the result of the control of production.

If no one engaged in one branch of the oil business was permitted to engage in any other branch of the industry, the only effect of the limitation of production might be the maintenance of an arbitrarily high price for crude oil. The consumer would pay the bill, as always, where artificial prices are maintained. Under the present conditions, continuation of the Connally Act and similar legislation

designed to control production will have the effect of driving out of business all independent marketers of petroleum products. The jobbers which compose Dixie Interstate, therefore, oppose the enactment of Senate bill 790.

(Mr. Decker subsequently submitted the following:)

REPORT OF THE JOINT LEGISLATIVE COMMITTEE CREATED AND EMPOWERED TO INVESTIGATE PETROLEUM MARKETING PRACTICES IN MICHIGAN

To the legislative council of the Legislature of the State of Michigan:

Pursuant to Senate Concurrent Resolutions Nos. 13 and 30 of the regular session of 1935, there is herewith respectfully submitted the report of the joint legislative committee created and empowered to investigate petroleum marketing practices in Michigan.

On motion of Mr. Callaghan the report was ordered printed in the journal. Following is the report:

By virtue of Senate Concurrent Resolutions Nos. 13 and 30, adopted at the 1935 session of the Michigan Legislature and set forth below, there was created a joint legislative committee to investigate alleged monopolistic and unfair trade practices by the major oil companies operating in Michigan. The resolutions follow:

SENATE CONCURRENT RESOLUTION NO. 13—A CONCURRENT RESOLUTION AUTHORIZING AN INVESTIGATION OF CONDITIONS CONFRONTING THE INDEPENDENT OIL JOBBERS OF MICHIGAN

Whereas there are in the State of Michigan more than 300 independent concerns engaged in the marketing of petroleum products; and

Whereas said concerns regularly employ between 55,000 and 65,000 residents of Michigan; and

Whereas said concerns have in Michigan a capital investment of between \$25,000,000 and \$35,000,000; and

Whereas said concerns operate almost exclusively in Michigan and comprise distinctly a Michigan industry; and

Whereas one of the said concerns is the Farm Bureau Service Corporation, which alone serves more than 15,000 Michigan farmers; and

Whereas the virtual suspension of Federal antitrust laws under the National Recovery and associated acts, largely removed restraints on monopoly; and

Whereas codes of so-called fair competition affecting the petroleum industry are alleged to have been administered by special interests within the industry itself in such manner as to encourage and restore vicious monopolistic practices; and

Whereas certain major and integrated companies of the petroleum industry, which companies control practically all of the operations from drilling to gas station, are alleged to have been enabled to employ said monopolistic practices in an effort to destroy independent competition; and

Whereas because of such practices the above Michigan independent concerns are said to now face a situation which, if not corrected, may mean their eventual abandonment; and

Whereas such abandonment would—

(a) Bring about the destruction of an essential Michigan industry;

(b) Imperial the welfare of all of the citizens of Michigan because of the probability of increased retail prices of gasoline: Now, therefore be it

Resolved by the senate (the house of representatives concurring), That a joint legislative committee, consisting of three members of the senate and four members of the house of representatives, appointed by the president and the speaker, respectively, be authorized to examine into the aforesaid to the end that it may be determined whether or not additional legislation is needed to protect the public interest; and be it further

Resolved, That said committee be given full power and authority to subpoena witnesses, administer oaths, and to examine any and all persons, records, and documents deemed proper by said committee, and to incur any necessary expenses, including those of witness fees, counsel fees, auditing and stenographic services in making such investigation, such expenses not to exceed a total of \$5,000, the same to be paid out of the general fund of the State,

not otherwise appropriated, upon itemized vouchers, duly certified by the president of the Senate and the speaker of the house of representatives; and be it further

Resolved, That said committee report its findings to this legislature as speedily as possible.

SENATE CONCURRENT RESOLUTION NO. 30—A CONCURRENT RESOLUTION
SUPPLEMENTING SENATE CONCURRENT RESOLUTION NO. 13

Whereas Senate Concurrent Resolution No. 13, adopted by the senate and the house of representatives, provides for an appropriation from the general fund of \$5,000; and

Whereas a question has arisen as to the interpretation of the following language used in the concurrent resolution: "The same to be paid out of the general fund of the State; not otherwise appropriated"; and

Whereas the interpretation of the above language is apt to jeopardize the effectiveness of the functioning of the committee appointed by virtue of Senate Concurrent Resolution No. 13: Therefore, be it

Resolved by the senate (the house of representatives concurring), That the expense of said committee, functioning under Senate Concurrent Resolution No. 13, to the extent of \$5,000, be paid from the legislative appropriation, one-half, as near as may be, by the senate, and one-half, as near as may be, by the house of representatives, unless otherwise provided for.

The committee appointed under said resolution was as follows: Ambrose G. Bushnell, representative; Fred J. Houseman, representative; Walter B. Remer, representative; George L. Teachout, representative; Earl W. Munshaw, senator; Leon D. Case, senator; Joseph A. Baldwin, senator.

Senator Baldwin was named chairman. At the request of the committee, Hon. Harry S. Toy, then attorney general, assigned Assistant Attorney General Gordon E. Tappan as legal counsel. The committee deems it not inappropriate to register its appreciation of Mr. Tappan's valuable assistance and cooperation.

The committee commenced the taking of testimony on June 4, 1935, and continued until March 27, 1936. Public hearings were held in the senate chamber at Lansing, and at Clare, Mount Pleasant, Albion, and Detroit, Mich. Approximately 50 witnesses were heard, 141 exhibits examined, and more than 2,000 pages of testimony taken.

Throughout its proceedings the committee recognized Hon. Hazen S. Hatch, attorney, as spokesman for the complainant jobbers. Also in attendance upon practically all of the hearings was Hon. Buell F. Jones, general attorney for the Standard Oil Co. of Indiana. Both of these gentlemen were freely permitted to question witnesses and enter objections and statements in the record.

From the outset, the committee, conceiving the inquiry to be informative rather than judicial in character, exercised liberal latitude in the calling of witnesses and receiving their testimony.

For the sake of clarity in considering the charges, some of the terms used herein are defined as follows:

"Jobber" is one who buys in tank-car lots from the refiner and resells to the dealer; in other words, a wholesaler.

"Dealer" is one who purchases at wholesale and sells direct to the consumer at the service station; in other words, a retailer.

"Major" refers to any firm or corporation engaged, either directly or through subsidiaries, in more than one of the four principal divisions of the petroleum industry; namely, production, transportation, refining, and marketing.

"Independent" includes those who are engaged in only one of the principal divisions of the petroleum industry.

"Spot or cash market" represents sales of gasoline and refined oil made each day in tank-car lots on the open market, including the price paid and received.

"Group 3" is a rail freight term utilized to designate a refining territory, rates from which to a large consuming section are the same for all points. It consists of a substantial portion of Oklahoma, including Tulsa and other adjacent cities, where more than 40 refineries are located.

"Third grade", "regular", "premium", refer to the three grades of gasoline sold to the public at retail. "Third grade" has an octane (antiknock) rating of less than 63; "regular" an octane rating of 63 to 70; and "premium" an octane rating of 70 or above. "Ethyl gasoline" indicates a gasoline which has added to it a patented product known as tetraethyl lead, the addition of which increases the octane rating.

"Normal price" is the price at which each marketer offers its product for sale throughout its marketing area, as distinguished from a subnormal, abnormal, or local price made to meet competitive prices or other conditions out of the ordinary.

The charges made in the course of the investigation may be summarized as follows:

1. That an agreement or understanding existed among the major marketers in Michigan, fixing the retail price of gasoline.
2. That an agreement or understanding existed among the major companies marketing in Michigan, fixing the margins allowed to jobbers.
3. That an agreement or understanding existed among the major marketers in Michigan, fixing the discounts allowed to dealers.
4. That certain so-called independent retailers, and particularly the Sunny Service Oil Corporation of Detroit, were being used by the major companies, to instigate price wars.
5. That the quotations of the Chicago Journal of Commerce and Platt's Oilgram did not truly reflect the spot-cash market for gasoline; and that these publications are controlled or influenced by the major companies.
6. That independent jobbers can market gasoline more efficiently than the major companies, and, therefore, the majors should withdraw from that branch, so that savings may be passed on to the consumers.
7. That majors subsidize their marketing operation by profits from other operations, particularly pipe lines.
8. That bids submitted by majors to municipalities were identical and the result of prior agreement or understanding.
9. That the application of the group 3 freight rate to all gasoline shipments to all points of destination in Michigan, regardless of point of origin, is comparable to the "Pittsburgh-plus-system" in the steel industry and an unfair trade practice.
10. That so-called group 3 cash gasoline prices (spot market price) have been artificial, due to the purchase of distress gasoline by prior agreement among the majors.
11. That the Code of Fair Competition for the Petroleum Industry, which found its inception in the National Industrial Recovery Act, was administered by the majors in such a manner as to encourage and restore monopolistic practices and was used as an excuse to violate State and Federal antitrust statutes.
12. That the majors used the statutory monopoly of the Ethyl Gas Corporation in such a way as to constitute an unfair trade practice and to the injury of the independents.
13. That, by virtue of a community of interest of stockholders and an interlocking of directorates, the Rockefeller interests control and direct the activities of practically all major oil companies.
14. That the majors have upon occasion, and particularly in the case of Fisher Industries, Inc., Detroit, Mich., by concerted action, accomplished the drying up of the source of supply of certain independents.
15. That the majors have maintained, by appointment, a system of espionage for the purpose of securing information as to the sources of supply of all independent jobbers in Michigan; that such information has been used by said majors to dry up the source of supply of price-cutting independents through the means of either influencing the supplying refiners to discontinue such sales or by purchasing the entire output of such refiners in the event the first method fails.
16. And finally that the majors have, by other various and diverse means, all of which constitute unfair trade practices and violations of State and Federal anti-trust laws, entered upon a scheme or plan to eliminate from the industry the independents.

We do not propose, in this report, to attempt detailed analyses of the above charges. Obviously, it is not the legislative function to determine guilt or innocence. But certainly it is the legislative obligation to take cognizance of conditions considered to be inimical to the public welfare, and to correct such conditions, insofar as possible, by the recommendations and enactment of proper legislation.

Using the courtroom analogy, however, we believe it entirely pertinent to observe that, without material exception, all of the above charges had sufficient support in the testimony before the committee, "on which to go to the jury." They unquestionably total to a sum of unfair competitive practices dangerously hostile to the public interest.

We labor under no illusion that all independents are spotlessly white or that every major is diabolical. We are dealing not in personalities, but with a system.

The conduct of the majors in the matter of the administration of the N. R. A. code alone is indicative of the disparity existing between them and the independents, and was an important factor in bringing about the plea for an investigation.

It must be conceded that while the independents had ostensible representation therein, the administration of the Code of Fair Competition for the Petroleum Industry rested decisively in the hands of the majors. Yet the most significant section of all was disregarded to the great detriment of the independents. This was the section relating to segregation, requiring each division of the industry to stand on its own feet without the artificial respiration of subsidies.

The fault was not with the code—as drawn it was generally regarded as a good instrument—but with its application.

The "split" jobbers contract was the other immediate factor which directly influenced the plea for an investigation.

Up to 1931 most of the jobbers' contracts had been guaranteed marginal contracts. In 1931 the so-called Midcontinent plan, conceived and promoted by the majors, brought into being the split feature. The apparent purpose of the plan was to force the jobbers to share losses in the event of price wars. The ultimate effect was a marked lessening in operating margin to the independent jobbers, who had no source of subsidy. The margins many times became less than 1 cent a gallon and it is virtually impossible for an independent jobber to remain in business under that margin.

When the independent jobbers of Michigan petitioned the legislature for the investigation made by your committee, they were thus faced with an intolerable situation—that of being gradually forced out of business in one of the principal divisions of an industry known to be profitable from the standpoint of its aggregate operations; and, being forced out, not because of inefficiency, not because of expired usefulness, but by reason of concerted action on the part of major competitors holding an advantage and employing that advantage unfairly.

The advantage referred to is that of integration—controlling all of the operations of the industry, whereby a long profit can be taken in one division to cover losses in another, where prices and margins are utilized to eliminate the independents, who operate in only one division and must rise or fall on their efforts in that division alone.

Had petroleum marketing conditions which prevailed in Michigan at the time this investigation was authorized, continued without abatement, we are convinced many independent jobbers would by now be faced with the alternative of either selling out to the majors or abandoning their businesses to liquidation. This eventually would have meant the destruction of the last barrier of competitive protection between the public and unbridled exploitation by the majors, whose present degree of dominance is a hazard to fair prices and individual enterprise.

During the course of this investigation someone was heard to remark, "why try to save the independents—they're on the way out. In 10 years they'll all be gone anyway." This attitude is easily identified as the well-known doctrine of the "survival of the fittest." But to be applicable to the matter at hand, "mightiest" should replace the word "fittest", for the independent jobbers have demonstrated their ability to market more efficiently and more cheaply than the majors.

At this point we take the liberty of digressing, for after all, these problems are not peculiar to the oil industry alone.

The past decade has witnessed the abrupt decline of individual business establishments and the elimination of a great number of individual enterprisers. It may be conceded that this development has been to some extent inevitable and in some degree desirable. But there is "enough" of everything and we venture the contemplation that the American commercial structure has reached the saturation point in integration.

The monopolistic trend in American business constitutes a grave threat to economic stability, and more important, to the assurances of true democracy. When monopoly can no longer increase profits by ingenuity, it resorts to the night stick.

What does Michigan intend to do about it? Fairly early in the investigation it became clear to your committee that one State, acting alone, or even a group of States, acting along the same lines, could not possibly hope to cope with the problem. The ramifications of the oil business are, geographically and otherwise, so extensive as to demand attention by the Federal Government.

The committee, therefore, solicited and secured the cooperation of the Department of Justice at Washington. The result was the calling of a Federal grand jury in Madison, Wis. Subsequent developments are well known. Your committee commends the officials of the United States Government for their vigilance in this connection. It should inspire Michigan to supplement national action by appropriate State activity.

We feel there is something vital that Michigan can and should do. The recommendations which follow are based on two major considerations:

(1) The conviction that the present Michigan antitrust and price-discrimination acts are broad enough to afford a substantial measure of relief if an approach can be opened to the businessman of modest means, and he, after all, is the one whom these laws are designed to protect.

(2) The feeling that the best foundation for new laws would be a period of experience in fullest enforcement of the present acts.

To achieve these purposes, we propose:

A Michigan Fair Trade Commission composed of three members, appointed by the Governor, by and with the advice and consent of the senate, for terms of 3 years each, following the appointment of the first commission for 1, 2, and 3 years, respectively; not more than two members of said commission to be of the same political party, they to be chosen for their ability and fairness and not on the basis of political preferment.

This commission shall be charged with three distinct duties:

(1) To enforce the present antitrust and price-discrimination laws.

(2) To study the fair-trade laws of other States, and of the United States.

(3) After 1 year of such experience and study, to make formal recommendations to the Governor and the legislature, respecting amendments to existing laws and the enactment of additional statutes, where deemed necessary to protect all classes of business from unfair practices.

To assist in discharging the first duty, the said commission should be given statutory authority to receive complaints, require answers, issue subpoenas, hold hearings, and make orders, in the manner of the Federal Trade Commission; said orders to be reviewable by the supreme court of the State of Michigan. Any corporation, firm, or individual licensed to do business in Michigan under any law thereof, including the Corporation Code and the Sales Tax Act, should be denied such right or to have such right suspended upon failure to comply with said orders.

To assist in discharging the second duty, said commission should be permitted to hire, in addition to the necessary administrative assistants regularly employed, a special secretary for 1 year, whose efforts will be devoted to the compilation of information related to the study provided for in no. 2.

At a session of the committee held in Lansing on December 29, 1936, the above report was approved and adopted by a vote of all the members of said committee, with this reservation:

Senator Earl W. Munshaw stated: "I cannot subscribed to all statements made in the committee report, but I do approve the recommendations."

In addition to all of the foregoing, there is another important matter which occupied a considerable portion of the committee's reflections. This is the proposal to amend the chain-store license law by removing therefrom the exception now granted filling stations and bulk plants.

The majority of the committee see no sound justification for this exception, but frankly withhold a definite recommendation because of the difficulty of preventing the taxes which would be levied from being passed on to the consumer of petroleum products, who now bears more than his fair share of the burden of government.

Respectfully submitted.

AMBROSE G. BUSHNELL.
 FRED J. HOUSEMAN.
 WALTER B. REMER.
 GEORGE L. TEACHOUT.
 EARL W. MUNSHAW.
 LEON D. CASE.
 JOSEPH A. BALDWIN, *Chairman.*

Senator CONNALLY. Is there anyone else who lives out of town, who can get through in a very short time?

(No response.)

Senator CONNALLY. I have a brief from the Wisconsin Petroleum Association which they have asked to be placed in the record.
(The brief is as follows:)

STATEMENT OF ROY L. BRECKE, EXECUTIVE SECRETARY AND LEGISLATIVE REPRESENTATIVE OF THE WISCONSIN PETROLEUM ASSOCIATION

My appearance here in opposition to the continuance of the Connally bill, S. 790, is in behalf of the Wisconsin Petroleum Association, a bona-fide organization of over 395 independent oil jobbers of the State of Wisconsin. An association organized under the statutes of Wisconsin for the mutual protection of motorists and independent jobbers.

Living in the States where we believe in the familiar saying of "Live and let live", our association must oppose the continuance of the Connally bill, or else the lives of the independent jobbers will be very short.

First, I will not attempt or cannot discuss the workings and the effects of the Connally Act as far as producing and refining are concerned, but only how it has affected the marketing end of the oil industry for the oil jobbers in Wisconsin.

In 1935 the Wisconsin Department of Agriculture and Markets started an investigation of the alleged unfair practices and schedule of prices of the large major oil companies. Hearings were held throughout the State of Wisconsin and a great deal of evidence was obtained showing the exorbitant cost of the large integrated companies in marketing a gallon of gasoline at their own stations, disregarding retail prices, and which were fortified by the large profits from their production, pipe-line, and refinery operations.

This investigation of the operation of integrated oil companies was followed by an investigation by the Federal Government.

Since the Connally Act went into effect on February 22, 1935, two Federal indictments by Federal grand juries in session at Madison, Wis., have seen fit to indict 21 major oil companies and 70 individuals on violation of the Sherman Antitrust Act on grounds of having large buying pools among themselves in conspiracy to control the retail price, which we maintain means forcing the independent jobbers, who are dependent upon the marketing end only, out of business. These same independent jobbers are the pillars of their communities, paying State as well as individual income taxes, contributing to the welfare of their communities.

The defendants in the Federal grand jury indictments are scheduled for arraignments in Federal court before Federal Judge Patrick Stone in Federal court in Madison on March 3, and date for trial has been set for June 1.

The Wisconsin Petroleum Association bring before the Senate committee these facts: Regardless of the Connally Act, which went into effect February 22, 1935, two Federal grand juries recently have found sufficient evidence to grant Federal indictments, trials on which start June 1.

Therefore, we maintain that the Connally Act has not helped in any way, and evidence shows that it has hampered the problems and situations confronting the independent marketers.

Briefly, investigations in Wisconsin can be summarized as follows:

First, independent jobbers can more efficiently market gasoline than the so-called major companies.

Second, Major companies subsidize their marketing operations by profits from production, pipe-line, and refinery operations.

In conclusion, under the Connally Act the independent oil marketers cannot enjoy an open and free market to purchase their gasoline in that the Federal Government has aided in holding the supply of crude oil below market demands.

In Wisconsin oil jobbers feel that the Connally Act has acted as a price-fixing statute, and, by the same token, a national Federal petroleum code was declared unconstitutional, we feel the Connally Act has no place in the system of American government, and we sincerely feel that it is time to restore the oil industry, which is one of the greatest in our country, to a truly competitive status, to allow jobbers to be able to call their soul their own.

Senator CONNALLY. We will recess until 10 o'clock tomorrow morning.

(Whereupon, at 12:55 a. m., the hearing was recessed until Wednesday, Feb. 17, 1937, at 10 a. m.)

REGULATION OF SHIPMENT OF PETROLEUM IN INTERSTATE AND FOREIGN COMMERCE

WEDNESDAY, FEBRUARY 17, 1937

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON FINANCE,
Washington, D. C.

The subcommittee met, pursuant to adjournment, in room 310, Senate Office Building, at 10 a. m., Senator Tom Connally presiding.

Present: Senators Connally (chairman) presiding, Lonergan, and Townsend.

Senator CONNALLY. The subcommittee will come to order. Gentlemen, this morning I think there are some more representatives of the marketers here. We have had a good deal of marketing testimony already.

Mr. McCain, how long do you think it will take for you?

STATEMENT OF W. R. McCAIN, SPRINGFIELD, MO.

Mr. McCAIN. Not very long.

Senator CONNALLY. That is a very indefinite term. Do you think it will take you 10 minutes?

Mr. McCAIN. I will say 10 or 15 minutes. It depends on how many questions you want to ask me and how long it takes to answer them. My paper won't take very long.

Senator CONNALLY. How long will it take you, Mr. Baucum?

Mr. BAUCUM. Ten or 15 minutes.

Senator CONNALLY. Won't 10 minutes be sufficient for you, sir? We are giving a lot of time here on this marketing phase of this matter, with which this law has nothing to do.

Mr. BAUCUM. It will only take me about 10 minutes to read my paper.

Senator CONNALLY. This bill does not touch marketing, has nothing to do with marketing; but, still, if you have objection I am willing to hear you. We will start off with giving you 10 minutes apiece and see how we get along.

All right, Mr. McCain.

Mr. McCAIN. Mr. Chairman and members of the committee, I appear from Springfield, Mo., and for 45 years have been a jobber or connected with the marketing end of the oil business.

Senator CONNALLY. Are you appearing as an attorney or an oil man?

Mr. McCAIN. No, sir. I am just an oil man.

Senator CONNALLY. An oil man?

Mr. McCAIN. Yes, sir.

Senator CONNALLY. All right. You may go right ahead.

Mr. McCain. In appearing before you I do so as the representative of the Missouri Independent Oil Jobbers Association, Northeast Missouri Oil Jobbers Association, Southeast Missouri Independent Oil Jobbers Association, and the Ozarks Oil Men's Association. These organizations of independent oil marketers are opposed to the enactment of the Connally bill, S. 790, because the Connally Act has led to proration and regimentation; proration has led to control; control has led to monopoly; monopoly has led to price fixing; price fixing to a losing basis to crush those in the way of monopoly; price fixing to a profitable basis to the extent that competition has been disposed of.

I trust the committee will bear with me when I refer, in these remarks, to the Oil States Compact Act. I fully realize that the State Compact Act is not before this committee but in my opinion it seems to be a necessary adjunct to the operation of the Connally Act.

The Bureau of Mines are furnishing monthly estimates of crude-oil market demand. The Oil States Compact Commission is using the Bureau of Mines' estimates on which to base its own estimates and then prorating to refiners the crude oil "allowed" each of them.

In this manner isn't the Government doing for producers that which they could not do for themselves without violating the anti-trust laws? We find that conservation of crude oil as the objective is feigned; control, monopoly, price fixing is the result.

Please bear in mind that it is a bit of strategy of the major integrated oil companies to keep two or more branches of the oil industry on a profitable basis, while one branch is kept on a losing basis. Profits from two or three branches of the industry are used to beat down the victimized branch.

A study of the Connally Act as passed by Congress in 1935 leads one to believe that it was intended to help conserve the crude-oil resources of the oil-producing States.

Article V of the Oil States Compact Act plainly stated:

It is not the purpose of this compact to authorize the States joining herein to limit the production of oil or gas for the purpose of stabilizing or fixing the price thereof, or create or perpetuate monopoly, or to promote monopoly, or to promote regimentation, but is limited to the purpose of conserving oil and gas and preventing the avoidable waste within reasonable limitations.

If the Oil States Compact Act expresses the will of Congress then it is reasonable to assume that Congress in passing the Connally Act did not intend to sanction or permit that which the Oil States Compact Act forbids.

Now, let's consider the conditions in the four branches of the oil industry, viz, producing, transportation, refining, and marketing.

Let's investigate and see what the conditions are under nearly 2 years of operations under the Connally and Oil States Compact Acts. Let's see whether the trend is not in the interest of control, monopoly, price fixing in all branches of the industry rather than conservation and fair dealing.

PRODUCTION

In January and February 1935, when the Connally Act was being discussed and passed by Congress as a stop gap to take the place of section 9 (c) of the National Industrial Recovery Act, the estimated crude-oil production for the United States was approximately

2,400,000 barrels per day. This January and February 1937 the estimate is approximately 3,200,000 barrels per day, an increase of 800,000 barrels per day. During the 2-year period there has been taken out of above-ground storage, and used, approximately 36,000,000 barrels. This is an average of 1,500,000 barrels per month. This represents crude oil that has been used during the 2-year period out of the above-ground accumulations of the past.

These figures are taken from estimates of the American Petroleum Institute and Mr. Ickes' Bureau of Mines.

It is true that there has been an increase in demand for gasoline and fuel oil, but there is nothing in these figures to indicate loss of sleep in the oil-producing States because of conservation.

Crude oil was 10 to 25 cents per barrel in the east Texas field at about the time of the passing of the N. I. R. A. It was stabilized at a dollar-per-barrel basis throughout the Midcontinent field, including east Texas, under the Connally Act. Last year, the "allowable" of crude-oil production was so low in the Mid-Continent field that notwithstanding the higher prices the small producers became restless. Even Texas, as a whole, became unruly. Some good strategy was used and Colonel Thompson of Texas was made chairman of the Oil States Compact Commission and the trouble allayed temporarily. More recently a 10 to 17 cent advance was made in the price of crude oil. Perhaps we should say 17 to 10 cent advance. And now, when nearing 2 years of operations under the Connally Act, it is being stabilized at \$1.10 to \$1.12 per barrel basis, the prohibitions in section V quoted above from the Oil States Compact Act prohibiting price fixing and stabilization to the contrary notwithstanding.

Senator CONNALLY. Let me ask you right there, is not the rise in price the natural consequence of increased demand? You stated awhile ago that there had been a considerable increase in demand. That always results, does it not when there is a bigger demand?

Mr. McCAIN. I think this statement will answer that a little later. I am trying to hold production matters to production and refining to refining.

Senator CONNALLY. All right.

Mr. McCAIN. It is obvious that the small producers are for the Connally Act because of better prices, and that they would condemn it just as readily if they did not get the better prices. It is also obvious that the major oil companies are paying the better prices not because of the Connally Act per se but because it serves their purposes better to do so. They need the profits on their own large production which higher prices afford them to help subsidize their own losses in marketing while they crush competition in that branch of the industry.

Just now, what is the situation in the Texas Panhandle with the small natural-gas producers? That is a case in point.

Senator CONNALLY. Go ahead.

Mr. McCAIN. A recent daily-market sheet carried the following report:

Rigid enforcement of conservation orders has curtailed output of Rodessa gasoline. Prices were higher Monday.

We ask: Isn't this statement equivalent to saying "rigid control of Rodessa-gasoline output resulted in higher prices Monday"?

How can the oil-producing States and their producers reconcile their demands for the Connally Act for conservation purposes while at the same time promoting a heavy import duty on South American and other foreign oil? Doesn't that indicate that better control of home production and markets is the object of these promoters, rather than conservation?

TRANSPORTATION

The major oil companies, who are the big producers of crude oil and refiners of gasoline, own all of the trunk-line pipe lines in the United States. They have no competition. Their rates and profits are what may be expected of an unregulated monopoly. Pipe lines are common carriers in name but not in fact. There are a large number of pipe lines which cross Missouri. Two of these lines transport only gasoline, viz, the Phillips line from the midcontinent oil field to Kansas City, thence to St. Louis, and the Great Lakes line from the midcontinent field to Kansas City, thence to Chicago, with a branch line to Des Moines, thence to Minneapolis-St. Paul.

The owners of these two lines swap gasoline. For instance, the members of the Great Lakes line take gasoline out of the Phillips line at St. Louis for their St. Louis and nearby distribution, and vice versa. When this gasoline is sold and distributed through jobbers, jobbers are charged on a Tulsa railroad rate of freight basis, or sometimes higher when the refinery of the supplier takes a higher railroad rate. The Tulsa-St. Louis tank-car rail rate is approximately 2 cents per gallon. The pipe-line cost for transportation must be very small compared with this railroad transportation cost. St. Louis and nearby jobbers are discriminated against to the extent of the difference in cost of the two methods of transportation. The same situation applies to gasoline refined from crude oil that is piped from the midcontinent field to Wood River, Ill., and East St. Louis; the same swapping of gasoline between major companies while jobbers are being charged at the railroad Tulsa rate of freight basis, or higher. Doesn't this prove our contention that pipe lines are common carriers in name only, but not in fact?

Many years ago the Federal Trade Commission declared basing-point methods of price fixing as unfair. For many months the major oil companies in the Middle West have been using the basing-point method of price fixing in their dealings with jobbers. The St. Louis and East St. Louis situations, as referred to above, are examples of its unfairness.

A further evidence of unfair transportation cost is the peculiar manner in which railroad gasoline freight rates are manipulated. They always seem to be finally adjusted to the very great disadvantage of the independent branch of the oil industry. For instance, a few years ago Springfield, Mo., oil jobbers could ship from any independent refinery in Oklahoma or Kansas at the same rates applicable to most major oil-company refining points. Rates were then changed so that Springfield jobbers could ship from only a few nearby independent refining points at one-eighth cent and more per gallon above major oil-company refining points. This rate structure remained a short time when this freight differential was doubled and the rates from the distant Oklahoma and Kansas points were made prohibitive.

This situation has persisted, although practically all independently refined-oil products are being handled by motor transport.

I want you to get the next one, Senator.

Senator CONNALLY. Yes, sir; I am listening. I have two of these statements.

Mr. McCAIN. That is fine.

Then the East Texas field was opened and the first refinery in the field built, and we could ship gasoline from this east Texas refinery to Springfield, Mo., at 4 cents per hundredweight above the Tulsa rate of freight. Rates have been manipulated until now it costs $11\frac{1}{2}$ cents per hundredweight more to ship from the same refinery in east Texas to Springfield, which is prohibitive. A similar situation prevails generally. We have used Springfield, Mo., to illustrate, because it is a representative point.

So, Senator, while your Connally Act is bottling up on hot oil, someone seems to be bottling up cold oil.

Senator CONNALLY. Let me say to you that the matter of railroad rates is wholly within the jurisdiction of the Interstate Commerce Commission. We do not fix those rates—do we—under the Connally Act or any other act?

Mr. McCAIN. In talking about pipe lines—

Senator CONNALLY (interposing). Railroad rates are fixed by the Interstate Commerce Commission and not by any act.

Mr. McCAIN. Yes; but in talking about pipe lines or something the other day, when your Attorney General was here, you were very anxious to get that kind of stuff.

Senator CONNALLY. That is all right. That is what we want.

Mr. McCAIN. I am very glad to have you get that.

I had a pretty good source of supply, and I was cut off with the rate situation.

Senator CONNALLY. You were not cut off by the Connally Act in the rate situation.

Mr. McCAIN. I am showing you that under the Connally Act all branches of the business are being monopolized.

Senator CONNALLY. All right; go ahead.

Mr. McCAIN. I am taking the refineries now.

With the operating refineries of the country going at an average of approximately 75 percent of their capacity, and with many refineries not operating at all, there has been built up a stock of gasoline in the storage tanks of these operating refineries of 70,000,000 barrels. Mr. Ickes gave it higher. This huge quantity is far above reasonable working stocks. Further heavy increases in stocks of gasoline are probable under present conditions. Gasoline is the most wasteful of petroleum, because it is the most volatile. There is a heavy demand for fuel oil, and enormous quantities of crude oil are being stripped of its light fractions in order to get the heavy ends for fuel. Hence the accumulation of gasoline. But where is the conservation?

If the oil-producing States, and the large producers who dominate, were seriously concerned about conservation, they would prevent the use of these heavy ends of crude oil for the less useful purpose. They could thus avoid accumulating excesses of gasoline. The heavy ends of crude oil can be cracked into gasoline and coal

substituted for fuel, thereby conserving crude oil. It is thought by some that motor fuel will eventually have to be made from coal; or there is the alternative of using cheap foreign oil for fuel, in order to conserve our crude oil. We are confronted with the spectacle of burning up the heavy ends of our crude oil for the less useful purpose, instead of using coal, when we may have to eventually reverse the process and make motor fuel from coal.

We mention this merely as the kind of reasoning we think should go along with conservation activities, rather than control for price-fixing, regimentation, and monopolistic purposes which are resulting from the operations under the Connally Act.

Under the Connally Act a refiner refines what crude oil he is "allowed", and if the independent refiner can't sell all of the gasoline which he makes, and it is about to become distress gasoline, the major oil company buying pools take it off his hands. Before the Connally law became effective, this surplus, or distress gasoline, amounted to about 5 percent of the total gasoline refined. Since the better control under the Connally Act system of "allowables and regimentation" distress gasoline has been reduced to about 2 percent. The major oil company buying pools don't buy this 2 percent surplus, or distress gasoline, at bargain prices. Instead, they bid the price up. Then they furnish the higher prices which they pay for the 2 percent to the market-reporting agencies on whose published quotations their contracts to supply jobbers are based and thereby refiners are enabled to obtain the higher prices for the remaining 98 percent. This is an ingenious method of preventing surplus gasoline being offered to jobbers at lower prices than the market which would prevail if it was allowed to take its natural course.

Next is marketing. At Madison, Wis., all of the major oil companies operating in the northern half of the Mississippi Valley, and scores of their officials, have been indicted by two Federal grand juries for allegedly violating the antitrust laws. The indictments have grown out of alleged conspiracies to fix jobber margins and buying pools to control, or raise, prices and enforce the jobber margins as fixed. The margins fixed for jobbers is 2 cents per gallon, or less, for marketing and distributing gasoline.

These same major oil companies have bulk storage facilities in every city, town, and hamlet along the railroads of the country. They pay their agents generally for making deliveries from these storage tanks commissions of $1\frac{1}{4}$ cents, $1\frac{1}{2}$ cents, and $1\frac{3}{4}$ cents and up to 2 cents per gallon. Their general overhead marketing expenses amount to from 2 cents to 6 cents per gallon additional. There also is the matter of stock losses due to evaporation, and so forth, from the bulk storage scattered over the country. Stock losses is an item which has to be considered.

The major oil companies are subsidizing marketing losses out of production and pipe-line profits. Jobbers, being engaged only in the marketing branch of the industry, have no profits from other branches of the industry out of which to pay marketing losses.

Mr. Farish, chairman of the board of directors of Standard of New Jersey, in his 1936 year-end statement as published, stated that 1936 had been a profitable year but that the profits had been from production and pipe lines. We agree with him.

During N. R. A. the major oil companies had a strike of drivers and filling-station men at Cleveland, Ohio. The major oil companies represented to the Labor Policy Board that it cost them to sell and deliver 52 million gallons of gasoline in and around Cleveland, the year before, an average of slightly more than 9½ cents per gallon, and that the high was 2 cents higher and the low 2 cents less, indicating, after deducting dealers' or service-station concessions of 3½ cents per gallon, a delivery selling cost of low 4 cents, average 6 cents, and high 8 cents per gallon. Have the major oil companies so suddenly reduced their marketing costs to 2 cents per gallon, or are they taking advantage of producing and pipe-line profits to crush jobber competition in marketing?

The recent increased cost of crude oil has had a stimulating effect on refinery gasoline tank-car markets, while the large stocks of gasoline and the slackened demand due to seasonal, weather, road, and flood conditions has had a depressing effect. The midwestern jobber tank-car cost has remained within about one-eighth cent of what it was before the crude-oil advance. There has been no general advance in tank-truck and service-station prices in the north half of the Mississippi valley. It is obvious mid-continent independent refiners must advance the tank-car price the full one-half cent, or take a loss on account of increased crude cost. In several other sections of the country tank-truck and service-station prices have been advanced one-half cent per gallon, but not so in the north half of the Mississippi Valley. It is obvious that some jobbers might temporarily benefit by such an advance if made at this time. The cards have been stacked; jobber competition must be crushed.

In the light of this picture, which may be verified, many conclusions are arrived at before they can be mentioned.

Regimentation, control, monopoly, price fixing, and unfair practices are rampant in all branches of the oil industry. When you place control of crude oil into the hands of a few, you place the entire industry under the control or dominance of that same group, whether under the guise of conservation or not. You create the incentive for control, monopoly, and price fixing. Some gentlemen in the oil business are already too well provided with "incentive."

It isn't the Connally law, nor an oil States compact act, such as we are familiar with that is needed, nor some other acts that are being promoted in this connection. It is reasonable, definite prohibitions, in the interest of conservation in fact, and their enforcement. It is a recheck of the antitrust laws, and those laws made to provide fair and equitable rules of the game, not only in production, but also in all methods of transportation.

In refining, marketing, and distribution, we need not only a recheck of the antitrust laws, but we need a Federal Trade Commission and a Justice Department properly provided for with enough capable personnel to handle regulations and prosecutions. We need courts enough to get action.

A complete severance of the various branches of the oil industry with adequate laws to control is needed.

We jobbers are not opposed to producers having fair prices for their crude oil. But let's not be deceived. There is no reason why we should not all be prosperous and secure if we can have equal opportunities and fair and equitable laws properly enforced.

Senator CONNALLY. Is that all? We gave you 10 minutes and you took 25.

Mr. McCAIN. Thank you. I did not want to be shut off.

Senator CONNALLY. I will ask you just a few questions and then we will go along. Hereafter we will put a limit on speakers, and they may extend their written statements in the record and make such other statements as they choose.

Now, you discussed the whole oil industry from production to distribution.

Mr. McCAIN. The conditions we find under the Connally Act; yes, sir.

Senator CONNALLY. You are aware, however, are you not, that the Connally Act only relates to prohibition against the shipment of oil or its product interstate where that oil or its products have been produced in violation of State laws? That is all it does, does it not? Have you read the act?

Mr. McCAIN. That is price fixing.

Senator CONNALLY. I did not ask you that. Is that the act or not?

Mr. McCAIN. I think that is right.

Senator CONNALLY. Have you ever read the Connally Act?

Mr. McCAIN. Yes, sir; I have.

Senator CONNALLY. You know as a matter of law that it is all it does, do you not?

Mr. McCAIN. No, sir; I do not know that is all it does. I think section 4 fixes the prices.

Senator CONNALLY. It does?

Mr. McCAIN. Yes, sir.

Senator CONNALLY. What does it say about prices in section 4? Let us see.

Mr. McCAIN. I think it fixes prices.

Senator CONNALLY. At this point I will read section 4 into the record. It states:

SEC. 4. Whenever the President finds that the amount of petroleum and petroleum products moving in interstate commerce is so limited as to be the cause, in whole or in part, of a lack of parity between supply (including imports and reasonable withdrawals from storage) and consumptive demand (including exports and reasonable additions to storage) resulting in an undue burden on or restriction of interstate commerce in petroleum and petroleum products, he shall by proclamation declare such finding, and thereupon the provisions of section 3 shall be inoperative until such time as the President shall find and by proclamation declare that the conditions which gave rise to the suspension of the operation of the provisions of such section no longer exist. If any provision of this section or the application thereof shall be held to be invalid, the validity or application of section 3 shall not be affected thereby.

What does that say as to that?

Mr. McCAIN. That affects the market demand, does it not? It fixes the supply of the market demand.

Senator CONNALLY. No. It says if the supply is inadequate to the market demand, the provisions of section 3 shall be inoperative, and it will be allowed to go ahead and move. And that is increasing the rate of prices rather than decreasing them.

Mr. McCAIN. It is a market demand section, is not that right?

Senator CONNALLY. What is that?

Mr. McCAIN. It is a market demand clause, is it not?

Senator CONNALLY. Yes; that is right.

Mr. McCAIN. All right, Senator, let me answer that. And I am a great admirer of your Governor down there, and I think a lot of him, and in a statement Governor Allred made he added:

The State of Texas, as long as I am Governor, will not be a party to any kind of practice of price-fixing to penalize the consumers of the Nation. It is not any more right for a combination of States to bind together to raise prices or fix prices than it is legal or right for an individual or corporation to do that same thing * * *. Balancing supply and demand is price-fixing, nothing more, nothing less. They are for it. I am against it. Texas is against it.

But you are doing it.

Senator CONNALLY. Wait a minute.

Mr. McCAIN. I would like to make another answer—

Senator CONNALLY (interposing). Let me see whose words those are: "But you are doing it"?

Mr. McCAIN. I am quoting from Governor Allred.

Senator CONNALLY. Is that his language or your language?

Mr. McCAIN. I am quoting from the language of Governor Allred as published in "Hot Oil."

Senator CONNALLY. Who said "But you are doing it"? Did he do that or you? You wound up by saying "But you are doing it."

Mr. McCAIN. He says it.

Senator CONNALLY. He says it?

Mr. McCAIN. "They are for it. I'm against it. Texas is against it."

Senator CONNALLY. What was he talking about—price fixing?

Mr. McCAIN. Talking about market demand.

Senator CONNALLY. He was talking about price fixing.

Mr. McCAIN. He was talking about price fixing and market demand.

Senator CONNALLY. At this point, I wish to state that the Governor of Texas was here yesterday, and he was invited to come up and make a statement, and he said he did not think it was necessary, but he authorized me to say that he was in favor of the Connally Act.

Mr. McCAIN. All right; I will give you another one—

Senator CONNALLY (interposing). Listen a moment. I am trying to get information out of you. I know, but I want your ideas. I do not care about a dissertation.

Mr. McCAIN. My ideas are these. I have gotten them from this material, they are better authorities.

Senator CONNALLY. You are against the Connally Act?

Mr. McCAIN. Yes, sir; I certainly am.

Senator CONNALLY. Why are you?

Mr. McCAIN. Because it results in price fixing and monopoly.

Senator CONNALLY. Because you think it results in price fixing and monopoly. Let me ask you if you believe in the enforcement of the law? You do; do you not?

Mr. McCAIN. Yes, sir.

Senator CONNALLY. All right. If a State has a law regulating the production or handling of gasoline, do you think that law ought to be enforced?

Mr. McCAIN. Yes, sir; I do, if it is a valid law.

Senator CONNALLY. If it is valid, of course?

Mr. McCAIN. Yes, sir.

Senator CONNALLY. A law that has been tested in the courts and found to be valid?

Mr. McCAIN. The Supreme Court?

Senator CONNALLY. Whatever court that passes on it. All of them do not get to the Supreme Court.

Mr. McCAIN. No, sir.

Senator CONNALLY. Until it is declared invalid it is valid; is it not?

Mr. McCAIN. I think so. I am not a lawyer.

Senator CONNALLY. Now, you say you think a State law ought to be enforced. Do you think it is wrong for the Federal Government to aid the States within its proper sphere in enforcing their laws?

Mr. McCAIN. I did not get that question.

Senator CONNALLY. I say do you think it is wrong for the Federal Government within its proper sphere to aid the States in seeing that their laws are enforced?

Mr. McCAIN. I think it is wrong in this instance for them to.

Senator CONNALLY. In this instance? It is all right in other instances not to?

Mr. McCAIN. It might. It would depend upon the circumstances.

Senator CONNALLY. You are in the oil-distributing business?

Mr. McCAIN. Yes, sir.

Senator CONNALLY. You have tanks and reservoirs in which you keep your gasoline; do you not?

Mr. McCAIN. Yes, sir.

Senator CONNALLY. If you had a neighbor adjoining you in the same distributing business and he should tunnel under your tanks and connect them while you are at home asleep at night and draw out your gasoline and ship it out and sell it, even across over in Kansas—you are in Missouri—would you think it would be wrong for the Federal Government to tell him he could not ship that stolen oil in interstate commerce?

Mr. McCAIN. That I do. But—

Senator CONNALLY (interposing). That is your oil I am talking about now, talking about your gasoline.

Mr. McCAIN. That is breaking into above-ground storage. And if you are referring to the law of capture, Senator, I disagree with you.

Senator CONNALLY. That is capture, but capture in a different way.

Mr. McCAIN. Your question is a little unfair.

Senator CONNALLY. What is that?

Mr. McCAIN. Your question is a little unfair.

Senator CONNALLY. Say "no", then, if you do not believe it. I do not want to trip you at all.

Mr. McCAIN. In the instance of breaking into storage buildings and so on, I would consider that theft and illegal and that it should be prohibited.

Senator CONNALLY. All right. Let us take two men who have gotten some land down in Texas, adjoining tracts. The law says a man shall only produce 20 barrels of oil at one of those wells, and the fellow on the adjoining lease, instead of producing 20 barrels produces 100 barrels or 200 barrels, and thereby draws out the oil from his neighbor, and undertakes to ship that in violation of the State law and in violation of the Federal law, and that is all this

law does, is to say that unless he produces that oil legally under the laws of Texas he shall not ship it, and do you think it is wrong for the Federal Government to say to that fellow, "You cannot ship that oil in interstate commerce"?

Mr. McCAIN. I think you ought to go clear back and consider the thing from beginning to end.

Senator CONNALLY. All right.

Mr. McCAIN. And decide what is fair and right.

Senator CONNALLY. All right.

Mr. McCAIN. And what is wrong to prohibit the wrong, and what is right to permit the right.

Senator CONNALLY. We are trying to do that. That is the reason I am going back to the beginning. This oil is down in the ground. You think it is wrong to steal oil on top of the ground, and do you not think it is wrong to steal it under the ground?

Mr. McCAIN. I question the accuracy of your question, the fairness of your question, when you talk about it being stolen underground. From the beginning of industry the law of capture has been the law.

Senator CONNALLY. And the law of capture has been modified by reason of the law of the State which says you can capture only 20 barrels, and another fellow comes along and captures 100 barrels, 300 barrels, or 500 barrels?

Mr. McCAIN. Yes. And if you want my opinion I think the law of capture was wrong in the beginning, but I think, and we all know, a great deal of oil has been produced under that law. Now, to change it suddenly is another question and the fairness of it is another question.

May I give a very good authority from one of your good Texas people?

Senator CONNALLY. No; I don't want your authorities. I do not care for another quotation.

Mr. McCAIN. This expresses it better than I can, if you will let me do it.

Senator CONNALLY. All right; go ahead. We have given you a great deal of time all ready.

Mr. McCAIN. All right, sir. Mr. Fouts, attorney for some of your producers, and I believe that he lives at Houston, and he was spoken of very complimentarily by the Cole committee, Mr. Pettingill of the Cole committee. He suggested even what you are doing under the Connally Act, only he suggested more than you are doing. He stated [reading]:

That the law of capture is a vested property right to be dealt with solely by the several States, and that the monopolies which have constantly sought to destroy the right by invoking the arbitrary exercise of police power should be driven back to the several States to face some fair and equitable adjustment of any change that may be needed.

Now, fair and equitable would be all right. If you change from the law of capture to some fair and equitable method of doing it I think you are right.

Senator CONNALLY. The State of Texas has adopted a system and the other States have also which they think is equitable and fair, and which the courts have upheld. Now, what about that?

Mr. McCAIN. I think that is fine if it is equitable and fair as far as it goes, but you understand that this does not go far enough.

Senator CONNALLY. It does not go far enough?

Mr. McCAIN. No, sir.

Senator CONNALLY. You are in the marketing business?

Mr. McCAIN. Yes, sir.

Senator CONNALLY. Where did you buy your gasoline before the Connally Act?

Mr. McCAIN. I bought some of it in east Texas.

Senator CONNALLY. Was it so-called hot oil?

Mr. McCAIN. No, sir; I have never bought any hot oil that I know of. I have diligently tried to avoid buying what you call "hot" oil.

Senator CONNALLY. This law will help you to keep from doing that and protect you.

Mr. McCAIN. That is called "hot" oil because of a law, and if you didn't have that as "hot" it would be cold, would it not?

Senator CONNALLY. What kind of hot oil are you talking about, that which is produced in violation of a State law?

Mr. McCAIN. That is what you call it.

Senator CONNALLY. Have you bought that kind of oil?

Mr. McCAIN. Not that I know of.

Senator CONNALLY. Then this law would not hurt you because it prevents hot oil.

Mr. McCAIN. It is price-fixing that I am complaining about and the tendency to monopoly.

Senator CONNALLY. Is not your main objection the margin now between what you pay for it is so narrow that you are not making what you think you ought to?

Mr. McCAIN. As a result of the Connally Act causing reduction, and so forth, the pipe lines are used to squeeze us out, because we are not engaged in those branches of making money.

Senator CONNALLY. All right. Is there anything else?

Mr. McCAIN. Yes; there is.

Senator CONNALLY. All right.

Mr. McCAIN. I did not get to finish my answer on the market demand. I would like to incorporate in the record what Mr. Pettengill himself has said.

Senator CONNALLY. How much is there there?

Mr. McCAIN. It is very short.

Senator CONNALLY. Put it in the record.

Mr. McCAIN. He said [reading]:

No one could have sat on the Cole committee before becoming acutely aware that a majority of even the most sincere advocates of conservation were also interested in stabilization and enhancement of price.

That is not the one. I want to get another one.

Senator CONNALLY. Put all that you have in the record if they do not amount to too much. Give them to the stenographer and he will put them in. We have given you 39 minutes here already.

Mr. McCAIN. That is fine, Senator, because you see getting to put this in enables me to collect my expenses from the four associations I represent. That is quite an item for a jobber now.

Senator CONNALLY. I am very glad to be able to serve you down in that country.

Mr. McCAIN. Thank you.

Senator CONNALLY. Is Mr. George Thompson here? We are going to have to hurry along. We want to close these hearings today, and I think we will have to limit the rest of you marketers to 10 minutes, and you can put your statements in the record.

Mr. McCAIN. Senator, I would like also to say that the four associations of Missouri want those copies of the indictments submitted yesterday by Mr. Hadlick to go into the record.

Senator CONNALLY. You can file them if you want to, but we are not going to print them. They are already public records and have been printed all over the country, and I do not see why the Government should spend a lot more money printing them.

(The excerpts submitted by Mr. McCain are as follows:)

Introduction by Wm. P. Cole, Jr., to "Hot oil", by Samuel B. Pettengill, page XII. Connally bill now functioning as a partial solution to the oil problem. * * *

Page 34: When we at Washington attempt to balance "supply and consumer demand" we are, in fact whether we call it so or not, fixing prices by law. * * *

Page 38. It is only when we restrict production beyond the elimination of physical waste that we begin to wrestle with the intangibles that confront the commander of the besieged garrison. * * *

Page 39: I would be against a conservation program that, for the sake of problematical future needs, would compel the present to pay more for its supplies and so deprive it of some part of the satisfaction it gets from the fullest economic utilization of those resources, which it finds at its hands. * * *

Page 46: Those in the industry whose prime desire is to stabilize prices so that profits are made sure may, with entire logic, ask that imports be curtailed. But how any conservationist can do so simply demonstrates what cantankerous "critters" we are. For a long time we have actually exported more oil and its products, produced at home, than we have imported for our domestic use. * * *

Quotation from Mr. Fouts, page 78, "Hot Oil": We might much better term all this movement conservation of invested capital and the preservation of monopoly rather than the preservation of a natural resource and prevention of waste. * * *

Page 79: Monopoly, therefore, demands in the name of conservation the destruction of the little independent oil man in order that the invested capital of corporate aristocracy placed on a false principle may be protected. It is purely an effort to conserve invested capital. * * *

Recommendations left with Cole committee, Mr. Fouts, "Hot Oil", page 149: First, that true conservation is not an issue; second, that this Nation is not confronted by any danger of the exhaustion of its petroleum resources; third, that such legislation would be unconstitutional and destructive of our Government; fourth, that the law of capture is a vested property right to be dealt with solely by the several States, and that the monopolies which have constantly sought to destroy this right by invoking the arbitrary exercise of police power should be driven back to the several States to face some fair and equitable adjustment of any change that may be needed; fifth, that Congress should pass into permanent legislation the act prohibiting the movement in interstate commerce of oil produced in violation of State laws; sixth, that the great giant corporate aristocracies which have grown up in the petroleum industry should be boldly dismembered into their several natural units. The channels of commerce should be open only to such corporations whose business is limited to one of the four great units of the industry. It should never again be possible for a great oil combine to destroy its competitor by losing money in the producing end while making it in the pipe-line end or by losing it in the refinery while making it in the marketing end, or by any similar shift of a loss, in one department, to a gain in another; seventh, the pipe-line business of this country should be combined under the control of the Interstate Commerce Commission. * * *

(Mr. McCain submitted the following resolution:)

The following resolution was unanimously passed by the Missouri Independent Oil Jobbers Association at a regular meeting at Jefferson City, Mo., February 3, 1937:

Whereas the Congress of the United States has enacted legislation forbidding the interstate transportation of petroleum products made from crude oil produced in excess of the production laws of the oil-producing States (Public. No. 14, 74th Cong., ch. 18; 49 Stat., pp. 30-33); and

Whereas this act, commonly termed the "Connally Act" was originally a part of the National Industrial Recovery Act and should have been terminated upon the expiration of the National Industrial Recovery Act because the spirit of the National Industrial Recovery Act was a benefit to all in an industry while the Connally Act benefits only a few; and

Whereas the Connally Act has benefited the major oil companies, the oil producers, and the big oil-producing States to the great detriment of the independent oil marketers and the consumers of gasoline, fuel oil, and other petroleum products in the majority of States in the Union; and

Whereas the Connally Act expires under its present terms on June 16, 1937, unless extended by the present session of the Seventy-fifth United States Congress; and

Whereas Senator Connally has introduced in the United States Senate a bill known as S. 790 which has for its purpose the making of the Connally Act permanent by striking out the expiration date of June 16, 1937; now, therefore, be it

Resolved, By the Missouri Independent Oil Jobbers Association, this 3d day of February 1937, that we hereby petition the Seventy-fifth Congress of the United States not to pass S. 790 but to permit the Connally Act to expire as now provided on June 16, 1937;

Resolved further, That a copy of this resolution be sent to the members of the United States Senate and House of Representatives from the State of Missouri and to the members of the Senate Finance Committee. * * *

Senator CONNALLY. We will hear the next marketer witness.

**STATEMENT OF T. O. BAUCUM, CHAIRMAN, JOBBERS DIVISION,
KENTUCKY PETROLEUM MARKETERS ASSOCIATION, MURRAY,
KY.**

Senator CONNALLY. Give the stenographer your name, your business, and where you are from, please, sir.

Mr. BAUCUM. My name is T. O. Baucum, chairman of the jobbers division of the Kentucky Petroleum Marketers Association, Murray, Ky.

I am not here to be heard as a man gifted in speech. Neither do I purpose to possess any legal talent, which would be of assistance to you in making laws to govern this great country of ours; but I am here representing some 75 jobbers of petroleum products in Kentucky, whose annual gallonage of petroleum products is approximately 80 million gallons. These men are undertaking to earn a livelihood in the dispensing of petroleum products—a livelihood for themselves and their families—all of whom are red-blooded Americans who stand for good principles of Government; therefore when we can see and know by experience—and we are sure this is what this magnanimous committee is interested in—then we can see and know that the Connally bill is being used in a manner of gross conspiracy, conspiring to eliminate the jobber in these United States of America. So, as long as we have freedom of speech we want our objection to the continuing of the Connally Act to be echoed and to bound and rebound before this committee. We present for your consideration our objections to the reenactment of the Connally bill, S. 790, which are as follows:

First. The Connally bill was passed as an emergency act, and, although we independent jobbers in the State of Kentucky were rather skeptical that we would not be given just consideration, we were willing to be submissive to the desires of the august body of the Congress and the Senate of these United States. We fully believe the law-makers of our land were conscientious in placing the Connally Act upon the statute book, but there is nothing more convincing as to the right and wrong effect of any law than that of experience. The jobbers of Kentucky have found themselves in an unprofitable condition and this statement can be backed up by an investigation of the income-tax returns of all Kentucky jobbers for the year 1936, even in view of the fact that the major part of the operators have drastically reduced operating expenses in order that they might continue in business; in fact some of our jobbers were not able to survive after drastic reduction in overhead expense and were forced to sell their holdings to major operators. Unless this ruthless condition is checked ere the end of 1937, 90 percent of us are going to be forced to sell at ridiculously low prices. These utterances we know to be an authentic statement.

Second. Free competition has been eliminated, bottled up, and thrown into the face of the jobber. This fact is obtained because all suppliers of petroleum products offer to the jobbers a uniform contract. Furthermore, we are lead to believe that an agreement has been reached by major companies in which they will not as much as transgress on the present supplier to the jobbing trade, this we believe because of the fact our personal experience has been that in the month of December 1936, we were called upon by a major company representative, who was apparently interested in securing our account at the expiration date of our present contract, this representative was advised of the expiration date of our contract and, at the time, made a positive statement that he would return on that date and attempt to secure our account. The expiration date has now elapsed over 30 days and he has not appeared on the scene. Therefore, we wonder if it is possible to make contract with any supplier other than the one from whom we are now making our purchases. In January 1936, we were approached by the same company representative although a different man and in the submitting of his proposition, he was told that the margin of profit which his company offered we might as well be commission agents rather than jobbers of petroleum products. He readily agreed and even had the audacity to suggest that we sell to his company all of our equipment, lease our stations and bulk plant and become their commission agent.

Senator TOWNSEND. From whom were you making your purchases?

Mr. BAUCUM. I beg your pardon.

Senator TOWNSEND. From whom were you making your purchases?

Mr. BAUCUM. Our purchases? We have done business with the same company over a period of 5 years.

Senator TOWNSEND. What is the name of the company?

Mr. BAUCUM. It is an Oklahoma company.

Senator TOWNSEND. "The Oklahoma Co.?" Is that the name of it?

Mr. BAUCUM. No, sir; it is not the name. It is a company operating in Oklahoma.

Senator TOWNSEND. You do not like to disclose the name; is that it?

Mr. BAUCUM. This really does not refer to our present supplier. The statement I have just made was as to a different company who was attempting to secure our business.

Senator CONNALLY. You have no objection to answering Senator Townsend's question as to the name of the company, do you?

Senator TOWNSEND. Do you object to naming the company?

Senator CONNALLY. Go ahead.

Mr. BAUCUM. I filed a copy of that statement with the Interior Department 2 years ago. It was one of the larger companies, a major company. If it is necessary I have no hesitancy in naming the company.

Senator TOWNSEND. I do not want to embarrass you.

Mr. BAUCUM. A summary of the facts as heretofore set out convinces us thoroughly of the monopolistic interests seeking to control and dominate the petroleum industry.

Third. Major oil companies pay to their agents a commission equal to the profit made by jobber. I would clarify this statement by stating that difference between tank-car-delivered price on gasoline and the price quoted and sold to dealer accounts is practically the same as the agents for major oil companies are paid for delivery of their products at the same time, the agent only has an investment of one or two truck chassis. The major oil companies carry for him all of his stock accounts, allowing him a percentage for waste and evaporation. The jobber must carry the entire investment in his operations, assuming all loss in accounts waste and evaporation. Furthermore since the adoption of the so-called Iowa plan all major oil companies have leased all of their retail outlets, said lease being executed in most of instances to inexperienced operators—operators who have no executive ability—consequently up to the present time do not find it necessary to stick to the published retail price; in fact we are not so dead sure their contracts are just what we are told they are, as we certainly cannot begin to understand why or how they can operate on 1 cent when rental is supposed to be 1 cent.

Furthermore, the leasing of stations not only apparently is a further stroke at the elimination of the independent marketer but also for the purpose of evading chain-store tax; also having in mind the possibility of reenactment of the N. R. A. We who only have a limited number of retail outlets are penalized because of the fact the major oil companies assume no responsibility as to the price gasoline is retailed for; therefore, gentlemen, I feel confident that with this information before you you can readily see the major oil companies making a rapid stride toward their objective, their objective being, in our opinion, to destroy the independent jobbers of these United States and when this is accomplished the consumer of petroleum products will be their victim.

Fourth. In the early spring of 1936 we were called upon by a representative from the United States Attorney General's office, the Honorable Homer S. Cummings, requesting that we deliver to him our contract which was drawn by our present supplier in order that comparison might be made with the contracts in force and effect with other jobbers in the State of Kentucky and elsewhere and, as a result of said investigation, there is no better record for our guidance than that record which has been set up by the Federal grand jury while in session in Madison, Wis.

These gentlemen who served in the capacity of grand jurors were led to believe beyond a reasonable doubt that the major oil companies in these United States were seeking monopoly on the industry. We further wish to cite you to the monopolistic desires in that respect of such monopolistic interests being able to persuade the Procurement Division of the United States Government to bring about what is known as the zoning of each State. That is to say the State of Kentucky was divided into eight zones and it was utterly impossible for any of our independent jobbers to submit bids on the Federal Government's requirement because of the fact our operations did not give complete coverage on each zone. Who is it that would be willing to contend that honest business and taxpayers to this United States Government should be penalized because of their inability to serve on a larger scale?

Fifth. It is our opinion that monopolistic interests are being led to believe that the Government's action in the proposed reenactment of the Connally bill, S. 790, that the violation of the Sherman anti-trust law is in order. If and when the Sherman antitrust law is no more feared by capitalistic interests we will cease to have that form of government in which a huge majority of these United States' citizenship believe to reign supreme.

We have no fear of right prevailing when the opposite picture clothed in facts is presented to you; and facts are what we have undertaken to present. You, I am sure, cannot be unmindful of the fact that major and integrated companies which have their producing, refining, and pipe-line interests and, by the act of the Federal Government, have placed them in the position to fix prices to the extent that profit obtained is entirely satisfactory; hence, they do not find it necessary to even expect a profit from the marketing end of the business but rather expect to take a loss in order that the jobber may be eliminated.

In conclusion, gentlemen, permit me to say that I still believe that we have honesty in Government; that those who are empowered with the authority to make our laws to govern the best interests of all of our people are willing to lend a listening ear, willing to hear all phases of any industry; and we, as abiding citizens in this great country, still believe that special privileges should be granted to none and equal rights shall be granted to all.

Senator CONNALLY. In the main your contention is that the price of gasoline at the refinery is too high; you want it cheaper at the refinery, and that the retail price is not high enough?

Mr. BAUCUM. My main contention, Senator, is there should not be anything that would give the monopolistic element the advantage of anyone doing business in the industry.

Senator CONNALLY. You are opposed to conservation laws in general, are you?

Mr. BAUCUM. I am for conservation laws in the respect of eliminating waste but not to the detriment of any group.

Senator CONNALLY. I mean, do you believe in uncontrolled production of oil and let free competition just blow the wells out?

Mr. BAUCUM. I just believe in a law that would protect all in the industry.

Senator CONNALLY. That is a very general statement; and, of course, we are all for that.

Mr. BAUCUM. Yes, sir.

Senator CONNALLY. We all want to do right if you let us say what is right ourselves. But you are not opposed to conservation laws in each State?

Mr. BAUCUM. I am only opposed to a conservation law that would jeopardize the interests of others.

Senator CONNALLY. Do you not think each State should have the right to regulate its own affairs in oil according to its own laws?

Mr. BAUCUM. Yes; I undertook to cover that in my statement.

Senator CONNALLY. I am asking you, though, now. This is cross-examination. You cannot just tell your story and then quit. Do you, or not, think each State ought to have the right to regulate its own production of natural resources under its own laws? Do you think that?

Mr. BAUCUM. Inasmuch as they do not—

Senator CONNALLY (interposing). Not inasmuch as they do not; but do you think they ought to do it or not? Nobody but the State can determine it. Kentucky cannot determine what Texas will do, and Texas cannot determine what Kentucky will do. I am simply asking you whether you think Kentucky on the one hand—and Kentucky is an oil State—you do not think in Kentucky that Texas ought to tell you what to do, I am sure—and on the other hand, do you not think Texas, depending on their own situation, ought to have the right to regulate any resources, coal like you have in Kentucky, or oil like we have in Texas, and they ought to have the right to control it?

Mr. BAUCUM. I will answer in this way, Senator: So long as it does not jeopardize the interests of others in the end, I do not think so.

Senator CONNALLY. That is no answer at all. In other words, you are willing for Texas to handle it just as long as they handle it like you think they should? That is what you think?

Mr. BAUCUM. I do not propose to know how it should be handled.

Senator CONNALLY. You won't subscribe to the doctrine that each State has the right to regulate their own natural resources?

Mr. BAUCUM. No, sir.

Senator CONNALLY. Mr. George Thompson?

Mr. THOMPSON. Mr. Senator, we have joined the brief of the Virginia Association in order to save time.

Senator CONNALLY. Very well. We will be glad to have the Virginia brief. Who represents the Virginia marketers?

STATEMENT OF IRA F. WALTON, COMMITTEE CHAIRMAN, VIRGINIA PETROLEUM JOBBERS' ASSOCIATION, ROANOKE, VA.

Senator CONNALLY. State your name, your business, and where you live.

Mr. WALTON. Ira F. Walton, Roanoke, Va., representing the Virginia Petroleum Jobbers' Association.

Senator CONNALLY. Your name is not on the list?

Mr. WALTON. I am here in the place of Mr. Kirkmyer.

Senator CONNALLY. Mr. Kirkmyer's name is on the list?

Mr. WALTON. Yes, sir. He was unable to attend.

Senator CONNALLY. We will have to limit you to 10 minutes, and if you do not get through you can just file your statement.

Mr. WALTON. If you do not mind, I will just file it with the stenographer and read the attached endorsements.

Senator CONNALLY. All right.

Mr. WALTON. I would like to read those endorsements, Senator.

Senator CONNALLY. That will be all right. We will be very glad to have you read the endorsements.

Mr. WALTON. The statement by the Virginia Petroleum Jobbers Association has been endorsed by the South Carolina Oil Jobbers Association, the Georgia Independent Oil Marketers Association, and the North Carolina Independent Oil Jobbers Association.

I think submitting this statement will save some of your time.

(The statement of Ira F. Walton, referred to, is as follows:)

VIRGINIA PETROLEUM JOBBERS ASSOCIATION, HEADQUARTERS, RICHMOND, VA.

Conservation of our crude-oil supply and a stable market are desired by all good businessmen and true Americans, and we cannot criticize too severely the State of Texas in their desire to do this, but if we are going to have true conservation of our crude-oil supply, a natural resource so important to our national life must be guarded, but it should not be guarded for the monopoly group at the expense of the independent jobber, the consumer, and the non-producing States; and to effect real conservation we suggest as a remedy: Repeal of the import tax on gasoline and crude oil and permit importation of petroleum products up to one-half of our Nation's requirements, thereby reserving domestic supply for our future needs.

We oppose the Connally Act (S. 790), or any act, if it would by application have a tendency to reduce the supply of gasoline to the independent petroleum jobber to such an extent as will permit the establishment of a fictitious price to the independent jobber by the monopoly group, so as to prohibit the independent jobber from marketing at a profit in competition with the supplying company or the monopoly group.

The statement by Mr. Ickes before your committee, we believe, can be exploded in one sentence of less than a dozen words—"Why tax importation of petroleum and its products?" Mr. Ickes draws a very black picture of our Nation starving for a supply of petroleum products in a time of national need, but he had not proposed to relieve this condition by using foreign-produced oil, and which can be delivered to the consumer at a less cost than domestic produced oil and at the same time conserve our crude-oil supply.

Further, in behalf of conservation: Has any thought been given to placing an embargo on the shipment of petroleum and its products from the United States?

The principle of conservation is a big subject and of interest to our entire population.

If we must have control of our petroleum production, allow us to urge that we have control of all divisions of the industry from the well to the consumer, or a complete divorcement of the different divisions of the petroleum industry.

In order to conserve the time of the committee the following representatives of organizations opposed to the passage of S. 790 concur in the brief filed by the Virginia Independent Petroleum Jobbers Association: F. A. Friend, South Carolina Oil Jobbers Association; Howard S. Behr, Georgia Independent Oil Marketers Association; George H. Thompson, North Carolina Independent Oil Jobbers Association.

Senator CONNALLY. In the main, your attitude is the same as some of these other marketers which you have heard testifying?

Mr. WALTON. Yes, sir; we want a living margin for the jobbers. The general trend is, as the last witness on the stand stated, to eliminate the jobber.

Our experience in 1936 in trying to secure a competitive contract led us to believe that, because we could not figure a competitive contract except only at even figures, and if we changed brands—

Senator CONNALLY (interposing). What do you mean "even figures?"

Mr. WALTON. All the contracts were based on the same margin; if we changed the brands, we would be penalized one-quarter of a cent. If we held our own plant we would have the advantage of that one-quarter of a cent. And I think our margins were reduced from 6.75 down to 6.25. Since that time our margins have been advanced a quarter of a cent.

Senator TOWNSEND. How does the operation of the common law affect that?

Mr. WALTON. The only way, as I see it, that it could affect it is through the monopoly control, so that it does not allow us to go out and get an independent supply. Our company and some others of us happen to handle a major advertised brand, but we have to have the independent supply and source in order to maintain a margin in there. If they cut that down so we cannot get an independent supply and source why then it affects us by the slicing our margin down.

Senator CONNALLY. Is it not true that you can buy gasoline in the market just like anybody else, and it is all the same price, is it not, wholesale gasoline, from the refinery?

Mr. WALTON. We tried to buy some gasoline, as you state, in the market, and we were unable to get what we wanted.

Senator CONNALLY. At the prices you wanted it?

Mr. WALTON. As I said before, we could stick to our own plant and be one and a quarter cents better off. But we had been cut in the meantime a half a cent.

Senator CONNALLY. You are talking about the big companies who say to you, "We will sell it to you for 6 cents and you cannot sell it for over 8"; that is what you mean, is it not?

Mr. WALTON. At that time they set the price and our marginal contract was based on that.

Senator CONNALLY. What are you paying now for gasoline in the refinery?

Mr. WALTON. We buy it from a terminal.

Senator CONNALLY. You buy it from a major company, you say?

Mr. WALTON. Yes; a major company.

Senator CONNALLY. What do you pay for it?

Mr. WALTON. We pay 6½ under what they call a posted rate of price. I believe the contract this year is based on a tank-car or tank-wagon price.

Senator CONNALLY. What is the margin? What do you get?

Mr. WALTON. Six and one-half cents.

Senator TOWNSEND. Is that fixed in the contract? Does that fix the price you sell it at?

Mr. WALTON. No, sir; it does not fix the price we sell at.

Senator CONNALLY. What do you mean by the "margin"?

Mr. WALTON. They set the margins from their posted prices at the posts.

Senator CONNALLY. When you buy a gallon of gasoline, don't you know how much you are going to make on it? And what is that margin?

Mr. WALTON. That is 6½ cents today.

Senator CONNALLY. A gallon?

Mr. WALTON. A gallon.

Senator CONNALLY. You do not mean you make that much profit?

Mr. WALTON. That includes the retail service station profit, too. In other words, we buy from the terminal, we deliver to the service station, and that includes the profit for the service station.

Senator CONNALLY. And do you get 2½ cents?

Mr. WALTON. Two and a half cents.

Senator CONNALLY. And the service station gets four?

Mr. WALTON. And the service station gets four. That is right.

Senator CONNALLY. You do not think that is enough?

Mr. WALTON. We think we should have a quarter more.

Senator CONNALLY. I think that is a pretty good profit, myself.

Mr. WALTON. Territories differ. In our territory where you have long hauls you have to have a little more margin because of rough roads, hilly roads, which in a big center you would not have.

Senator CONNALLY. That margin is on delivery cost, is it not?

Mr. WALTON. On delivery cost.

Senator CONNALLY. You buy at the terminal, and where do you buy at?

Mr. WALTON. We buy at the Baltimore terminal.

Senator CONNALLY. You get 2½ cents split and the filling station gets 4, and the consumer pays it all?

Mr. WALTON. The consumer pays it all; yes.

Senator CONNALLY. All right.

Mr. WALTON. But we did not have the advantage of this increase in price of the last half cent—

Senator TOWNSEND (interposing). What do you pay for this gas a gallon?

Mr. WALTON. We get six and a half. It is less than 21, 15 cents, including all taxes.

Senator TOWNSEND. I mean, what do you pay per gallon for this gas?

Mr. WALTON. That is 15 cents.

Senator CONNALLY. You could not mean that.

Senator TOWNSEND. You pay 15 and sell it for 21½?

Mr. WALTON. No. We sell it at 17½. We pay 15.

Senator CONNALLY. And the filling station men add four?

Mr. WALTON. That includes all taxes, too.

Senator CONNALLY. What does the man at Baltimore who sells you the gas get a gallon?

Mr. WALTON. Counting the freight rates and the net left, I do not know.

Senator CONNALLY. You pay him?

Mr. WALTON. We pay him less 5 cents State tax. We pay him about 9 cents, plus 1 Federal tax, or 10 cents.

Senator TOWNSEND. He really gets the 9 cents?

Mr. WALTON. He really gets the 9 cents.

Senator TOWNSEND. Who pays the 1-cent Federal tax?

Mr. WALTON. We pay that to him. He really gets 9 cents, and out of that he pays the freight.

Senator TOWNSEND. He gets 9 cents, and on that 9 cents per gallon you and the retailer make a profit of $6\frac{1}{2}$ cents; is that right?

Mr. WALTON. That is right—split.

Senator CONNALLY. That is only a return of $66\frac{2}{3}$ percent, is it not?

Mr. WALTON. You have got your taxes to come out of that.

Senator CONNALLY. I know; but that is the profit. Sixty-six and two-thirds percent is a pretty good profit, is it not? Is that or not the profit that you make?

Mr. WALTON. I had not figured it out in percentage.

Senator CONNALLY. Figure it out now. Your mind is fast. You said you buy at 10 and you make $6\frac{1}{2}$ cents, and therefore you make $66\frac{2}{3}$ percent.

Mr. WALTON. I think those figures are correct.

Senator CONNALLY. You gave them to me.

Senator TOWNSEND. Does the Connally Act take in profits. Is that your thought?

Mr. WALTON. We have no objection to the Connally Act, provided it does not take away the source of supply on the independent basis and still allow our margins to tighten down on us, and they tighten down on the margins, as I explained to you before.

Senator LONERGAN. When you make a contract of purchase for how long a period does that run?

Mr. WALTON. The last contract we made it happened that we got a 3-year contract with a 90-day cancellation clause.

Senator LONERGAN. On both sides?

Mr. WALTON. No, sir.

Senator LONERGAN. On whose side?

Mr. WALTON. On their side. So it is ultimately a 90-day contract for them. I do not know whether that is exactly fair.

Senator CONNALLY. You can quit in 90 days, can you not?

Mr. WALTON. I guess so, if we quit buying.

Senator CONNALLY. That is what he means.

Mr. WALTON. No. Our contract is to buy for 3 years.

Senator CONNALLY. Do you mean you would have to continue buying 3 years and that they could cancel in 90 days? Do you mean that?

Mr. WALTON. That is what the contract reads, that we would have to continue buying for 3 years.

Senator TOWNSEND. Is there a penalty in case you stop buying?

Mr. WALTON. No, sir; I do not think there is a penalty.

Senator CONNALLY. As a matter of fact those contracts, though, are all based on the prevailing posted prices, and if the price goes down you pay less and if the price goes up you pay more?

Mr. WALTON. Yes, sir. The prices are not controlled by us, but by the supplier.

Senator CONNALLY. As I understand it, they are controlled by the prices in the open market, are they not?

Mr. WALTON. They are controlled by the suppliers. They control it.

Senator CONNALLY. What does the contract say, after the posted price?

Mr. WALTON. As posted.

Senator CONNALLY. And the posted prices are that all dealers and sellers of gasoline have a sign up that gasoline today is 16½ cents, is that right?

Mr. WALTON. That contract states the tank-car price or terminal price, whichever is lower, at our destination, and at their posting. It does not say just promiscuously all oil companies.

Senator CONNALLY. I understand.

Mr. WALTON. That is their posting. And if they have not got a posting they took another company's posting.

Senator CONNALLY. And you get the benefit of whichever one is lowest?

Mr. WALTON. Yes; we get the benefit of whichever one is lowest.

Senator CONNALLY. And it is to your advantage to take as low as you can?

Mr. WALTON. Certainly it is to our advantage to take as low as we can get.

Senator CONNALLY. All right. Are there any other questions?

Senator LONERGAN. Your real benefit in the contract is the guaranty of the supply, then?

Mr. WALTON. Yes, sir. They are the guarantors of the supply.

Senator LONERGAN. Because under your contract you have to abide by the fluctuating market, is that it?

Mr. WALTON. Our real benefit, as you have stated, is the guaranty of the supply and a livable margin; that is right; yes.

Senator CONNALLY. Any other questions?

Now, is there any other marketer here? We want to finish the marketers at this time.

STATEMENT OF HENRY M. WILSON, DES MOINES, IOWA, REPRESENTING THE IOWA INDEPENDENT OIL JOBBERS BUREAU, IOWA PETROLEUM ASSOCIATION

Mr. WILSON. I am Henry M. Wilson, representing the Iowa Independent Oil Jobbers Bureau of the Iowa Petroleum Association; I live in Des Moines. And I have a resolution adopted by our committee representing the association, which I would like to file and not read, but I have a statement which I would like to read, and I will try to keep within the 10 minutes.

Senator CONNALLY. All right. You may file the resolution.

(The resolution referred to is as follows:)

RESOLUTION OF IOWA INDEPENDENT OIL JOBBERS BUREAU OF THE IOWA PETROLEUM ASSOCIATION, FEBRUARY 9, 1937

Whereas it has come to our attention that the Congress of the United States has hereto enacted bills which prevented the free transportation between States of products refined from crude oil produced in excess of a limit set by various laws enacted by the individual oil-producing States (Public, No. 14, 74th Cong., ch. 18; 40 Stat. 30-33); and

Whereas this act of the Congress, commonly termed the "Connally Act", was in the first place a part of the National Industrial Recovery Act and we feel it should have been terminated upon the expiration of the N. R. A. for the reason that the spirit of the N. R. A. was presumed to benefit all those engaged under a particular industry, while, in fact, only a portion of those engaged in the petroleum industry were so benefited by this act, and we realize that one of the chief purposes of the Connally Act was to conserve a great natural resource, beneficial to all; and

Whereas the Connally Act has, in fact, been of great benefit to the major oil companies, the oil producers, the oil refiners, and the large oil-producing States to the great detriment to the independent oil marketers and the consumers of gasoline, fuel oil, and other petroleum products in practically the entire United States; and

Whereas, under the terms of the Connally Act, it would expire on June 16, 1937, unless extended by the present session of the Seventy-fifth United States Congress; and

Whereas Senator Connally, the originator of the bill in the Seventy-fourth Congress, has introduced in the United States Senate a bill known as S. 790, which proposes to make the Connally Act permanent by striking out the expiration date of June 16, 1937; now, therefore, be it

Resolved by the Iowa Independent Oil Jobbers' Bureau of the Iowa Petroleum Association, a bureau truly representing an independent group of the Iowa oil jobbers, Do hereby petition the Seventy-fifth Congress of the United States not to pass S. 790 but to permit the Connally Act to expire, as now provided, on June 16, 1937.

Resolved further, That a copy of this resolution be sent to the Members of the United States Senate and House of Representatives from the State of Iowa and to the members of the Senate Finance Committee.

IOWA INDEPENDENT OIL JOBBERS BUREAU
OF THE IOWA PETROLEUM ASSOCIATION,
HARRY FEE OIL Co., Waterloo, Iowa,
HARRY FEE, *President*,
STOESSEL OIL WORKS, Ottumwa, Iowa,
ALBERT STOESSEL, *Secretary*,
CUSHMAN-WILSON OIL Co., Des Moines, Iowa,
H. M. WILSON, *First Vice President*,
BARTLES-SHEPHERD OIL Co., Waterloo, Iowa.,
A. S. SAMMELL, *President*,

Committee.

Mr. WILSON. Mr. Chairman and members of the committee, for the purpose of identification I wish to say that I represent the Independent Oil Jobbers of Iowa, that group of fellows who own and conduct their own business, and who are not affiliated with or owned, in part or whole, by the so-called major oil companies. My home is now in Des Moines, Iowa, but I formerly lived at Minot, N. D., and for a number of years was president of the North Dakota Petroleum Association, and still own a small interest in the Farmers Union Oil Co., of Williston, N. Dak., and the Farmers Union Oil Co., of Minot, N. Dak.

I am not now, nor have I ever been, interested in the production of oil in Texas, Kansas, or Oklahoma, but for 25 years I have been in the oil jobbing business in Iowa and North Dakota.

During that time I have seen many other companies similar to the one I am interested in purchased by the major oil companies, and now, instead of competitors who operate on a similar footing to that of my company, the large majority of the distribution in Iowa is by so-called major companies. For more than 20 years our company went along, meeting competition on a fair, equitable basis, without cutting prices or resorting to underhand selling, and made a reasonable profit in so doing, and earning a fair return upon the capital invested. We contend that a company like ours, and there are still quite a number in Iowa, can operate more efficiently and with less cost for a given operation than a company with headquarters in Chicago, St. Louis, New York, or Tulsa.

For 20 years we operated at a profit, but after the passage of the so-called Connally Act the market was so stabilized, so controlled by the so-called major companies, that we have been obliged to buy in strictly a controlled market, and sell on a basis set by the majors,

that only 2 cents per gallon on gasoline is left us to cover local taxes, rent, wages, salaries, depreciation, and upkeep, which means that we have operated at a loss for the last 2 years, and must eventually, if this practice is continued, be driven out of business, because the majors have been put in a monopolistic position by the control of production and the illegal buying pool which prevents real competition in the market where we buy.

Senator LONERGAN. What is an illegal buying pool?

Mr. WILSON. An illegal buying pool is one that is controlled by the majors. And if you were operating an independent refinery down in Texas and had 100 cars of gasoline to sell today and you wanted to wire to our broker, or wire to us, that we could have any part of the 100 cars at such and such a price, which might be below the market, the buying pool steps in, representing the majors, takes these 100 cars at the posted market in the field, which may be over the price at which you are willing to sell to us, and thereby that 100 cars is taken out of the market immediately and thrown into the tanks of the majors. And the difference may be only half a cent.

Senator CONNALLY. But if you pay that other half a cent you would get it?

Mr. WILSON. Why should we pay the other half a cent?

Senator CONNALLY. You are complaining that you do not get it for a half a cent less than the posted price?

Mr. WILSON. Not particularly less.

Senator CONNALLY. The illustration you gave said that.

Mr. WILSON. They step in and take it out of the field so no opportunity is given to the independent operator, such as we are, to purchase gasoline, other than at the field posted price, which is set by the majors.

Senator CONNALLY. Anybody else can buy it, can they not? Anybody can buy it who wants to pay the prevailing prices?

Mr. WILSON. Maybe—

Senator CONNALLY (interposing). Your kick is you cannot buy it under the market prices?

Mr. WILSON. No.

Senator CONNALLY. When you had hot oil you could buy it and you did buy it?

Mr. WILSON. We never bought any hot oil that I know anything about.

Senator CONNALLY. You never did that you know of, but it was not called hot oil then, and you bought it?

Mr. WILSON. No; we did not.

Senator CONNALLY. Then this law will not hurt you, will it?

Mr. WILSON. Yes, sir.

Senator LONERGAN. As I understand you, a pool steps in and prevents you and other men from buying?

Mr. WILSON. That is right.

Senator LONERGAN. They are right there on the scene?

Mr. WILSON. Yes, sir.

Senator LONERGAN. And they have this pool so that the oil does not move to other men and you who are engaged in this business?

Mr. WILSON. On a competitive basis.

Senator LONERGAN. It is not released to you and in that way they maintain prices?

Mr. WILSON. Yes, sir. And that is why of the major companies 24 of them are indicted at Madison, Wis., and some seventy-odd officials of those companies are also indicted.

Senator LONERGAN. That is destructive of competition?

Mr. WILSON. Yes, sir; absolutely. And we feel it, and it is made destructive to the oil business as we feel by the Connally Act.

I have listened with interest to what others have said, and wish to say, just as Mr. Shock of Pennsylvania has said that "Under the existing Connally law, the State compacts, the approval by Congress thereof and the cooperation of the Interior Department, the producers of crude oil are working in perfect concord and we have a monopolistic control of both supply and price more complete and powerful than that ever has occurred" in the 25 years that I have been in the jobbing business. There is no genuine open tank-car market, it being artificially controlled.

Yesterday, Mr. Collett mentioned the buying pool under the code, but he did not state that a continuance of such a buying pool by the majors to remove competitive gasoline from the open market or prevent it from reaching the open market, was one of the things for which the majors have been indicted at Madison, and we contend the Connally Act helps them in thus controlling the tank-car market.

I also listened to Mr. Paul Hadlick present his arguments in opposition to the passage of S. 790 which will make permanent the Connally Act, and wish to say he pretty fully covered the case for our organization. What we want is a free and open market in which to buy, and the Connally Act gives to the majors such power over production, and by limiting production the price of crude, that the independent who owns no pipe lines, has no production, no crude or refineries, and is dependent upon an open market as it existed for 20 years before the passage of the Connally Act, has really no open competitive market in which to buy.

Yesterday after this meeting adjourned, I thought by Mr. Hill's testimony that I might learn of some refinery to whom he sold his crude from which we might get a dependable, high-grade product. I told him what I wanted, and he said, "Mr. Wilson, that's the trouble", and indicated that it was almost impossible to find a refinery (independent) that made a high-grade, uniform, dependable product. I told him of our problem of operating at a profit. Something further was said about markets, and he said he was unable to sell his crude (you have a posted market on that), the majors refused to buy, and he was obliged to seek a foreign outlet.

He contacted a broker in London who sold a cargo for him to a refinery in Belgium, another cargo to a refinery in France, and the third to Italy. Regardless of the fact that he indicated that he was well pleased with the Connally Act, yet I would gather that the majors put the "squeeze" on him too.

It seems to me that if the Connally Act is an act to assist in conserving a great natural resource that it should carry with it a provision prohibiting the export of crude oil, fuel oil or gasoline, or make its provisions inoperative if a State permitted crude oil, gasoline, or fuel oil to be exported other than for purposes of national defense or use of our Army and Navy. Likewise, in order to be consistent, and preserve our oil for our own use, which the supporters of S. 790 seem to be so anxious to do, why don't they see to it that

the present import duties of 2 cents per gallon on gasoline and 21 cents per barrel on crude oil are repealed. I know these duties are not imposed by the Connally Act, but they are part and parcel of the move to make oil dear to the millions of the consuming public, and fill the coffers of the majors by controlling production, prohibiting interstate shipments, supporting State compacts, and so forth.

Mention has been made of the price of crude oil in east Texas, which I think has been stated as \$1.27 per barrel of 42 gallons. According to table 2 of the February 5, 1936, number of National Petroleum News the total cost of refinery of this product would be

Price of crude oil.....	\$1.27
Brokerage charge.....	.05
Pipe-line gathering charge.....	.05
Trunk pipe-line charge.....	.10
Total.....	1.47
Cost of processing (operation and maintenance).....	.28
Total direct cost of refined products.....	1.75

Market value of products obtained from 36 gravity crude

Product	Percent yield	Gallons per barrel	Refinery price (cents per gallon)	Total value
Gasoline.....	55.7	23.4	5.75	\$1.345
Kerosene.....	7.3	3.1	5	.155
Distillate.....	5	2.1	4	.081
Gas oil.....	5	2.1	3.25	.068
Fuel oil.....	23.7	10	3.44	.344
				1.993
Less total direct cost of refined product.....				1.75
Operating margin.....				.243

At today's prices and comparing the extended figures with \$1 crude as given in effect on December 12, 1935, a few months after the Connally Act went into effect, we find that the refiner is getting more for every single product mentioned, that 96.7 percent of the crude has been accounted for and his net back for his refinery operations is a trifle over 10 percent more than when the National Petroleum News table was set up. This means that a refinery with 10,000 barrels per day would have a net back of \$2,430 now against \$2,200, as given in National Petroleum News, and a producer such as Mr. Hill who has a permitted production of 10,000 barrels would be getting \$12,700 per day for his crude against \$10,000 on December 12, 1935. Bear in mind a 10,000 barrel refinery is only a comparatively small refinery (the 1935 figures of the Bureau of Mines show 73 refineries in California with 840,635 barrels per day capacity; Texas has 197 with 1,106,299 barrels per day capacity. Why then, if Mr. Refiner can make an extra \$250 per day in running 10,000 barrels of crude and the producer an extra \$2,700 per day on his 10,000 barrels, should they not be here in support of a bill that we contend helps them do it, by controlling production and when production is held down, demand and cooperation raises the price?

It is admitted, I believe, that by controlling production through cooperation of the Connally Act, that the price of crude oil has been

stabilized, and that through the States Compact, supported by this law that real conservation has been brought about in Kansas, Louisiana, New Mexico, Oklahoma, and Texas, and according to Secretary Ickes these States produce in the aggregate 73 percent of the national oil output, and the daily average crude oil production today, according to Secretary Ickes' statement is 3,250,000 barrels and 73 percent of that is 2,372,500 barrels per day, and if through the workings of the Connally Act, and the conservation of this great natural resource, resulting in the control of production and the raising of the price from, say, 75 cents per barrel to \$1.27 per barrel, the users of this crude are paying \$1,234,700 per day more than they did when crude was 75 cents, and \$640,575 per day had the price risen from only \$1 per barrel to \$1.27 per barrel. Granting that the only benefit has been to raise the price 27 cents per barrel, it means \$233,809,875 per year to the producers of crude in these five States alone. Is it any wonder that the representatives of one of the greatest crude States among the five, and also able representatives of the producers, are here to urge the extension of the Connally Act?

Presuming that the figures given in the National Petroleum News as to refinery costs are correct, and that the profit on processing the 1,106,299 barrels per day in the Texas refineries is increased from 22 cents per barrel to 24.3 cents per barrel, it means an increase of refining profits from \$243,385.78 per day to \$268,830.65 or a net increase of \$24,444.87 per day equaling \$9,287,377.55 per year for the increase over the profits shown by the National Petroleum News covering the advance cost from \$1 on February 5, 1936, to the \$1.27 per day now, with today's prices on the products from the crude. Are we to wonder why the gentlemen who own the refineries are loud in their demands that the Connally Act be made permanent?

Or can we wonder why the associations they have should not have representatives here in numbers to impress this committee of the advisability of making such an act permanent?

We believe, Mr. Chairman and gentlemen, that when the producers are refineries who are being enriched by the effects of this bill, raise their voices in its support that we, the jobbers, who by the acts of these same refiners and majors, are being impoverished, that we should have your cooperation in correcting this evil or unfair practice; and when our voices are raised against it for the evils it helps make possible that cognizance should be taken of our claims, as we surely believe that a live-and-let-live policy should be extended to the forgotten man, who is the oil jobber in this instance. Lazarus of old begged for a few crumbs from the rich man's table to maintain his existence, and should the oil jobber today be condemned or his motives questioned when he, too, asks for careful consideration of an act that he feels is one of the things that threaten his very existence? We are still not convinced that the Connally Act with its control of production and the support of the State compacts is not a major reason for our predicament and we are against the passage of S. 790.

Senator LONERGAN. Is that all?

Mr. WILSON. Yes, sir.

Senator LONERGAN. I want to know more about these illegal pools. Do you believe that the capital invested in these pools is furnished by those who cut the price?

Mr. WILSON. Yes, sir.

Senator LONERGAN. Can you give me evidence on that?

Mr. WILSON. I cannot give you any evidence on it, but the grand jury can.

Senator LONERGAN. Give me the name of a company; let us see if we can find who invests the capital in the illegal pools.

Mr. WILSON. There are several of the major companies; one of them is the Barnseall Refining Co.

Senator LONERGAN. How do you spell that?

Mr. WILSON. B-a-r-n-s-e-a-l-l Refining Corporation.

Senator LONERGAN. Where are they?

Mr. WILSON. They are at Tulsa, Okla. Mr. Ed. Reeser is the president of that and he has also been indicted.

Senator LONERGAN. That is an illegal pool?

Mr. WILSON. Yes.

Senator LONERGAN. The name is "Reeser?"

Mr. WILSON. Yes.

Senator LONERGAN. Who took the action in that case; was it the State?

Mr. WILSON. No; it was the Federal Government, the Department of Justice.

Senator LONERGAN. In other words, the Federal Government is trying to break up these illegal pools?

Mr. WILSON. Yes; and while they are doing it we are getting hainstrung.

Senator LONERGAN. So that the Department of the Interior would know who furnishes this capital?

Mr. WILSON. Yes.

Senator LONERGAN. And that ought to be stopped?

Mr. WILSON. Surely; we contend it ought to be.

Senator LONERGAN. I think it should also.

Mr. WILSON. Senator, there is one question you asked the gentleman just before me. The conditions in the various States are different. You take in the State of Iowa, where we operate, the margin set for us in the operation is 2 cents per gallon; that is what we get and that covers the expense of our taxes—

Senator CONNALLY. That margin is the margin of the jobber alone; that does not include retailers?

Mr. WILSON. No.

Senator CONNALLY. You get 2 cents a gallon?

Mr. WILSON. We get 2 cents a gallon and it actually costs us—

Senator CONNALLY. Let me ask you this: You get that 2 cents a gallon whether gasoline is cheap or whether it is high; do you not?

Mr. WILSON. Yes; we do now.

Senator CONNALLY. That is what I am talking about. So, in reality—

Mr. WILSON. But—

Senator CONNALLY. Let me finish. You get 2 cents whether it is high or low?

Mr. WILSON. Yes.

Senator CONNALLY. So, after all, it does not make any difference to your profit whether gasoline is cheap or high; you get the same margin in either case; you get the same profit.

Mr. WILSON. But it is not profit.

Senator CONNALLY. If you can buy it a little cheaper than the other fellow buys it by getting it below the posted price from a man who is violating the law—

Mr. WILSON. He does not have to violate the law.

Senator CONNALLY. I am just putting a hypothetical question to you.

Mr. WILSON. Yes.

Senator CONNALLY. Instead of making 2 cents, in that case you would make $2\frac{1}{2}$ or 3 or 4?

Mr. WILSON. We would not make it. We would have that margin to operate on; but when it costs us $2\frac{3}{4}$ to operate, we are losing 0.75 cent on every gallon we handle, and we did it all this last year.

Senator CONNALLY. Why do you go on doing that?

Mr. WILSON. We cannot help ourselves.

Senator CONNALLY. You would do better to go out of business.

Mr. WILSON. We want to stay in business.

Senator CONNALLY. Why do you keep on renewing these contracts if you are not making a profit?

Mr. WILSON. We have none. We are competing against major companies on the open posted market as quoted by the Chicago Journal of Commerce, and the major companies control that, and the Journal of Commerce is indicted at Madison.

Senator CONNALLY. The Government is trying to correct these illegal practices?

Mr. WILSON. Yes.

Senator CONNALLY. You say you did business all last year at a loss?

Mr. WILSON. We did.

Senator CONNALLY. And you are still continuing to do so?

Mr. WILSON. Yes; we have two or three hundred thousand dollars' investment which we have to protect.

Senator CONNALLY. How can you protect your investment by continuing to lose money?

Mr. WILSON. We had a contract with the Barnseall Refining Corporation that expired November 1, 1936, a 5-year contract, and it had a provision that after the contract had been in operation for 3 years if we elected to sell our stations and the equipment to the Barnseall Oil Corporation that they were obliged to buy it, and there would be selected an independent appraisal company to appraise the property. We served notice—

Senator CONNALLY. You signed that contract?

Mr. WILSON. No; I did not. The president of the company signed it.

Senator CONNALLY. That is what I mean, that your company signed it.

Mr. WILSON. Yes; our company signed it.

Senator CONNALLY. It made that contract, did it not?

Mr. WILSON. Yes; and we served notice on those gentlemen to buy. Mr. Reeser—Mr. Cushman, the president has been ill for 3 years—and Mr. Reeser wrote me the option was not an enforceable one and that they are not obliged to buy.

Senator CONNALLY. All I can say is you have a darn poor lawyer who would let you sign an option like that if it is not legal. Of course, I do not know whether it is or not; I have not looked at it.

Mr. WILSON. Would you know whether it was legal if you did look at it?

Senator CONNALLY. I would know as much about it as you do; it is your contract; I never saw it. If you are continuing to lose money—

Mr. WILSON. We cannot quit and they have no business.

But going back to this margin, it costs us 2.75 to do business, and the majors, previous to the time this law went into effect—we were operating under a 4-cent margin, but as soon as the law went into effect, soon thereafter, they cut it right in two and made it 2 cents.

Senator CONNALLY. Why don't you buy it from someone else?

Mr. WILSON. We cannot.

Senator CONNALLY. Can you not buy it at the posted price?

Mr. WILSON. Yes; but that posted price only gives you a 2-cent margin.

Senator CONNALLY. They do not require you to sell it at any particular figure, do they?

Mr. WILSON. No; but you have to meet the competition; you have to sell at the figure the majors set; that is the tank-wagon market.

Senator CONNALLY. Do you believe in conservation laws at all?

Mr. WILSON. Yes, sir.

Senator CONNALLY. And, believing in them, do you believe they should be enforced?

Mr. WILSON. Yes, sir.

Senator CONNALLY. And if a State has such a law and a group of States has such a law, do you think it is wrong for the Federal Government to aid them in enforcing their own laws?

Mr. WILSON. No; I do not think it is.

Senator CONNALLY. That is all.

Mr. WILSON. But, if through enforcement of that law the manipulators are benefited and allowed to throttle fellows who are operating independently, I do not believe that is right.

Senator CONNALLY. We are only dealing here with the interstate shipment of oil.

Mr. WILSON. But the Connally Act is one of the parts that make up the whole.

Senator CONNALLY. Are you against it?

Mr. WILSON. I am against the working of the Connally Act.

Senator CONNALLY. I, though you said you believed in each State making its own laws and that they should be enforced.

Mr. WILSON. Yes.

Senator CONNALLY. And you said the Federal Government should aid in enforcing the law?

Mr. WILSON. Yes.

Senator CONNALLY. That is all the Connally Act does.

Mr. WILSON. But it controls the price through limiting production.

Senator CONNALLY. You are against limiting production through conservation, then?

Mr. WILSON. If it were truly conserved, I would not say anything about it.

Senator CONNALLY. You heard the testimony they were going to get 4,000,000,000 barrels out of the east Texas field because of conservation?

Mr. WILSON. Yes.

Senator CONNALLY. And that otherwise they would not have gotten but 2 billion?

Mr. WILSON. Yes.

Senator CONNALLY. Well, is that not in the interest of the consumer?

Mr. WILSON. Yes; but if at the same time the Government would say to these fellows, "We want to save this oil for our own use and we will let foreign oil come in, and when that is exhausted——"

Senator CONNALLY. You are raising a tariff issue with which we are not dealing here. I have been pretty liberal to you marketers and have been trying to give you all of the time you want. Does that conclude the marketers?

STATEMENT OF GEORGE A. HILL, JR., HOUSTON, TEX.—Resumed

Mr. HILL. May I correct a misapprehension of the last witness?

Senator CONNALLY. Give heed, Mr. Wilson, Mr. Hill wants to make a statement.

Mr. HILL. I would like to correct in the record the misapprehension of the last witness in relation to our brief conversation after the adjournment yesterday. I realize that gratuitous advice is worth only what you pay for it, but I endeavored to tell Mr. Wilson out of my own experience what I thought was his difficulty. I explained to you, as an independent producer, that where the major companies did not desire to purchase my oil or did not pay a price for it that I deemed to be satisfactory, that I deemed it to be a function of management to go out and find a buyer for my oil at a price satisfactory to my company, and I illustrated to him my successful efforts along that line, in selling my oil to independent refiners, independent buyers, and even to foreign buyers, and I suggested to him that he could not, in Des Moines, Iowa, expect to be in contact with independent refiners that were just as desirous of selling oil to him as he was desirous of purchasing the same, and that the thing for him to do was to leave Des Moines temporarily and contact independent refiners.

I hope that he did not understand from that suggestion that I find that there is such a monopolistic grasp upon the industry that deters me, as an independent producer, or any other independent producer, from selling oil to whomsoever he feels, at such prices he feels, and convey the impression that if he would go into the area where the independent refiners manufacture their petroleum products he would not meet, in my judgment, with the difficulty he has been experiencing. That is all I intended to say, and he entirely misapprehended my conversation.

Senator CONNALLY. We thank you, Mr. Hill.

As a matter of fact, these marketers in all these States could buy from independent producers in Texas or any other oil-producing State through brokers, if they desired, could they not?

Mr. HILL. Yes, sir; or directly.

Senator CONNALLY. If they did not want to make some direct contact they could have brokers buy for them?

Mr. HILL. That would be my opinion, Mr. Chairman.

Senator CONNALLY. At this point I want to put in the record some wires.

I have a telegram from the National Association of Petroleum Retailers.

(The telegram referred to is as follows:)

CHICAGO, ILL., February 16, 1937.

Senator THOMAS CONNALLY,
Senate Office Building:

Schuh arriving Washington Wednesday, testify favoring Connally Act permanency.

NATIONAL ASSOCIATION PETROLEUM RETAILERS.

Senator CONNALLY. I also have one from W. B. Hamilton, chairman, oil and gas committee, West Texas Chamber of Commerce, who regrets he cannot be present and urging reenactment of the act.

(The telegram referred to is as follows:)

WICHITA FALLS, TEX., February 16, 1937.

Senator TOM CONNALLY:

I have not recovered sufficient from recent critical attack of flu so that my doctors will permit me to make the trip to Washington at present time. Am greatly disappointed that I cannot appear before your committee personally and testify in favor of making Connally Hot Oil Act permanent. As chairman, I request that position of West Texas Chamber of Commerce regarding this bill be entered on your record. The board of directors and membership in convention have unanimously approved Connally Hot Oil Act and have instructed me as chairman of oil and gas committee to support bill making the Connally Hot Oil Act permanent. The West Texas Chamber of Commerce believes that it is impossible to conserve natural resources of gas and oil in great west Texas fields should Connally Hot Oil Act cease to be effective. This act has been very beneficial to State of Texas and all other oil-producing States and is equally as helpful to consuming public, particularly those residing in non-producing oil States. The West Texas Chamber of Commerce believes that the only objection that will be made to this measure will come from those who desire to profit from their ability to purchase gasoline and oils made from contraband stolen oil.

Regards,

W. B. HAMILTON,

Chairman, Oil and Gas Committee, West Texas Chamber of Commerce.

Senator CONNALLY. I have another telegram from the North Texas Oil & Gas Association, by J. Ed Erwin, executive vice president.

(The telegram referred to is as follows:)

WICHITA FALLS, TEX., February 16, 1937.

Senator TOM CONNALLY,
United States Senate:

This association, representing nearly 500 independent oil producers and refiners in the north Texas district, wishes to urge the reenactment of your hot oil bill, knowing that it is essential to the welfare of these operators and to the 16,000 wells they own and operate in this district producing 62,000 barrels of oil per day. The continued operation of these wells, most of which are of the stripper class, and the ultimate recovery of all the oil from these oil fields depends utterly upon the continuation of the present conservation program, of which the Connally Act is a most important part, which also inures to the ultimate benefit of the consumer.

NORTH TEXAS OIL & GAS ASSOCIATION,
J. ED ERWIN, *Executive Vice President.*

Senator CONNALLY. If that is all of the marketers—are you representing some marketers?

Mr. BERGFORS. Yes.

Senator CONNALLY. Which association do you represent?

Mr. BERGFORS. The Oil Men's Association of New England.

Senator CONNALLY. We will have to be brief. You can put your statement in the record, but we hope you will be brief in your testimony, since all of you folks cover practically the same ground.

**STATEMENT OF F. E. BERGFORS, QUINCY, MASS., REPRESENTING
THE OIL MEN'S ASSOCIATION OF NEW ENGLAND**

Mr. BERGFORS. Mr. Chairman and members of the committee, Oil Men's Association of New England was organized over 12 years ago, having about 200 members, of which there are 15 directors. I have the honor of serving as a director.

On February 2, 1937, a special meeting of directors was called for the purpose of considering the Connally bill, after which it was voted unanimously to oppose it, directing me to appear here before your committee.

I am president of the Quincy Oil Co., having been connected with them off and on and in various capacities since 1903. Quincy Oil Co. is engaged in wholesale marketing and has two ocean terminals in Boston Harbor.

We do not believe in carrying on with laws that were intended as an emergency, especially with the emergency passed.

We believe we have more emergencies in New England and probably elsewhere that need attention more than the control of oil.

In fact, it could be said that the operation of the Connally Act has created an emergency, especially with oil marketers in New England.

First. By effectively eliminated competition for their business.

Second. By freezing up their sources of supply that are available.

Third. By increasing the cost of petroleum to consumers.

Fourth. By assisting some integrated companies in operating at a loss in our marketing branch of the industry by giving them abnormal profits in the producing branch as an offset.

In fact, it is immeasurably worse than operating under the old law of survival of the fittest, because under this bill some companies enjoy Government assistance.

We believe the purposes of the bill has never been fulfilled and that the reasons for its enactment given by its proponents, namely conservation, a clever subterfuge.

How do you expect us in New England to have any faith in the proponents' cry for conservation when we find the same ones doing everything in their power to limit and reduce imports?

Conservation is merely the rally word used by the proponents in connection with the bill to fool or allay the consumer who foots the bill—totating many millions of dollars in favor of a comparatively few producers.

Since the effect of the Connally bill has successfully pegged the price of crude at \$1, and recently higher, we are afraid there might be no ceiling to the prices they may wish to extract.

I know that we oil marketers are paying from 30 to 50 percent more since the operations of the Connally bill for our petroleum products.

I know that many of our mills and manufacturers have had to cease doing business because of increased costs, throwing thousands of people out of work—increase in cost of petroleum did its share to produce this result.

The Connally Act proponents should be thankful that we had an unusually mild winter on the east coast this winter or this bill would be absolutely doomed even before this hearing.

For over a month heating oils and fuel were so scarce that on more than one occasion during this period some apartments, homes, and industries using oils for heating or power were reduced from normal to as low as 24 hours' supply.

All the oil companies during this period were working heroically borrowing from one another sometimes as little as 2 hours' supply.

You can imagine the millions of dollars such conditions cost the marketers, upsetting the entire delivery system organized and geared to operate on the small decimal profit and often on merely an exchange of an old dollar for a new.

You can imagine the damage and uproar and excitement that would have followed if these cities and villages had found themselves without power and heat in the middle of winter for even a short period. They would not have appealed to the State of Texas authorities for relief from such conditions but would have organized to eliminate any such system, legal or illegal, that had produced this intolerable condition which had never happened before.

If the State of Texas can't control her own so-called excess-produced oil and seeks the aid of the Federal Government through this Connally Act, we believe the Federal Government should have the control of proration and allocation of crude oil—which controls the excess—even going so far as to limiting the profits that can be made in order to avoid abnormal profits which lead to monopolistic practices.

In conclusion I want to say that there is no question but that the consumer has absorbed not only the complete cost of higher crude prices but has had to contribute to the increased profits of some integrated oil companies—which anyone can read from their financial statements—because of the control they obtained with the assistance of the Government through the operations of the Connally Act in conjunction with other sister petroleum acts.

Senator CONNALLY. How much is your differential or spread?

Mr. BERGFORS. It differs continually.

Senator CONNALLY. What is it today?

Mr. BERGFORS. I do not know.

Senator CONNALLY. What was it yesterday?

Mr. BERGFORS. I do not know.

Senator CONNALLY. What was it day before yesterday?

Mr. BERGFORS. I do not know.

Senator CONNALLY. What was it the day before that?

Mr. BERGFORS. I do not know.

Senator CONNALLY. You are in the business, are you not?

Mr. BERGFORS. Yes; but I have been here since Thursday.

Senator CONNALLY. Well, the day you left, what was it?

Mr. BERGFORS. I do not do the buying. I am president of the company, but it varies continually, sometimes down to nothing.

Senator CONNALLY. You are president of the company and you certainly know what the company is doing. What was the last time that you knew of the margin, or the difference between the price of gasoline at which you were buying it and the price at which you were selling it; you certainly know that.

Mr. BERGFORS. It varies from day to day.

Senator CONNALLY. I said the last time.

Mr. BERGFORS. We might have had a cent and a half, or 1 cent.

Senator CONNALLY. You might have had either nothing or 5 cents, but I am talking about what it was on the last day that you knew about it, the last day you looked at your books to see what you were doing; what was the margin that day?

Mr. BERGFORS. The margin between what?

Senator CONNALLY. Between what you paid for it and what you sold it at.

Mr. BERGFORS. We do not sell at the same price to everybody.

Senator CONNALLY. You do not?

Mr. BERGFORS. No.

Senator CONNALLY. Do you have favorites and do you discriminate as between customers?

Mr. BERGFORS. No; but some are better than others; some pay their bills better and have better deliveries.

Senator CONNALLY. You do not have posted prices?

Mr. BERGFORS. Not us; we try to make a profit—

Senator CONNALLY. You sell to some customers at one price and you sell to other customers at another?

Mr. BERGFORS. According to their value to us.

Senator CONNALLY. You certainly have some gage by which you undertake to determine your profit or spread; what is the difference between the price you pay for the gas and what you sell it for?

Mr. BERGFORS. It varies.

Senator CONNALLY. Tell us any figure that it might be.

Mr. BERGFORS. A half cent or—what is the product?

Senator CONNALLY. Gasoline.

Mr. BERGFORS. Gasoline does not sell very well in the wintertime in our country and we have been losing it fast through—

Senator CONNALLY. Well, heating oil; what is the difference between what you pay and what you sell it for?

Mr. BERGFORS. In one instance I can remember we only had a quarter of a cent—

Senator CONNALLY. See if you cannot remember some other instance where you had more.

Mr. BERGFORS. We have had a half cent. That depends on the type of delivery.

Senator CONNALLY. You know what I am talking about.

Mr. BERGFORS. I know you are trying to put me in the hole.

Senator CONNALLY. I am only leaving it to you.

Mr. BERGFORS. I do not think it is a fair question. You are not asking me the size of the customer or the kind of delivery and you do not even mention the petroleum product.

Senator CONNALLY. I just said heating oil.

Mr. BERGFORS. I said a quarter of a cent, and I can mention the customer.

Senator CONNALLY. Is that the only one you remember?

Mr. BERGFORS. No.

Senator CONNALLY. Why did you pick that out?

Mr. BERGFORS. That is the one I remember. I do not operate my company, Mr. Connally.

Senator CONNALLY. You do not?

Mr. BERGFORS. No.

Senator CONNALLY. Who does?

Mr. BERGFORS. We have a crew operating the company and I have general figures coming to my desk that do not show me each individual sale, and that is what I am trying to give you.

Senator CONNALLY. You are president of the company and responsible to the stockholders for its profits and losses, are you not?

Mr. BERGFORS. Losses, particularly.

Senator CONNALLY. I do not want to trap you; I want you to tell us what you know, and if you do not know about your company and what it is doing, you should tell the stockholders; but I want you to tell us the different kinds of oils you sell and the different margins on each kind. You said I had picked out one particular kind; now I am asking you to tell us all of them.

Mr. BERGFORS. If I thought my testimony was going to be so important I would have brought my books and given it to you, and it would have been plenty. I have statements on my desk showing continual losses ever since the Connally Act, except for a few months now and then; you cannot say I have a margin when I show a loss. Do you mean gross or net or what?

Senator CONNALLY. I do not think you want to answer, so I will excuse you.

Are there any other marketers present who want to be heard?

Mr. SCHUH. Yes.

Senator CONNALLY. Very well, Mr. Schuh; you are representing whom?

Mr. SCHUH. The National Association of Petroleum Retailers.

Senator CONNALLY. How many members have you?

Mr. SCHUH. We are an association of associations. I cover that in this short statement.

Senator CONNALLY. All right, Mr. Schuh.

STATEMENT OF WILMER R. SCHUH, MILWAUKEE, WIS., PRESIDENT OF THE NATIONAL ASSOCIATION OF PETROLEUM RETAILERS

Mr. SCHUH. This brief is submitted in support of the proposal now pending before Congress to make the Connally Act permanent.

The National Association of Petroleum Retailers is an association of associations with a membership of approximately 309 local or mediate, chapter, sectional, or district associations. These affiliated associations have a membership in excess of 52,000 independently operated service stations from coast to coast. For the information of the committee an organization chart is attached marked "Exhibit A." (Exhibit referred to is on file with the committee.)

The stated policy of the National Association of Petroleum Retailers is "to avoid no issue for the good of the retailers but to be honest, just, and loyal and to work at all times for the good of the industry and the Nation." In support of our position on the Connally Act, we call your attention to section 12 of the platform of our association, approved by the ways and means committee August 2, 1936, which section reads as follows:

We believe in an equitable system of proration of crude oil designed to protect and conserve this important natural resource and the protection of the industry so as to maintain the posted price and permit the operation of stripper

wells and to yield a profit without resort to wasteful practices in the interest of conservation.

In further support of our position, we offer a copy of the resolutions of the fourth national convention of petroleum retailers, Carter Hotel, Cleveland, Ohio, September 17, 18, 19, 1936, Homer S. Sparr, chairman. Your particular attention is called to resolutions 11 and 16. The above resolutions are marked "Exhibit B." (Exhibit referred to is on file with the committee.)

In further support of our position we offer the document entitled "A Record of Cooperation With the Industry", marked "Exhibit C." Exhibit D, entitled "The Independents Platform", the basis of the voluntary code which was developed in a conference of representatives of all branches of the industry endorsed by all companies and associations for applications in 12 Midwestern States and later extended to include all States east of the Rocky Mountains. This platform was approved at 54 meetings in 28 States held between April 13, 1936, and July 30, 1936. Exhibit E is a chart showing the shipment of gasoline in excess of tenders and the overshipment of all products in excess of crude, shipped by east Texas refineries for a 15-month period beginning January 1, 1935, and ending March 31, 1936. This chart was prepared from information gathered by a private source by obtaining information on crude allowables, State and Federal gasoline taxes paid, and other pertinent information. The upturn of overshipments in the late summer of 1935 can be attributed to the excess runs of confiscated oil; crude run to stills when fuel oil was confiscated; and other evasions occurring under the confiscation racket. [Exhibits C, D, and E, referred to are on file with the committee.]

A contributing factor toward the increase in overshipments the first part of 1936 is the payment of both crude and gasoline taxes through fictitious companies.

The effect of overshipment of gasoline and crude oil in excess of crude allowables within the State of Texas has been devastating to the retailers of that area. The State officials of Texas, however, are doing everything within their power to assist the industry in curbing this evil so we are looking forward toward its gradual elimination.

Prior to the enactment of the Connally Act the entire country was infested with cankerous sores, known as price wars. This was prior to and during the early code days and many of us, from the independent retailer to the independent jobber, the independent refiner, and the independent producer were in an exceedingly tough predicament. We know definitely that our group protested to Congress, to the Department of the Interior, and to the Planning and Coordination Committee, and to any other source where we might be heard or where we might obtain some relief. These price wars were caused primarily by the entrance of so-called hot oil into our various markets at a ridiculously low price with the result that the industry, labor, and the efforts of that conservation received a serious set-back. An instance of where an unbranded marketer, while testifying before the State Department of Agriculture and Markets of Wisconsin unwittingly stated that he was paying 1 cent a gallon for gasoline from east Texas when the market price was somewhere in the neighborhood of three and a quarter or three and three-eighths.

It can be readily understood what a market disturber of this type could do to those of us who were purchasing legitimate or legal gasoline in competition with him. On one of our trips through the east Texas field we discovered that a certain jobber had gone into the field with some \$15,000 in cash and was endeavoring to get some east Texas refiner to ship him gasoline in tank-car loads but bill to him as kerosene in order to avoid the payment of 4 cents a gallon State gasoline taxes. Apparently these tricks had been going on for some time, and when this particular individual was thrown into receivership by the State of Wisconsin for nonpayment of gasoline taxes, we have been informed that two cars of gasoline, labeled kerosene, were found on his siding, but, upon an investigation by the State, we understand the refiner claimed that it was an error, accidentally made.

All of these things tend to break down any and all of the good efforts by State governments toward conservation and the proper use of the abundant natural resources possessed by this country. Although we are far removed from the source of crude oil, we, as retailers, have a very definite and direct interest in conservation because if the supply of crude oil is prematurely depleted through waste and extravagance, it will naturally result in an increase in the cost of motor fuel to the public, with the resultant decline in consumption.

We believe that the Secretary of the Interior, Harold Ickes, State officials of Texas and other oil-producing States should be highly commended for their splendid efforts toward conservation and the splendid spirit of cooperation thus far shown. We hope that the Connally Act will be made permanent so that the industry may be able to rid itself of the economic leeches that contribute nothing to it but live off of the lifeblood of the industry. Economic leeches are the chiselers, who want a special deal or price so they can undersell their competitors, much to the detriment of labor and 90 percent of the industry.

In conclusion, we, as an association of service-station men, pledge every effort at our command to the Federal and State Governments and the industry in order that true conservation may be achieved.

Senator CONNALLY. Any questions, Senator?

Senator TOWNSEND. Who do you represent?

Mr. SCHUH. The National Association of Petroleum Retailers.

Senator TOWNSEND. How many members do you have?

Mr. SCHUH. Three hundred and nine local associations, operating in excess of 52,000 service stations.

Senator TOWNSEND. All over the country?

Mr. SCHUH. All over the country, from coast to coast.

Senator CONNALLY. How many individual retailers or marketers are members of your association?

Mr. SCHUH. In excess of 52,000.

Senator CONNALLY. Your organization has 52,000 members?

Mr. SCHUH. Yes, sir.

Senator CONNALLY. And you favor the reenactment of the law?

Mr. SCHUH. Definitely so.

Senator CONNALLY. What is this instance you told about of some independent marketers purchasing gas in east Texas at 1 cent a gallon when the market price was 3 and a quarter or three and three-eighths?

Mr. SCHUH. He happens to be one of our cutting chiselers who was disturbing the market, and we had to haul him before the department of agriculture and markets in Wisconsin.

Senator TOWNSEND. Your association did that?

Mr. SCHUH. Yes. This fellow admitted he was paying only a cent a gallon when the rest of us were paying three and a quarter or three and three-eighths.

Senator CONNALLY. He was getting a good margin.

Mr. SCHUH. Yes.

Senator CONNALLY. What about these shipments of gasoline that were labeled kerosene?

Mr. SCHUH. That has been practiced, but the tender board has stopped it pretty well through requiring information, such as car numbers, and so on.

Senator CONNALLY. This purchaser of the gas, this fellow who was buying at 1 cent, was the producer of that, a "hot oil" operator?

Mr. SCHUH. Yes. That was in the latter part of 1934, I would say about September or October 1934.

Senator CONNALLY. Before this act went into effect?

Mr. SCHUH. Yes, sir.

Senator CONNALLY. Had it been legal gasoline he could have gotten 3½ cents for it?

Mr. SCHUH. Yes.

Senator CONNALLY. But, being hot, he had to turn it loose quick and he got only 1 cent?

Mr. SCHUH. Yes.

Senator CONNALLY. Any other questions, Senator?

Senator TOWNSEND. No.

Senator CONNALLY. Anything you care to add, Mr. Schuh?

Mr. SCHUH. I think the industry is on a much better footing; we are not entirely recovered, but I have covered over 60,000 miles this year, from coast to coast, and I have been through all of the oil States and have noted a great improvement. I think if the Connally Act is continued it will help us, but we cannot make any improvement if the market is wild. The law of supply and demand will never work in this industry.

Senator CONNALLY. Have your dealers any difficulty in buying gasoline and oil supplies in the open market?

Mr. SCHUH. Very few of our dealers buy in the open market. They buy from jobbers or major company distributors, or from the major companies direct.

Senator CONNALLY. Do they have any difficulty in getting the oil at the source of supply—any more difficulty than other dealers similarly situated buying it?

Mr. SCHUH. No; the cut-rate chiselers manage to get all they need; there is no shortage of gasoline.

Senator CONNALLY. When you speak of cut-rate chiselers you mean those who get their supply cheaper and are therefore able to undersell the ordinary dealer?

Mr. SCHUH. That is right.

Senator CONNALLY. Mr. Fremming, do you want to appear? We are going to recess shortly until 2 o'clock.

Mr. FREMMING. I would like to appear at 2 o'clock.

Senator CONNALLY. We can give you a little time, but the matter you have in mind, I do not think it is before the——

Mr. FREMMING. I think it is quite pertinent.

Senator CONNALLY. We will undertake to hear you then.

I have received a telegram from Col. M. T. Flanagan, of Longview, Tex., and a letter from Mr. J. D. Wrather, president of the Overton Refining Co., Inc., of Overton, Tex., both in support of the pending bill, which I submit for the record.

LONGVIEW, TEX., *February 17, 1937.*

Senator TOM CONNALLY,

United States Senate:

Thank you for the opportunity to appear before the investigation committee of the Connally "hot-oil" bill; regret that my wife's illness preventing my being present. However, am backing you to the limit, and sincerely believe that this bill should be made permanent. Without it the oil industry would be nothing. It would be impossible for the State to enforce proration. The "hot-oil" boys in this State would move the oil interstate, and Texas' hands would be tied. Oklahoma would not stay in line with Texas, nor would Louisiana and Kansas, and Texas would not stay in line with them. The Connally oil bill has saved the oil industry and has proved its worth. In order to save the industry it is imperative that the Government makes provision to save this natural resource, which is most important during belligerence. It is absolutely a waste of oil and gas to permit the wells to flow wide open, sore oil and let it evaporate. I am an independent, definitely not connected with any major company, and I, as well as they, have made money; and know that all companies, large and small, have made money since proration has been enforced. No one but the "hot oil" thieving Judases are opposing you on this measure.

Most sincerely,

COL. M. T. FLANAGAN.

OVERTON REFINING Co.,

OVERTON, TEX., *February 10, 1937.*

Senator TOM CONNALLY,

Washington, D. C.

DEAR SENATOR CONNALLY: I received your telegram of a few days ago inviting me to attend a hearing before the committee on the matter of continuing the Connally bill, and I thank you very much for this honor and opportunity, and I may possibly be able to attend one of the dates mentioned. However, I have had the "flu" for the past few days and am not able at the present time to get out, but may be able to attend as stated above. I will do so if I can.

In the meantime I will say that I am heartily in favor of the bill being extended, because it has been a wonderful protection to the legitimate oil operators in this field, and I am for the law 100 percent.

With best wishes, I am,

Yours very truly,

J. D. WRATHER, *President.*

If it is agreeable to the witness, we will recess until 2 o'clock.
(Whereupon, at 12 m., the hearing was recessed until 2 p. m.)

AFTERNOON SESSION

The committee met at 2 p. m., pursuant to the taking of a recess at 12 o'clock.

Senator CONNALLY. Let us come to order. I believe we finished with everybody that represented the marketers who wanted to be heard. We now have a few more witnesses, and then we will try to conclude these hearings.

Mr. Holland, are you ready to go on now?

**STATEMENT OF GEORGE W. HOLLAND, DIRECTOR OF THE
PETROLEUM CONSERVATION DIVISION, DEPARTMENT OF THE
INTERIOR.**

Mr. HOLLAND. My name is George W. Holland, Director of the Petroleum Conservation Division, Department of the Interior.

Senator CONNALLY. Mr. Holland, may I ask you there if you are the head of the agency that Secretary of the Interior Ickes set up in the Department to handle the administration of the oil acts?

Mr. HOLLAND. Yes, sir.

Senator CONNALLY. You are in charge, then, of the oil division, you might say, whatever you call it—what do you call it?

Mr. HOLLAND. The Petroleum Conservation Division.

Senator CONNALLY. The Petroleum Conservation Division of the Department of the Interior?

Mr. HOLLAND. That is right. And we assist the Secretary of the Interior in the administration of the act passed February 22, 1935, generally known as the Connally Act.

Senator CONNALLY. Go ahead and tell us anything you care to say as to this bill, Mr. Holland.

Mr. HOLLAND. I have not a thing to add to the Secretary's statement, Senator. If there are any questions you would like to ask, I will try to answer them.

Senator CONNALLY. In the main, your views coincide with Secretary Ickes', which were given here the other day?

Mr. HOLLAND. Absolutely.

Senator CONNALLY. What are your views with regard to the desirability of reenacting and continuing this law?

Mr. HOLLAND. In my opinion, I think if the Connally Act fails of reenactment that we will be back just where we were 2 years ago in the matter of the conservation of oil and gas.

We have accomplished something through the coordination of Federal and State authorities, and there has not been anything brought to my attention that is more constructive than the Connally Act.

Senator CONNALLY. Did you hear the testimony of Colonel Thompson, the other day, of the Railroad Commission of Texas?

Mr. HOLLAND. Yes, sir.

Senator CONNALLY. As to the amount of oil reserves originally estimated for the east Texas field, being 2,000,000,000 barrels?

Mr. HOLLAND. Yes, sir.

Senator CONNALLY. And that under the operation of the oil-conservation laws of the State, aided by this Federal Act, that the prospect now was for recovery of 4,000,000,000 barrels. Have you any information on that subject? What are your views on that?

Mr. HOLLAND. Senator, I am a lawyer. I am not a petroleum engineer. But as to the people I have talked to, I think the opinion is almost universal that the recovery would double through a conservation effort.

Senator CONNALLY. Have you heard the testimony of the marketers from time to time?

Mr. HOLLAND. Yes, sir.

Senator CONNALLY. What, if anything, do you know about the effect of all these laws on marketing?

Mr. HOLLAND. I do not consider the Connally Act a marketing act at all.

Senator CONNALLY. Of course, it does not refer to marketing at all. It only refers to shipment in interstate commerce of illegally produced oil. It has no relation whatever to marketing. These gentlemen seem, though, under the guise of opposing this bill, to go back and review the whole situation under integrating companies and monopolistic aspects and all of that sort of thing. Does the Connally Act discriminate in any way against the small fellow in favor of the big oil operator?

Mr. HOLLAND. It has never been brought to my attention. Recently I talked to all of the oil operators practically in the Western States, as well as the Governors and various officials, and I just could not find any opposition at all.

Senator CONNALLY. Do you know of any considerable group of independents complaining of the way the act has been enforced? I mean independent producers.

Mr. HOLLAND. In addition to the statement of Secretary Ickes the other day before the subcommittee there has only been one other complaint that has been brought over to my office at least, and that was with the same group, purely a jobbers' group.

Senator CONNALLY. A jobbers' group?

Mr. HOLLAND. Yes, sir.

Senator CONNALLY. A marketing group?

Mr. HOLLAND. Yes, sir.

Senator CONNALLY. I do not know that there is anything further I care to ask you about, Mr. Holland, unless you care to add something.

Mr. HOLLAND. I would like to have the record show that the Department of the Interior, particularly the Petroleum Conservation Division, appreciates the cooperation it has had out of the State of Texas, Colonel Thompson, and Mr. McCraw. That is also true of Governor Leche, of Louisiana. We think we accomplished a pretty good job down there in the Rhodesia Field.

Senator CONNALLY. I suppose Mr. Swanson knows more about the economic and the other aspects with relation to prices than you do?

Mr. HOLLAND. He would know a lot more about it than I do, Senator.

Senator CONNALLY. Then if there is nothing more you are to add we will excuse you, Mr. Holland. Have you got anything you want to put in the record?

Mr. HOLLAND. No; I think that is all right as it stands.

Senator CONNALLY. I will state at this point that Mr. Steele, who is head of the Federal Tender Board in the east Texas field, intended to be here today, but I have a message from him that he is ill and cannot appear, so we will try to hear him at a later date.

We will be glad to hear you, Mr. Fremming, if you care to be heard now.

STATEMENT OF HARVEY C. FREMMING, PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF OIL FIELD, GAS WELL, AND REFINERY WORKERS OF AMERICA, WASHINGTON, D. C.

Mr. FREMMING. My name is Harvey C. Fremming, president of the International Association of Oil Field, Gas Well, and Refinery Workers of America, with offices in Washington, D. C. Do you want further identification, Mr. Chairman?

Senator CONNALLY. You have told who you are and what you are doing, and that is all that is necessary.

Mr. FREMMING. I returned that newspaper clipping to the gentleman over there.

Senator CONNALLY. I know I had it here awhile back, but I do not see it now. Somebody must have gotten away with it.

Mr. FREMMING. We appear here, Mr. Chairman, in the interest of stabilizing in similar proportion a human equation involved in the production of petroleum product as is attempted to be stabilized with reference to the conservation factor which results in price-structure maintenance.

We believe there is a composite relationship in our economic thinking as between stabilization of price structure sought through this method, the Connally bill, and the stabilization of employment opportunities and economic well-being of the workers on the other hand. It is because of this related interest that we suggest to you that your bill be so amended to include regulatory hours of employment as it affects the production of petroleum product in the relationship to interstate commerce. And we suggest 36 hours be made the maximum hours of employment, and further suggest \$5 per day be made the minimum rate per day paid to workers in the petroleum industry in the interest of employee stabilization.

Some days ago I met with Colonel Thompson, chairman of the Railroad Commission of the State of Texas, and discussed this very same matter with him. He stated to me, in front of several people assembled in his rooms at the Rice Hotel in Houston, that while he could not consider the matter of stabilizing wages, that he believed that the 36-hour maximum work-week could be made a proper subject for amendment to this bill. So that the record may be clear on that subject, this morning you were good enough to hand me a clipping from some newspaper with a Houston date line on it stating somewhat to the contrary. In other words, it stated in part that the subject of maximum hours of employment were not germane to the purposes sought in the Connally Act.

I think on this occasion that I have just made reference to, Colonel Thompson asked that we prepare an amendment, which was prepared in his presence, dealing with maximum hours of employment.

Now, we are asking and urging that the committee hearing this bill look favorably upon the stabilization of both entities in the industry; the dollar interest as represented by the interests of the employer and the dollar entity as represented by the employees that produce the product.

Senator CONNALLY. Is that all?

Mr. FREMMING. That is all I have to say.

Senator CONNALLY. Mr. Fremming, let me say that I am very much concerned in the matter of the workers getting a fair wage

and also getting reasonable hours, but the Connally Act does not in any wise deal with conditions of production. This act does not provide how many barrels of oil shall be taken out of the well in Texas. It does not say how the wells shall be drilled. It does not lay down any rule of acreage or pieces. All that this act does is that it says that anyone who produces oil in violation of the State's law, not only Texas, but any State, Kansas, Oklahoma, California, Louisiana, or anywhere, anyone who produces oil in violation of the State law shall not ship it in interstate commerce. That is as far as we go, and that is the only germane object and purpose of this bill.

The Federal Government so far has never been able to control hours and wages in purely production. The Supreme Court has held that is purely a matter within the State jurisdiction.

Now, if the State of Texas should see fit—the legislature is in session now—it occurs to me your proper place to seek redress is down before the Texas Legislature. It has ample power to prescribe the rates of wages and hours of labor in every oil field in Texas. But, as I view it, this proposition is neither germane to the bill, nor is it within our constitutional power. And to tie on an unconstitutional provision would simply imperil the passage of all of the legislation.

With your permission I will read into the record what Colonel Thompson said in the newspaper clipping. I gave you the advantage of this before your statement concerning it?

Mr. FREMMING. Yes, sir.

Senator CONNALLY. These headlines read:

Thompson Demes Would Amend Act for Short Hours—

This is from the Austin Bureau of the News, that is the Dallas News—

AUSTIN, TEX., Feb. 13.—Ernest O. Thompson, member of the Texas Railroad Commission, said Saturday that he did not believe an amendment to limit the hours of oil-field workers would be germane to the Connally Act.

"I am always for shorter hours and better pay," Thompson said concerning the statement of Harvey C. Fremming he would offer an amendment making the 36-hour week mandatory in the oil industry, "but I do not believe it would be germane to the Connally Act."

Fremming is president of the International Oil Workers' Union.

He noted the Connally Act provided penalties for interstate movement of oil produced in excess of State quotas and depended upon State enactments. He said he had heard of no proposal to amend the State law in that fashion.

The House this week passed a bill extending proration laws as now written for another 2 years.

So my suggestion is you are in the wrong forum. You ought to be down before the Texas Legislature, which just passed the pro rata bill a few days ago, and you should have induced the Texas Legislature to have passed these wages and hours of labor then. I am very much in sympathy with your objective, but we cannot here, as I view it, give you any relief.

Mr. FREMMING. Well, Senator Connally, am I not correct in saying for the record that the ultimate result of this alleged conservation bill is to maintain a reasonable-price structure?

Senator CONNALLY. That is not the purpose of it; no.

Mr. FREMMING. I am talking about the result.

Senator CONNALLY. The result may be that. Of course, if you have conservation you naturally won't have as much current produc-

tion as you would if you pulled the lid off. But in this manner you will have it for a longer period and more of it in the aggregate.

Mr. FREMMING. Do you mean to say you really are seeking conservation in this bill when you are permitting the drilling in the manner and fashion they are doing it in east Texas, for example?

Senator CONNALLY. We have no control over that.

Mr. FREMMING. I am just talking about conservation.

Senator CONNALLY. The testimony of Colonel Thompson, of the railroad commission, was that on the other day that without the conservation measures the estimated production of east Texas was 2,000,000,000, but since they have conservation measures the geologists and experts now estimate they will get 4,000,000,000 barrels.

Mr. FREMMING. That is purely an estimation.

Senator CONNALLY. Certainly it is.

Mr. FREMMING. We have listened to a lot of estimations by geologists before the Members of Congress, for example, on imports and things of that kind.

I am not trying to force the issue, except to say the result of the procedure is to maintain a price structure. You cannot call it "price fixing." But for the purposes of result it means stabilizing the price structure, and we are definitely interested in that. Please do not misunderstand me.

Senator CONNALLY. If you do not maintain prices, what is going to happen to your workers?

Mr. FREMMING. Certainly, I know that, Senator. I know there has to be a price structure. But we say similarly along with the price structure for the employers that minimum wages and maximum hours should be maintained. Would I encroach upon your sensibilities if I recalled to your mind before the N. R. A. that we were nearly wiped out in 1933?

Senator CONNALLY. Would I encroach on your sensibilities if I said that your general organization and you ought to be down before the Texas Legislature on this matter, and get the legislature, who has the power to regulate wages and hours of labor, to take care of this matter instead of coming up here?

Mr. FREMMING. We are seeking the same result here, except that one deals with the human equation.

Senator CONNALLY. All right. Seek the same result if you want it but do it in the right place. You know that the Texas Legislature is in session, and there are a lot of members in your State where all the citizens have a right to vote, and it seems to me if you were looking after the matter from a purely legal aspect you would be down there trying to get relief.

Mr. FREMMING. I am here because of a discussion with Colonel Thompson in the Rice Hotel.

Senator CONNALLY. Yes, sir. But Colonel Thompson is not running the Federal Government. He is down in Texas. And you ought to be down there where he is and where he has got some authority. This is a Federal matter here.

Mr. FREMMING. I am not misunderstanding you. I think in the interests of public policy, in the interests of the people involved in this whole set-up, at least it has some value.

Senator CONNALLY. We are glad to hear you, but I think that is the right place to go.

Mr. FREMMING. I do not think so. And if we did I would not be here at all. And the attorney general said that was not the place.

Senator CONNALLY. What attorney general?

Mr. FREMMING. The attorney general of Texas.

Senator CONNALLY. Do you want to quote him, too? He is not here.

Mr. FREMMING. I am just saying why I am not down there. We have enacted several pieces of legislation that have to do with the human value, and we are here similarly. We believe that if we are seeking as an ultimate result a price structure we certainly ought to have something in it for the people who produce that commodity, something in reference to the bill for those people to produce a similar result.

Senator CONNALLY. Mr. Fremming, this bill does not state as to how many barrels can be produced, how much each company shall have, how many acres, and it does not say anything in regard to the production, because we realize that the conditions of production are entirely within the State. The Federal Government has no jurisdiction until after that oil has been produced and enters interstate commerce, and we cannot do anything about it until it moves. When it does move we say to the man who tries to move it, "Did you produce this legally?" "Yes." "Then go ahead." That is the password, "Go ahead." Or, "Did you produce it illegally?" If so, it is not allowed to be shipped. That is all this does. You want us to engraft on this something in order to try to tell Texas how they shall produce this in regard to hours and labor?

Mr. FREMMING. That is right.

Senator CONNALLY. We have not got the power to do it. And if we did do it we would be doing for your group what we cannot do for anybody else.

Mr. FREMMING. Your ultimate result would be comparable.

Senator CONNALLY. We cannot do something for the ultimate result if we have not the power to do it at all. But Texas has got the power, and I hope I did not offend you, but that is your forum.

Mr. FREMMING. Oh, no; I am not offended that easy. I hope you understand that, Senator.

Senator CONNALLY. All right.

Mr. FREMMING. We shall make every effort to try to test this. We think this is the proper place. We have also talked to some lawyers who think it is the proper place, and we have enough friends in the Senate and House who might advocate this result, and we hope to accomplish this result.

Senator CONNALLY. That is all right, sir. Any man who gets the votes gets by.

Mr. FREMMING. That is right.

Senator CONNALLY. Mr. Brown, I believe you wanted to appear?

Mr. R. B. BROWN. I do not need to make any oral statement, but I do want to put a written statement in the record.

Senator CONNALLY. Mr. Fremming, I want to ask you one other question before you leave.

Mr. FREMMING. Yes, sir.

Senator CONNALLY. Are you against the reenactment of the Connally Act?

Mr. FREMMING. I said I was not.

Senator CONNALLY. Do you favor it?

Mr. FREMMING. Of course I favor it. I favored it before, which I think you should remember.

Senator CONNALLY. I want to get it for the record.

Mr. FREMMING. I believe the amendment is proper.

Senator CONNALLY. Irrespective of what you believe about the amendment, are you in favor of the reenactment of the Connally Act into permanent law?

Mr. FREMMING. That is right; for the purpose which it intends, the maintenance of the price structure, which inures to our benefit.

Senator CONNALLY. Will you please come back over here, as I wish to ask you some further questions about this reenactment of this act.

Mr. FREMMING. I want it clear on the record as to my position. I am not kidding myself about this bill.

Senator CONNALLY. I am not trying to trip you. I want to get a clear statement. While you would like to have an amendment to the bill providing wages and conditions of labor—

Mr. FREMMING (interposing). That is right; hours of employment.

Senator CONNALLY (continuing). If the committee and Congress do not see fit to put that on, do you, or not, favor the form it is now in?

Mr. FREMMING. Yes, sir; I do. For this reason—you qualified your statement, and I want to qualify my statement.

Senator CONNALLY. Go ahead.

Mr. FREMMING. For this reason: The Connally bill is to maintain a price structure, because it is pegged at definite price maintenance; and under that the people that I represent, because of it, receive some of the benefits through wages.

Senator CONNALLY. I do not agree with you that the purpose of it is to maintain prices, but its purposes is to enforce conservation laws, and naturally it stabilizes the oil industry, which would have a tendency to stabilize the prices. If you stabilize prices and balance the demand, the tendency naturally would be to effect stabilized prices.

Mr. FREMMING. That is right.

Senator CONNALLY. And with stable conditions in the oil industry it will help the men who work just as much as it helps the industry.

Mr. FREMMING. That is right.

Senator CONNALLY. Which leads to stabilization of employment and stabilization of pay.

Mr. FREMMING. That is right.

Senator CONNALLY. And it is preferable to a wild expansion and then a lower slump and fall of the industry; is not that true?

Mr. FREMMING. Yes; because the person who carries the weight is not the marketer, and I look upon him as the middleman; and I think he would be much better out of the business, because he is taking some of the profit out of the business.

Senator CONNALLY. The middlemen.

Mr. FREMMING. Just like the distributors of beans; they are the middlemen.

Senator CONNALLY. I thank you, Mr. Fremming.

All right, Mr. Brown:

STATEMENT OF R. B. BROWN, WASHINGTON, D. C., GENERAL COUNSEL OF THE INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

Mr. BROWN. Senator, I appear here in behalf of the Independent Petroleum Association of America and have also been requested by a number of other associations throughout the country to say to this committee that they approve the action contemplated here in making this law permanent, and I would like to give you the names of those other committees in addition.

Senator CONNALLY. We will be glad to have them.

Mr. BROWN. The Mid-Continent Royalty Owners Association, California Oil and Gas Association, Illinois-Indiana Petroleum Association, Kansas Stripper Well Association, Kentucky Oil and Gas Association, Oil and Gas Association of Michigan, New Mexico Oil and Gas Association, New York State Oil Producers Association, Oklahoma Stripper Well Association, Southern Oklahoma Oil and Gas Association, Central Pennsylvania Oil Producers Association, Bradford District Pennsylvania Oil Producers Association, Rocky Mountain Oil and Gas Association, West Central Texas Oil and Gas Association, and the North Texas Oil and Gas Association.

I may state that these are active associations that have been in the business for some time throughout the producing States of the Union. In 1932 and 1933, when things were in pretty bad condition, they came here to Washington at the request of the Secretary of Interior to discuss ways and means of working out a program that would bring the oil industry, as well as other industries, to a better condition; and during that conference there grew out of it a number of suggestions, one of the principal ones of which was something along the line that you introduced and is now known as the Connally hot-oil law. All of them have asked me to say they approved that action. I have a statement which covers all of that, which I will not trouble you to read at this time, but I desire to put it in the record if I may.

Senator CONNALLY. We are very glad to have it.

(The statement of Mr. R. B. Brown referred to is as follows:)

The favorable consideration by this committee and the early passage by Congress of S. 790, introduced by Senator Tom Connally, of Texas, and prohibiting the interstate transportation of petroleum produced in violation of the laws of the producing States, is urged by the Independent Petroleum Association of America in behalf of its membership and also in behalf of the following associations, which have asked it to present to you their endorsement of this measure: Mid-Continent Royalty Owners Association, California Oil and Gas Association, Illinois-Indiana Petroleum Association, Kansas Stripper Well Association, Kentucky Oil and Gas Association, Oil and Gas Association of Michigan, New Mexico Oil and Gas Association, New York State Oil Producers Association, Oklahoma Stripper Well Association, Southern Oklahoma Oil and Gas Association, Central Pennsylvania Oil Producers Association, Bradford District Pennsylvania Oil Producers Association, Rocky Mountain Oil and Gas Association, West Central Texas Oil and Gas Association, North Texas Oil and Gas Association.

The Independent Petroleum Association of America is a national organization composed of members of the producing, refining, and marketing branch of the domestic petroleum industry. It has a large membership in each of the oil-producing States and additional membership in many other States where petroleum products are marketed. Its membership is confined to the independents in the industry.

We urge continuance of this statute, which, under difficult conditions, has proven its worth. A sufficiently long experimental period has passed to demonstrate that this legislation meets the test of a good law. It is clear in its language and definitions. It is practical. It is designed to meet and solve a very serious social problem. It has reduced what had become a growing disrespect for law. It makes it simpler to detect and punish those who are guilty of offenses against State laws. It brings the aid of the Federal Government to the States, enabling them to meet situations which, under our form of government, they could not meet alone. It protects State rights. It is in harmony both with our moral conceptions and with the economic code. It has been tested in the courts and found constitutional. It is supported by those who are constructively endeavoring to rebuild a widespread prosperity.

Its original adoption was supported by the President of the United States, who declared that he was "prepared to recommend such legislation to Congress as a contribution on the part of the National Government toward the solution of the difficulties in which the oil industry finds itself."

This aid given by the Federal Government to the oil-producing States was proposed as absolutely necessary to bring the petroleum industry out of its demoralized state and to maintain it in a position where it could be of largest service to the public, to its employees, and to its investors.

Because of a great oversupply of crude petroleum, hot oil, or petroleum which was produced in violation of State laws or regulations, many in the oil industry were ruined in 1932 and 1933, and still more were heading toward bankruptcy. The situation was so serious that the Secretary of the Interior invited the Governors of the oil States or their representatives, and also representatives of the oil industry, to a conference in Washington, in March 1933. At that conference the ills of the industry were discussed and various measures suggested for their cure. At a meeting of the various groups in the industry a proposal was presented for the adoption of a Federal law prohibiting the interstate transportation of petroleum and its products produced in violation of State law. The conference voted to approve this proposal. The program which had been adopted by this conference was presented to President Roosevelt, who wrote to the Governors of the oil States a letter, in which he said: "I am of the opinion that the suggestion that the Congress pass legislation prohibiting the transportation in interstate and foreign commerce of any oil or the products thereof produced or manufactured in any State in violation of the laws thereof, is well considered. I am prepared to recommend such legislation to Congress as a contribution on the part of the National Government toward the solution of the difficulties in which the oil industry finds itself." This letter was dated April 3, 1933.

On behalf of this general conference of the oil industry there was presented to the House Committee on Interstate and Foreign Commerce the resolutions adopted at that conference in a statement which set forth the situation as it actually appears to the industry at that time. Possibly a better view of the conditions in which the industry found itself before the adoption of this "hot oil" bill will be given by quoting that statement rather than by attempting now to reconstruct the situation as it existed 5 years ago. That statement follows:

"The petroleum supply of the United States is limited, is exhaustible, and is irreplaceable. Gasoline, its principal product, has ceased to be a luxury. It is a necessity. The conservation of the supply for its more essential uses is a problem in which both the United States Government and the governments of the oil-producing States are jointly interested and responsible.

"On account of the excessive producing capacity in three or four States there has been great difficulty in enforcing the conservation laws. It is recognized that production in excess of the consuming requirements of the country is in direct contradiction to the principles of conservation and results in waste.

"Within their respective spheres the Federal and State Governments should cooperate in the prevention of this waste, perfection of the conservation efforts, and the effort to enable this industry to lead the way out of the depression.

"The Federal Government can aid the movement in the following particulars:

"(a) By preventing the transportation in interstate commerce of oil or the products thereof produced in any State in violation of its laws, and by imposing a penalty on the consignor thereof.

"We believe the enactment of the measure before this committee is right, proper, and of vital necessity, not merely to the petroleum industry but also to the general economic well being of the whole Nation.

"It is manifestly improper for the Federal Government, which alone has the right and power to control the various carriers engaged in interstate commerce to countenance, and, in effect, to practically compel the participation of the carriers as agencies in violation of State laws. Under existing statutes these common carriers, engaged in interstate commerce, cannot refuse to transport petroleum which they may know or believe to have been illegally produced. This creates the anomalous situation of corporations being practically compelled by Federal law to become accomplices of lawbreakers. Should these companies decline to be parties to the transportation of petroleum which they may have reason to believe has been produced in violation of State laws, they might become liable to expensive suits. Without at least the tacit permission accorded by the Federal Government, through its failure to enact legislation forbidding interstate transportation of illegally produced petroleum, this petroleum would not have access to a market sufficiently large or profitable to encourage these violations of law. In default of any Federal legislation there is no effective means by which this transportation can be prevented by any State since the oil-producing States have no authority to interfere in interstate commerce. The Federal Government has made it a Federal offense to transport stolen automobiles in interstate commerce. While the theft of automobiles may be of serious consequence, it is of comparatively little importance when compared with the damage done by the illegal production of petroleum and its entry into interstate commerce.

"In order to conserve this valuable and irreplaceable natural resource, legislation has been adopted by nearly all the oil-producing States of the Union, fixing conditions under which petroleum may be produced. These statutes have a threefold purpose. They are intended to protect the rights of all the producers of petroleum within a State, insuring to the smallest producer as well as to the largest fair opportunity for the development of his property. They are intended to safeguard the rights of the general public who have a very positive interest in the prevention of the exhaustion of one of the most essential products in this motor age. They are intended to protect the interests of the States themselves which rely for a very important part of their public revenues upon the receipt of the various taxes paid by the oil industry.

"It is a matter of public record as well as of common report that the conservation statutes of the various oil-producing States are being constantly evaded and violated. Because of that evasion and violation, every effort made by these States to stabilize this key industry has been made ineffective. This is causing the rapid exhaustion of many oil fields, has reduced the market price of petroleum below production costs, has caused the bankruptcy and failure of large numbers of the small producers, has encouraged the purchase by some of the larger companies of the properties of their smaller competitors at bargain prices, has weakened the stability of financial institutions in the oil sections, has depleted public revenue, both State and Federal, has made the continuance of a fair competition increasingly difficult, has seriously affected the coal industry of the Nation through encouraging the wasteful use of valuable petroleum as a substitute for coal, has decreased the consuming power of the millions of people dwelling in the oil States, and to that degree has deprived the industrial sections of the country of one of their principal markets at the same time that it has taken from the railroads their expected revenues from carrying from the industrial East to the oil-producing West and Southwest the goods which would be consumed by those sections if conditions were normal in the petroleum industry.

"It is of common report as well as of public record in the hearings that have been held in the States of Oklahoma and Texas that the petroleum produced in violation of State law is continuously entering interstate commerce.

"Because of that entry, the oil industry in those States which have done everything in the power of the State to stabilize conditions has been forced to increase production in the vain effort to hold their proportionate place in the production scale. This has meant the demoralization of the industry in such States as Pennsylvania, Kansas, Ohio, Indiana, and others where reasonable production ratios had been commonly accepted and observed.

"In the absence of any Federal measure for the prevention of interstate transportation of petroleum produced in violation of the law, many other offenses against society have been promoted. The official records of the States of Oklahoma and Texas are filled with charges of the corruption of officials, a growing disrespect for law which cannot be enforced so long as the Federal Government permits interstate traffic in illegal products, perjury, violence, and tax evasions.

"Some members of the American petroleum industry, naturally law abiding and in favor of the fullest enforcement of legislation necessary to conserve this valuable mineral resource, have felt that they were almost compelled to violate the law themselves, since their markets were being taken from them and the value of their property was being diminished through the interstate transportation of petroleum produced on their neighbor's properties in violation of the law. This is resulting in a growing disrespect for all authority, creating a dangerous condition whose results cannot be foretold.

"This legislation has the support of all branches of the American petroleum industry. Its adoption would do harm to no law-abiding person or corporation. It would correct the present situation under which Federal law makes it necessary for honest men in law-abiding corporations to become the agents of lawbreakers through their forced transportation of petroleum produced in violation of the law. It would eliminate the great volume of corruption now notoriously existing. It would cancel the present premium placed upon dishonesty. It would encourage the law-abiding members of the petroleum industry throughout the Nation. It would quicken the restoration of that industry and thus increase employment and enlarge the purchasing power of the residents of the oil States. It would restore much of the vanished revenues derived by the oil States and by the Federal Government from various stages of the production, transportation, and marketing of petroleum and its products.

"No harm would be suffered by any by the adoption of this legislation except those who have shown themselves contemptuous at law and reckless in their prodigal waste of one of the Nation's greatest resources."

In order to meet this situation and to prohibit the transportation of illegally produced oil, Senator Tom Connally, of Texas, introduced an amendment to the N. I. R. A., which was then under discussion, providing for prohibition of the interstate transportation of illegally produced petroleum.

The concern of the administration in the situation as it affected the petroleum industry was set forth by Secretary of the Interior Harold L. Ickes, who, at a hearing of the House Committee on Ways and Means in June 1933, when the subject of "hot oil" was under discussion, spoke at length upon the general condition of the petroleum industry because of the wasteful and illegal overproduction of petroleum.

Secretary Ickes in his testimony before the Ways and Means Committee emphasized the importance of the adoption of this measure. The following sentences, taken from his testimony illustrate the opinion of the administration on the serious necessity for the "hot-oil" law: "If oil were not so essential to the very life and well-being of our country, if it were not an irreplaceable natural resource, we might with complacency sit by and watch the producers kill themselves off if they lacked the enterprise or the will to take hold of their own situation and remedy it. But the Federal Government has a paramount interest in this industry. In my opinion, we cannot permit men, even if they do invoke the sanctity of private property, to waste, yes, even to permit the flow into the gutter of what may in time prove to be the very lifeblood of the Nation. * * * We cannot be prosperous if the second largest industry we have, representing, as it does, a capital investment of \$14,000,000,000, is allowed to run amuck. The danger is that unless legislation is enacted by this Congress the situation may get beyond control with disastrous results not only to the oil business but to the country. * * * An unregulated industry lacking self-control and not susceptible to State restraint is in a position to do irreparable damage to our economic situation, now happily, with respect to most other industries, on its way to full recovery.

"If the oil industry should collapse, it would mean a strain on banks, the closing of wells, the shutting up of refineries, and the throwing out of employment of many thousands of men now at work. * * * It has been urged by some that the benefits running to users of gasoline justify the low price paid for crude oil. If this is a valid argument it would be advantageous to the country if the farmer should get 10 cents a bushel for his wheat and the cotton grower 2 cents a pound for his cotton because then bread and textiles would be cheaper to the consumer."

Secretary Ickes also quoted from a study made by the Fort Worth Star Telegram showing that the difference in the price of gasoline with crude at 1 cent a barrel and at \$1 a barrel was just 4 cents.

The amendment to the N. I. R. A. which Senator Connally offered was adopted by Congress and constituted the third paragraph of section 9 of the National Industrial Recovery Act. It read as follows:

"(c) The President is authorized to prohibit the transportation in interstate and foreign commerce of petroleum and the products thereof produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any State law or valid regulation or order prescribed thereunder, by any board, commission, officer, or other duly authorized agency of a State. Any violation of any order of the President issued under the provisions of this subsection shall be punishable by fine of not to exceed \$1,000, or imprisoned for not to exceed 6 months, or both."

Since Congress did not make the prohibition itself, but merely authorized the President to do so, the law would not become effective until an Executive order was issued by the President.

PETITION TO THE PRESIDENT

The situation which existed in July 1933, before the President issued the Executive order establishing the prohibition of the interstate shipment of illegally produced oil, was set forth in a petition addressed to the President of the United States on July 7, 1933. That statement is quoted here as giving a contemporary and condensed presentation. It follows:

PETROLEUM INDUSTRY--PETITION TO THE PRESIDENT FOR AN ORDER PROHIBITING TRANSPORTATION IN INTERSTATE AND FOREIGN COMMERCE OF PETROLEUM AND ITS PRODUCTS PRODUCED IN VIOLATION OF STATE LAW

1. A condition exists in the oil industry which makes it imperative that the President exercise the authority granted him under paragraph (c), section 3, title 1, of the National Industrial Recovery Act, to prohibit the transportation in interstate and foreign commerce of petroleum produced in excess of the amount permitted by State laws.

2. On June 12 the Texas Railroad Commission reduced the allowable production in the east Texas field from 828,000 barrels per day to 550,000 barrels per day. This is a salutary order, and, if enforced, would start the whole oil industry toward rehabilitation. But, unfortunately, the order is not being enforced, and apparently the State authorities cannot enforce it. There are numerous willful violators of this order in the east Texas field who are producing large quantities of oil in excess of the allowable and shipping that oil in interstate or foreign commerce.

3. Common carriers are compelled by law to accept shipment tendered them for interstate transportation, and have no authority, under the present law to inquire whether or not the oil thus tendered for shipment has been legally produced or otherwise. The Federal Government is, therefore, at present in the position of aiding and assisting the violators by compelling corporations engaged in transporting oil in interstate commerce to receive for shipment oil even though the same be produced in violation of State law.

4. The production of "hot oil" (oil produced over the State allowable) in the east Texas field alone is estimated at approximately 400,000 barrels per day. This quantity of excess oil is sufficient in itself to disrupt the market and prevent the recovery of the oil industry, thereby also preventing the increases of wages, of employment, and of the purchasing power of employees in that industry.

5. "Hot oil" is almost universally sold below the posted market price and generally below the cost of production. The producers of "hot oil" can afford to sell below the cost of production because their excess production is being drawn from their neighbors' land, so that, in effect, they are selling their neighbors' oil and selling it at cut prices. This demoralizes the market not only for crude oil but also for the refined products thereof.

6. The attempts of the Texas State officials to enforce their own orders are entirely ineffective and always have been ineffective ever since the east Texas field became a field of major proportion. It is unnecessary to inquire the reasons for the inability of the State officials to enforce their own orders. Whether it be due to local politics, to a lack of sufficiently severe penalties for violation, or to inadequate machinery for enforcing the orders, the result is the same—a demoralization of the oil industry and a prevention of its rehabilitation.

7. The evil complained of is not confined to Texas alone but also exists in Oklahoma. The investigation by the Oklahoma senate last winter of the production of "hot oil" demonstrated by sworn testimony that there were widespread violations of the State orders in Oklahoma. That there are numerous

violations of the Texas law is admitted by everyone. In fact, wholesale violation of State orders is not denied by anyone, either in Oklahoma or in Texas. However, the east Texas field, the greatest field in the world, with some 11,000 producing wells, has always been the most flagrant offender. The amount of "hot oil" being run there from day to day is so great that it demands immediate correction.

8. The National Industrial Recovery Act, in paragraph (c), section 9, title 1, particularly provides for the correction of this very evil by authorizing the President to prohibit the shipment of "hot oil" in interstate and foreign commerce. Congress thus recognized that this particular evil was of sufficient importance to require a special section in the act. The enforcement of this provision in advance of the adoption of the code would in no way affect the other provisions of the act in regard to the adoption and enforcement of the code, and would result in great and immediate benefit to the industry.

9. Prompt action on this matter, so universally agreed upon, and which no one opposes except the violators themselves, would strengthen the confidence of the oil industry and the country in the National Industrial Recovery Administration, and would speedily increase wages, employment, and purchasing power. Delay in this matter deprives the industry of the very aid which Congress sought to give it and encourages the violators to continue their offenses.

10. A few willful men employing only enough assistance to turn a few valves are producing more oil in excess of the legal allowable production of their respective States than is legally produced by all of the States east of the Mississippi, and all of the Rocky Mountain States, Louisiana, Arkansas, and Kansas. It is charged that the oil illegally produced and transpired from a few fields amounts to more than the legal allowable production for all of the 20 oil-producing States outside of California, Texas, and Oklahoma. In these areas where millions of dollars are invested and hundreds of thousands of men are normally employed and millions are dependent on this industry, companies are day by day being driven into bankruptcy and armies of men are forced off the pay roll by the illegal conduct thus permitted to continue.

11. No hearing should be necessary in order to effect the prohibition of the shipment in interstate commerce of illegally produced oil. The order asked would aid in the enforcement of existing State laws and would take the National Government out of its present role of being an accomplice of the violators. It would also be of great assistance in rehabilitating the petroleum industry.

We are attaching hereto a copy of the Bureau of Mines' Monthly Petroleum Statement No. P-107, which was distributed today. This statement shows production of petroleum for May 1933 to be the greatest of any month since the peak production period of 1929, and that production by fields is far in excess of the State allowable for such field.

The average daily output for east Texas for the month of May was 890,000 barrels. The State allowable for that period varied from 775,000 barrels for the first part of the month to as high as 826,000 barrels daily for the last part. So much for the official figures. It is well known that much of the illegally produced oil is not accounted for in any set of official figures, and if added to the previous figures would bring the average daily production to two or three thousand barrels more than that shown by the Bureau of Mines' Bulletin.

It is therefore requested that the President issue an order at once prohibiting the transportation in interstate and foreign commerce of "hot oil" and that suitable regulations be made to make said order effective.

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA,
RUSSELL B. BROWN, Counsel.

WASHINGTON, D. C., July 7, 1933.

President Roosevelt, on July 11 and July 14, issued two orders establishing the prohibition of interstate transportation of illegally produced oil in accordance with paragraph (c), section 9 of the N. I. R. A. In spite of every obstacle which could be interposed by those benefiting from the illegal production of "hot oil", the administration of this measure increased in effectiveness with very helpful results to the petroleum industry and enabled this industry to be among the first to lead the way of the Nation back to industrial recovery.

In January 1935 this section of the N. I. R. A. was stricken down by the Supreme Court of the United States on the ground that it was an unconstitutional attempt to delegate power, in that Congress had authorized the President to prohibit interstate transportation of illegally produced petroleum instead of making such prohibitions itself.

Large numbers of petitions were adopted by various associations and interested groups in the petroleum States, pointing out the imperative necessity for Congress to adopt legislation to replace this section of the N. I. R. A. and relating the benefits to the petroleum industry, to its employees, to its investors, to the farmers on whose land oil leases were held, to the general public, and to the Nation at large. Senator Connally proposed a new measure intended to express in terms which would meet the approval of the Supreme Court the prohibition of the interstate shipment of contraband oil, and on February 22, 1935, the present law was approved with a provision that it should cease to be in effect on June 16, 1937.

This law was an experiment. For that reason its 2-year limitation of life was placed upon it. While the oil industry in general and industrial authorities were strongly convinced that it would accomplish a possible stabilization of the petroleum industry and replace ruin and bankruptcy with solvency, this had not actually been demonstrated. It could not be except by experience.

The period of experiment has now passed. The law has justified itself. The results which were expected by those who proposed the bill and by those who supported it have been registered in the business indicators of the Nation. It has now proven its right to be a part of the law of the land.

The hopeful effects of this law have now been recognized by economists in general as well as the oil industry in particular. Illegally produced oil is today practically a negligible feature in the national picture. Because this source of excess supply has now been reduced to what appears to be a minimum, the petroleum industry has so stabilized itself that it is today in an excellent position to serve the Nation through its conservation and development of this natural resource, to serve the public at low prices for the essential commodity it produces, to give employment to over a million persons and to provide its contribution to the revenues of the various governmental units, including the Federal Treasury.

The sound position in which the industry now stands, and which is very largely due to the enactment of the hot-oil bill, has been commented upon by many economists. The fact that an industry of this importance, the second in the Nation's business life, has been steadily moving onward along the forward lines, has had an incalculable effect for good upon the other phases of the Nation's business.

All this has been accomplished with such regard for the consumers that no burdens have been laid upon them.

Intimately related to the petroleum industry in the oil-producing States are the various banks and financial institutions. These, in turn, have affiliations with the general financial life of the country. Naturally the banks in the oil country finance the various operations of the industry. So long as the industry is operating upon a stable program the business life of these States and its financial activities are also on a sound basis. When, however, as was the case in the past, the oil industry is demoralized by reckless and wasteful over-production, the business failures which result immediately affect the financial institutions related to them.

The story of the events which made it necessary to ask for the adoption of the hot-oil bill is more than history. It may also be prophecy of what would occur if this bill were allowed to lapse. Much that the industry has accomplished by self-regulation and by self-discipline, as well as through the operation of State regulatory bodies, would soon be swept away if the orgy of waste through hot-oil production was renewed. The contributions which this industry is now making to the advancing prosperity of the Nation would stop. Instead there would be financial disturbances whose effect would reach every State in the Union. We would probably be once more in a situation parallel to that which existed in the dark days of 1933 before this law was placed upon the statute books.

Since this law has been so beneficent in its effect, since it has accomplished so much for good, since it has proven an effective conservation measure, and has been among the foremost in the promotion of recovery, we respectfully urge upon this committee and upon the Congress early and favorable consideration of the proposal for its continuance.

Senator CONNALLY. What is your association?

Mr. BROWN. The Independent Petroleum Association of America.

Senator CONNALLY. And of whom is the Independent Petroleum Association of America composed?

Mr. BROWN. It is composed largely of producers, although there is in its membership refiners and marketers; but principally it is a producers' association, with membership in all of the oil-producing States in the Union.

Senator CONNALLY. Is it composed of independent producers or majors?

Mr. BROWN. The independent producers.

Senator CONNALLY. Are there any major producers in your association?

Mr. BROWN. No; there are no major producers in our association.

Senator CONNALLY. And this group of independents and those whom you have read want the act continued?

Mr. BROWN. That is right.

Senator CONNALLY. And you have no major company as a member of your organization?

Mr. BROWN. No; no major company.

Senator CONNALLY. Is there anything else you want to add?

Mr. BROWN. That is all I care to say, unless there is some question.

Senator CONNALLY. I would like to ask you, Mr. Brown, in your observation and experience as an oil man, in dealing with these matters have you observed these marketers that testified here as to whether they are able to buy in the open market just like anybody else in the oil field?

Mr. BROWN. That is my understanding—that there is no real difficulty in buying gasoline or other products of petroleum.

Senator CONNALLY. You are from Oklahoma originally, are you not?

Mr. BROWN. Yes; from Oklahoma, and I am down through the fields a lot—through Texas, Oklahoma, California, New Mexico, and other fields.

Senator CONNALLY. That is all. Mr. Fell.

STATEMENT OF H. B. FELL, TULSA, OKLA., REPRESENTING THE NATIONAL STRIPPER WELL ASSOCIATION

Mr. FELL. Mr. Chairman, my name is H. B. Fell. I have been engaged as an independent producer for some 17 years in the State of Oklahoma. I am president of the Simpson-Fell Oil Co.

I have served as an officer of the Independent Petroleum Association of America ever since it was organized and am now executive vice president of that association; and I am also serving as executive vice president of the National Stripper Well Association, and am appearing on behalf of that association at the request of Mr. Bell, of Robertson, Ill., who is president of that association. That association is a federation of 18 producing associations, scattered from New York State on the east to New Mexico on the west, and I would like to file a statement on behalf of that federation of associations to be placed in the record, and then just make a few extemporaneous remarks, if I may, Senator Connally.

Senator CONNALLY. All right, Mr. Fell. You may put it in the record.

(The statement of Mr. Fell is as follows:)

To the COMMITTEE ON FINANCE,
United States Senate:

The National Stripper Well Association respectfully petitions this committee to give early and favorable consideration to S. 700, a bill by Senator Tom Connally, of Texas, which prohibits interstate transportation of illegally produced petroleum.

The National Stripper Well Association is a federation of associations composed of producers from stripper wells. The following are the associations who are members of this association: Central Pennsylvania Oil Producers Association, Creek Country Stripper Well Association, Fourth District Oklahoma Stripper Well Association, Illinois-Indiana Petroleum Association, Kansas Stripper Well Association, Lima Crude Oil Improvement Association, Mid-Continent Royalty Owners Association, Middle District Oil Producers Association, New Mexico Oil & Gas Association, North Texas Oil & Gas Association, Northwestern Oklahoma Oil & Gas Association, Oil & Gas Association of Michigan, Oklahoma Stripper Well Association, Southern Oklahoma Oil & Gas Association, West Central Texas Oil & Gas Association, Western Pennsylvania Oil Producers Association, New York State Oil Producers Association, and Northeastern Oklahoma Stripper Well Association.

The Connally hot-oil law has aided in the conservation of this important natural resource by preventing illegally produced oil from so breaking the price of crude that stripper wells would have to be abandoned. Out of approximately 340,000 oil wells in this country, there are over 250,000 wells of settled production. These wells produce over 250,000 barrels per day, or an average of one barrel per day per well. It is commonly recognized throughout the industry that these wells of settled production are the backbone of the industry. They touch approximately 60 percent of the oil reserves of the Nation. The amount of oil recoverable from these wells of settled production is a very great percentage of our total known reserves. Ray M. Collins, formerly State umpire for oil in Oklahoma, has made the following estimate for Oklahoma—"that in the next 20 years the 54,000 stripper and semistripper wells will produce 540,000 barrels, while the 3,530 flush wells will ultimately produce 425,000,000 barrels of oil." A similar situation exists in other oil States of the Union. Any program which would result in the abandonment of a great number of these wells of settled production, involving the sacrifice of most important oil reserves, would seriously affect not merely our National prosperity and possibly our national defense, but would also result in the loss of employment by large numbers now employed on these wells.

Illegally produced petroleum, which is the equivalent of stolen petroleum, would have the same effect upon the market as any other stolen article or product would have upon that market. Illegal petroleum, shipped from the producing States into some other State would naturally sell for far less than the price of legally produced petroleum. This would mean that stripper wells whose production cost is high could not meet this competition and would be compelled to sell their production below cost. Since such a situation could not continue, it would mean the premature abandonment of many of these and loss of reserves. Such a situation has occurred in the past. According to a statement made public by the Petroleum Administrative Board, the wasteful overproduction of petroleum in the past has caused the abandonment of large numbers of these wells. The following is taken from this statement which was prepared in 1934 by Dr. Katherine Carman, petroleum economic analyst for the Petroleum Administrative Board:

"The heavy abandonments throughout the country in 1931 were largely due to aggravated economic causes. As stated before, there was an excess of 62 percent in the total number of abandoned wells over drilled wells, according to the Petroleum Board's figures. The United States Bureau of Mines reports a net loss of 15,000 producing wells in the United States in that year alone. * * * Omitting Texas drilling, but including Texas abandonments, the excess of abandonments was 161 percent in 1932. * * * Excluding Texas drilling but including Texas abandonments, the abandonments throughout the rest of the country were still in excess of the drilling by 95 percent. * * * The large-scale abandonment of oil-producing wells and developed and undeveloped leases between 1931 and 1933 presents a problem of major importance to the Nation and to the oil companies. The loss of possible future reserves of oil through the abandonment of wells is a matter of national significance. The loss

of income to landowners and farmers through abandoned leases is a matter of local concern in at least 18 States. The shrinkage in the petroleum industry, as represented by the abandoned wells and leases, while of major importance only to the producing companies, is of importance to the Nation, inasmuch as the welfare of one of its biggest industries affects the country at large."

The stripper wells afford more employment to labor than do wells of flush production. We would like to quote once more from Ray M. Collins, formerly State umpire for oil in Oklahoma, who has made a study of this situation and who states: "There are between 14,000 and 18,000 men employed to operate the 54,00 wells and only 10,000 men employed on the 3,500 flush wells." While this statement applies solely to Oklahoma and is based upon Oklahoma data, the condition he portrays is equally applicable to the general oil fields of the Nation. Employees released through such an abandonment would have to be absorbed by other industries.

It will not mean additional employment in the flush fields which would then supply the markets now reached by the stripper well production. On the contrary, instead of more being employed, the only additional activity, so far as production is concerned, would be that valves would be turned on large wells already operating and the flow of oil from these wells would be increased without a single additional man being engaged to care for this increased production and a decrease in the ultimate recovery.

Removal of the demoralizing effect of "hot oil" which has resulted from the Connally "hot oil" act has been of benefit to all portions of the industry. It has aided both the refiner and the marketer. It has removed the threat of rapidly fluctuating prices and enabled them to make longer range plans than they might have otherwise made.

NATIONAL STRIPPER WELL ASSOCIATION.

Mr. FELL. I want to speak of the effect of illegal oil on stripper wells.

Senator CONNALLY. Tell us about what a stripper well is before you start.

Mr. FELL. In speaking of stripper wells I am speaking of wells of settled production that are on the pump, that are not flowing wells, wells of small capacity.

Senator CONNALLY. After a flush period where the wells flow and exhaust their gas pressure and all of that they go on the pump, is that what you call it?

Mr. FELL. They go on the pump. The reservoir energy has been dissipated and used in producing the flowing wells. And after that energy is gone they cannot produce and the production must drop down.

Senator CONNALLY. Ordinarily when you speak of a stripper well you mean a producing well that is declining?

Mr. FELL. Declining, yes.

Senator CONNALLY. Until there is a small production of a few barrels a day?

Mr. FELL. That is right. Some of them are as low as one-quarter of a barrel a day and one-eighth of a barrel a day up in Pennsylvania.

This Connally hot-oil act, Senator Connally, as I understand it, only accomplishes one purpose, and that is to prohibit the shipment in interstate commerce, of oil produced in violation of State laws or regulation.

Senator CONNALLY. You are correct. That is the only purpose, and all it does.

Mr. FELL. And under that if we do not have the oil and the oil is produced in violation of the State law, as existed prior to the enactment of the law, the illegal oil gets out and into interstate commerce.

Illegal oil, contraband oil, stolen oil sells as does any other stolen article. It must sell in order to be disposed of at below the price of a legal product. And going into these other States and selling below the regular prices naturally brings down the prices so that these small wells cannot compete. It has a detrimental effect on labor, forces the prices and wages of labor down, and also a detrimental effect on the communities in which these wells are scattered.

Out of some 340,000 oil wells in this country there are over 250,000 of them that are pumping oil wells of small production. And that is where the big employment results.

There is one point I want to mention in connection with some testimony put on this morning as to the margin. One jobber testified he received six and a half cents per gallon for gasoline.

Senator CONNALLY. That included the retail market?

Mr. FELL. That included the retail market; yes, sir. But I would just like to point out for the benefit of the committee that at the present time in Oklahoma gasoline at the refinery is selling around five and three-quarters to six cents a gallon. Out of that five and three-quarters to six cents a gallon for the refined product at the refinery has to be paid the cost of leasing up these lands, the exploratory work, the geological work, the scientific work, the cost of drilling all these wells, the cost of labor employed in drilling the wells, the cost of producing all of the oil, the cost of transporting that oil from the field into the refinery, and the cost of manufacturing into refined products.

Senator CONNALLY. And the royalty you pay the leasehold.

Mr. FELL. And the royalty you pay the leasehold; yes. So the cost to the consumer at the refinery is not so very high as they might have pointed out.

Senator CONNALLY. That is $5\frac{3}{4}$, and these distributors get $6\frac{1}{2}$ on top of that?

Mr. FELL. That is right.

Senator CONNALLY. More than the cost of the oil originally.

Mr. FELL. Yes, sir. And the main thing that I wanted to bring before the committee was just that point, and the point as to the conservation that has not been mentioned that under these pumping wells lie, it is estimated, some 60 percent of our petroleum reserve. And in the testimony of governmental scientific employees, such as Dr. Cadman before the Cole committee, she brought out very clearly the economic loss that occurs to this Nation when you have 10 and 25-cent crude oil in the premature abandonment of wells that is forced on account of those economic conditions, and those reserves are lost to the consumer and to the public of this Nation in many instances forever.

If you would take and compare Oklahoma City in my State with your east Texas field, Senator Connally, if the Oklahoma City field had been developed and operated under proper conservation measures most of those wells there would still be flowing, and we would have a great deal more oil for the consumers than will be produced from that field under the absurd methods which it was produced.

Senator CONNALLY. Let me ask you this: You say out of 340,000 wells in the United States there are 250,000 of them that are stripper wells?

Mr. FELL. Over that, over 250,000.

Senator CONNALLY. Over 250,000. And in these stripper wells is 60 percent of the total oil reserve?

Mr. FELL. Probably around 60 percent.

Senator CONNALLY. Do I understand you to say without conservation periods of flush production the price of oil declines to the point where you cannot profitably produce it in stripper wells?

Mr. FELL. That is right, sir.

Senator CONNALLY. If you shut off a stripper well and do not use it what is the effect upon the oil in the ground?

Mr. FELL. The effect in many cases is this: A great many of those wells, Senator, due to the fact that we did not have proper conservation laws when those wells were drilled years back, there has been no water encroachment that has come into those wells, and in many of those wells if they were shut down the water would completely take them because you did not keep them pumped.

Senator CONNALLY. The point I am making is an oil well that is not active is apt to go to water?

Mr. FELL. That is right.

Senator CONNALLY. Thereby losing the remaining oil that is in the ground?

Mr. FELL. That is right.

Senator CONNALLY. Now, if 250,000 oil wells, or any appreciable amount of the stripper wells, should be shut down because of flush production in other fields, what effect would that have on the labor or employment?

Mr. FELL. That would throw a very large percentage of the labor out of employment because of the fact that on pumping wells of that type one employee will produce a smaller number of barrels than one employee produces on flowing wells where all they have to do is open the valve.

Senator CONNALLY. Do you know, Mr. Fell, what is the percentage of stripper-well production as compared to the total production?

Mr. FELL. In the State of Oklahoma there are around 54,000 wells, and 50,000 of those are what you call settled wells and about 4,000 flush wells, and the 4,000 wells produce around 60 percent of the production of the State, and the 50,000 wells produce about 40 percent of the production.

Senator CONNALLY. Produce about 40 percent?

Mr. FELL. Yes, sir.

Senator CONNALLY. Is there anything else you want to add, Mr. Fell?

Mr. FELL. No, sir.

Senator CONNALLY. On the whole, are you for the continuation of the Connally Act?

Mr. FELL. We are strongly in favor of the reenactment of the Connally Act and making it permanent.

Senator CONNALLY. The people you represent are independents or majors?

Mr. FELL. They are all small independents.

Senator CONNALLY. Are you qualified to speak from knowledge or observation as to what the sentiment generally is among the strictly independent producers of the country as to whether they favor the continuation of the act?

Mr. FELL. Yes, sir. And they are all strongly in favor of the continuation of the act, and I know of no independent producer who has come to my attention that is opposed to it.

Senator CONNALLY. Thank you very much, Mr. Fell. We are very glad to have heard you.

Mr. Payne, do you wish to go on now?

STATEMENT OF BRYAN PAYNE, TYLER, TEX.

Mr. PAYNE. Mr. Chairman and gentlemen, my name is Bryan W. Payne, president of the Iowa-Payne Oil Co., from Tyler, Tex. I have been in the oil business since 1919 and have worked in the East Texas oil field for conservation and orderly production since 1931. The Connally hot-oil law has done more to protect our property and stabilize the industry than any other piece of legislation. We have been operating under it in east Texas during its life and I have heard no one criticize its provisions. It has saved us independents from ruin and allowed us to pay our bills, to drill more wells and to install pumping equipment on our leases.

To show the damage caused by free competition, I would like to cite what has happened to my York lease of 42 acres with eight wells. This lease is located on the edge of Gladewater and is considered a fair location for oil property. Before the Connally "hot-oil" law was passed one of my neighbors, with two wells on 1 acre, overproduced nearly 330,000 barrels of oil. Another neighbor with one well on one-half acre overproduced 159,000 barrels. Another, with five wells on 23 acres, overproduced 312,000 barrels; and on the other side one well produced around 40,000 barrels monthly for at least 6 months. This overproduction around me practically gutted my lease, and all my wells are making some water at this time, and I figure that I have lost nearly two-thirds of the production that originally was under this lease.

I am sure that these oil jobbers do not know what "hot oil" is or they would not have the nerve to appear in its support. I want to define "hot oil" and "hot oiler" for their benefit. "Hot oil" is crude stolen from underneath adjoining property and from royalty owners with an evasion of both State and Federal taxes. Then, a "hot oiler" is one who steals oil from his neighbor and royalty owners and fails to pay State and Federal taxes, and to carry out this scheme to defraud he must make numerous false statements every month. As proof of this I would like to cite the case of J. B. Sowell and the men working under him, who plead guilty before Federal Judge Bryant last week to making false reports. He made a deal with W. B. Walker, who owned one-half of the royalty under the Walker farm, to run 9,000 barrels per month of excess oil. The allowable was 1,400 barrels per month. He reported to the State and Federal Governments 1,400 barrels per month. I have one-eighth of the royalty under this lease and he has offered to settle on the basis of 48,000 barrels per month. He has not paid the other three-eighths of the royalty 1 penny. I want to say that that royalty is owned all over the United States and some in Canada. He has paid the Internal Revenue Department, at Tyler, on the basis of 90,000 barrels per month.

Senator CONNALLY. Ninety thousand a month?

Mr. PAYNE. Ninety thousand barrels per month. In other words, he made statements to everybody and every one of them is different. The royalty owner who thought he was getting all he had coming was getting 9,000 barrels a month. And yet the same man was reporting to the Federal Government that he ran 90,000 barrels off of the lease. That is the way the royalty owners get paid for this "hot oil" run off the lease. This is only one of hundreds of such cases where both the State and Federal Governments and the royalty owners were cheated out of their taxes and oil money.

We in east Texas like the Connally "hot-oil" law so well that we believe it should be made permanent and should be extended to other sore spots in Texas and the United States. I believe by making it permanent that the Oil Conservation Board can hire a better class of men for investigators. I believe a Federal tender board should be set up in Houston with ample investigators, and one at Corpus Christi. I have recently returned from Corpus Christi and, in my opinion, there is not less than 10,000 barrels a day of "hot oil" in that territory. A tender board could stop most of that within a month's time, and I hope that very shortly the oil-conservation administrators will see fit to put these two additional boards in Texas.

Senator Connally, for your information—you may not know it—the Connally "hot-oil" law is only enforced in five counties in east Texas; not that that is the only place where "hot oil" is going out, but under the administrative orders that is all the Federal territory that is under the Federal Tender Board. And the operators in the Corpus Christi area and some of those down there are the worst offenders we have ever had in that section.

Senator CONNALLY. There is no restriction on them at all?

Mr. PAYNE. None, whatever.

Senator CONNALLY. The State is supposed to do it?

Mr. PAYNE. It is going interstate and foreign shipment out of Corpus Christi. They have an easy way of getting rid of it there by boat shipment.

Senator CONNALLY. I will ask Mr. Holland to pay heed to this testimony.

Mr. PAYNE. Yes; I have talked to Mr. Holland, and I expect to talk to him some more.

These operators left east Texas. They were not driven out by any means, but they found pastures greener at Corpus Christi. And they tell me it is just child's play to get rid of the oil to what it was before, and at Corpus Christi it is easy to get these tankers and ship in interstate commerce or foreign shipments.

Senator CONNALLY. What are your views as to the enforcement of the act in the east Texas field? Has it been effective or otherwise?

Mr. PAYNE. It has been partially effective. I think with more good investigators it could be made very effective.

I think the trouble is it is hard to get good investigators under a law that might pass out within 2 years' time. And if it is made permanent, I think they can go out and get real investigators to come in there. And they are dealing with the biggest crooks the United States ever saw. Those boys band together, hire the best lawyers and the best accountants they can possibly get hold of, and we have to have better men to put them in jail.

Senator CONNALLY. What would you say with regard to conditions in the east Texas field now as compared with what they were before the enactment of this law?

Mr. PAYNE. Senator, there is just no comparison. It practically had us ruined before the "hot-oil" law was enacted. And now there cannot be over 12 to 15 thousand barrels going out of Texas. A lot of that is due to the fact that the railroad commission sees fit to give the refineries a generous recovery from refining, and they cannot make that generous recovery, and so they go out and steal an amount of oil to make up for it.

Senator CONNALLY. Is there anything else you care to add?

Mr. PAYNE. Not a thing.

Mr. HOLLAND. Senator, I would like to have the record show that we have that Corpus Christi area under investigation at the present time.

Senator CONNALLY. You say you have it under investigation?

Mr. HOLLAND. We have a man down there now; yes.

Senator CONNALLY. Mr. Hill, will you come around?

STATEMENT OF RICHARD H. HILL, SPECIAL ASSISTANT TO THE ATTORNEY GENERAL OF THE UNITED STATES

Mr. HILL. Mr. Chairman, my name is Richard H. Hill; I am special assistant to the Attorney General of the United States, in charge of the branch office of the Department of Justice, located at Tyler, Tex., and charged with the duty of assisting the administrative agencies under the Department of the Interior in enforcing the Connally Act.

Mr. Chairman, there is little I can add to the information heretofore furnished this committee with reference to the enforcement of the Connally, or "Hot-Oil" Act.

Men learned in the oil industry have given statistics and data upon which they have based their opinions and recommendations with reference to the question of whether or not the law should be made permanent.

The Secretary of the Interior, Mr. Ickes, who is the Oil Administrator under this act, and his representatives, have furnished you with information relative to the administration of the law.

The Department of Justice, under the Connally Act, is charged with the duty of conducting all litigation in the courts arising directly or indirectly out of the enforcement of said law.

In discharging that duty the Attorney General of the United States continued in existence a branch office of the Department of Justice at Tyler, Tex., which he had established in October 1934, to assist in the enforcement of section 9 (c) of the N. I. R. A., and the Executive and administrative orders issued thereunder. Thus, since February 22, 1935, to the present time, the Department of Justice has maintained and is maintaining a special branch office at Tyler for the purpose of assisting in the expeditious enforcement of the Connally Act.

The duties of this branch office consist of receiving reports and recommendations from the administrative agencies of the Department of Interior; taking such action in the courts as in the opinion of the Department of Justice is justified by the facts set forth in the submitted reports.

In the main the legal actions arising directly out of the enforcement of the Connally Act may be classified under four general types:

First. Appeals to the Federal district court from decisions of the Federal Tender Board denying applications for Federal tenders and permits to ship or transport in interstate commerce petroleum or petroleum products.

Second. Injunction proceedings to prohibit or prevent acts or practices that constitute or will constitute violations of the Connally Act or regulations issued thereunder; or to compel compliance therewith.

Third. Sporadic suits against the Federal officials and agencies seeking mandatory or prohibitory injunctions, the purpose of which is to secure, in some manner, sanction to move contraband oil in interstate or foreign commerce.

Fourth. Criminal prosecutions for violations of said law and regulations.

All matters in the courts of the foregoing nature are handled by representatives of the Department of Justice.

A copy of the official report of the Tyler branch office of the Department of Justice, covering the period from February 22, 1935, to December 31, 1936, which shows in brief detail the work that the Department of Justice has performed in connection with the enforcement of the Connally Act, has been filed with this committee and is in the record.

This report shows that up to December 31, 1936, the Government instituted 222 criminal prosecutions directly or indirectly involving the Connally Act. As of that date the Government had secured 176 favorable decisions in said cases and no unfavorable decisions. There were then pending 46 criminal cases. Since December 31, 1936, of said 46 cases, the Government has secured 31 favorable decisions, 1 unfavorable decision, and has 14 criminal cases now pending.

Said report further shows that during said period there were instituted 26 civil cases directly or indirectly involving the Connally Act. The Government was successful in 24 of these cases, unsuccessful in 1, and has 1 pending, which the Government won in the United States district court, but is now on appeal in the United States Circuit Court of Appeals for the Fifth Circuit.

Thus it will be seen that out of a total of 248 cases in the courts the Government has been successful in 231, unsuccessful in 2, and has pending 15.

In addition to said court cases the Tyler office received 60 additional investigation reports from the administrative agencies. Of these, 40 reports have been disposed of and closed without court action, and now has pending 20 such reports.

That briefly is the story of the part played by the Department of Justice in the enforcement of the Connally Act.

Senator CONNALLY. Mr. Hill, I will ask you this general question: Has or has not the act been sustained in all the Federal courts where it has been tested?

Mr. HILL. It has been sustained in all of the courts in which it has been tested. It has been tested in the United States District Court for the Southern District of Texas, the United States District Court for the Eastern District of Texas, the United States District Court for the Western District of Louisiana, and has been upheld by the Circuit Court of Appeals for the Fifth Circuit in three cases. Those

are the three cases in which we have been successful. There was one more case that went to the circuit court of appeals which was decided on the peculiar facts involved in that case, in which the constitutionality of the Connally Act was not involved, that is the one civil case that the Government has lost. That case was decided on the peculiar facts in that particular case.

Senator CONNALLY. So far as the constitutionality of the act is concerned, it has been sustained in all—

Mr. HILL. It has been sustained; yes, sir.

Senator CONNALLY (continuing). Of the courts where it has been tested?

Mr. HILL. No one has seen fit to carry the cases that have been decided in favor of the Government to the Supreme Court as yet.

Senator CONNALLY. Is there any other matter you want to add, Mr. Hill?

Mr. HILL. I have nothing more to say, sir.

Senator CONNALLY. We thank you very much for your testimony. Did you want to go back on, Mr. Collett, for any reason?

Mr. COLLETT. No, sir; I did not.

Senator CONNALLY. Is there any other gentleman here who wants to be heard?

(No response.)

There is a Mr. Behr, of the Georgia Independent Oil Marketers Association listed here. I suppose he was represented by these other parties who were here?

Mr. WALTON. I understand he joined in the Virginia group brief.

Senator CONNALLY. And Mr. J. H. Ross, president of the Inland Water Petroleum Carriers Association, New York City, has not appeared.

Now, with the exception of Mr. Steele, of the Tender Board, who is unable to appear, we will close the hearings. I will leave them open in case he is able to appear within the next day, or two; otherwise they will be closed permanently, unless there is someone who wants to add something to what has already been said.

Before we adjourn, I submit for the record a statement by Mr. Fayette B. Dow, vice president and general counsel of Pennsylvania Grade Crude Oil Association, and a brief by Mr. Alvin A. Altheimer, chairman, board of governors, Oil Marketers Association of New York, Inc.

SUMMARY OF STATEMENT BY FAYETTE B. DOW, VICE PRESIDENT AND GENERAL COUNSEL OF PENNSYLVANIA GRADE CRUDE OIL ASSOCIATION, IN SUPPORT OF S. 790, WHICH, IF ENACTED, WOULD MAKE THE CONNALLY ACT PERMANENT

I have placed in the record a telegram signed by J. E. Moorhead, executive secretary of the Pennsylvania Grade Crude Oil Association, of which I am vice president and general counsel, urgently endorsing S. 790, designed to make the Connally Act permanent.

I was interested in the statement of Colonel Thompson that there are 68,000 producing wells in the State of Texas. There are about 80,000 wells producing oil in the State of Pennsylvania, and perhaps as many more in the area which produces the Pennsylvania grade of crude oil in New York State, West Virginia, and southeastern Ohio.

Taking the State of Pennsylvania as illustrative of this situation, the oil is produced in 19 counties of the State, and many of the wells have been producing continuously for more than half a century. Their average production is about sixty-five one hundredths of one barrel per well per day. Every one

knows that Pennsylvania crude makes the finest lubricating oils that are manufactured, and a continuation of this production is of great importance for many reasons.

In 1936, the State of Pennsylvania contributed more than 19,000,000 barrels in production to the supply of the United States and lubricating oils derived from this crude oil were sold in every State and in every county of every State. Much of the employment in the 19 producing counties is dependent upon a continuation of this production. The pay roll of production employees is approximately \$15,000,000 annually and in the producing regions there are a number of small refineries, operating on Pennsylvania crude exclusively, whose annual pay roll is not less than \$7,000,000. The number of men engaged in Pennsylvania in the drilling, production, and manufacture of Pennsylvania grade crude oil and its products exceeds 20,000.

These old oil fields were produced under conditions which would not prevail today in any State having a conservation statute designed to prevent waste of pressure in the natural reservoir. But all of these wells are now on the pump and with such a low average per well per day the production costs are larger than those in any other producing field.

It is manifest that neither the producers of Pennsylvania grade crude oil nor the refiners which manufacture products from that crude, can live in competition with crude oil illegally produced in certain States, or illegally produced products of such crude oil.

The Connally Act has been very beneficial in protecting the Pennsylvania producers and refiners from such unlawful competition.

Estimates vary as to the amount of crude oil still remaining in the old eastern fields from which Pennsylvania crude is produced. All of the informed estimates, however, agree that more than 50 percent still remains in the structures and some estimates run as high as 80 percent. In any event, there are many millions of barrels of this very valuable crude oil still available in the original deposits, and much of this oil can be and will be produced under the newer methods, such as water drive, gas pressure, and others.

The lubricating-oil content of a barrel of Pennsylvania grade crude oil ranges from 20 to 25 percent. All of the other products of the barrel are absolutely competitive with products made from cheaper crude oil produced in the Coastal States, in California, Venezuela, and other areas. Under these circumstances the producers and refiners of the Pennsylvania region have had an up-hill battle to retain their place in the keen competition that exists and the fact that they are continuing to produce this oil from areas thought only a few years ago to be virtually exhausted is true conservation of one of our most important natural resources. The Petroleum Administrative Board, during the code days, made a careful study of the cost of producing oil from these old wells. That cost study is a public document and is available to anyone. The unrestrained production of the east Texas field in 1933, with its "hot oil" and its "hot gasoline", forced serious losses upon the Pennsylvania industry and even under today's conditions many of the producing wells are not yielding the cost of production.

The Pennsylvania Grade Crude Oil Association takes the position that conservation to prevent waste is a function of the States. The members of the association have watched closely and with great appreciation the progress toward conservation which has been made in such States as Texas, Oklahoma, and others. The Federal Government's part in the matter, under the Connally Act, is merely to assist these States to enforce their own laws by making it unlawful for illegally produced crude oil or its products to cross State lines. Without such assistance, it has been proved that State conservation laws are greatly handicapped in their operation and at times may be made utterly futile. Therefore, it is the position of the Pennsylvania Grade Crude Oil Association, which represents the greater part of the production and refining of Pennsylvania grade crude oil, by far the largest part of which is produced and refined by small independent operators and refiners, that the Federal Government has been wise in assisting the States through the Connally Act and that it is in the interest of the whole public that the act now be made permanent.

BRIEF OF OIL MARKETERS' ASSOCIATION OF NEW YORK, INC., PRESENTED BY ALVIN A. ALTHEIMER

This brief to be considered part of the testimony submitted by the Oil Marketers' Association of New York, Inc., to the subcommittee of the Senate Finance Committee hearing on the subject of the Connally hot-oil bill (S. 790).

We oppose the reenactment of said bill for the following reasons:

(1) Through its impractical operation, the independent oil marketer has been driven to the verge of bankruptcy; and

(2) The consumer ultimately will be forced to pay unwarranted and unjustified higher prices for petroleum products.

To explain reason (1):

Sister regulations to the Connally Act exist in the form of the State Com-pacts Act, the Bureau of Mines monthly forecast bulletins, and the high tariff restrictions on petroleum products. These several links of the chain serve to rigidly control the supply of crude oil, and through it, the prices of its refined products. Through the operation of pool buying by the large major integrated oil companies, refined petroleum products are almost entirely taken off the spot wholesale market. A huge monopoly now exists through tolerance of, and by virtue of, the Connally Act. Price regulation is here; not price regulation by the Government, but by the large oil company combine.

The hundreds of independent oil marketers who perform the necessary function of bringing to the consumer refined petroleum products are compensated for their capital, labor, and service investment by a fair margin of profit between the price paid the refiner and that charged the dealer. The selling price to the dealer has always been rigidly fixed by the major oil companies. Now, through the operation of these several regulatory measures, the spot wholesale market price has been so artificially raised that insufficient spread remains for the unsubsidized independent oil marketer to exist. For example, take 65 plus octane gasoline. The spread between dealer's tank-wagon price and the spot market price in New York City for a 2-year period before the inception of the Connally Act was approximately 4.6 cents per gallon. Today the same spread is 1.75 cents, entirely too small for anyone to stay in business.

The unsubsidized independent oil marketer has lost his free and competitive market for the purchase of his petroleum products. He no longer can buy "right", and is thus squeezed out of the industry which he helped create and faithfully served. The above figures show that in New York City the gasoline marketer has suffered a 62-percent loss in gross profit because of market manipulations by said Government-sponsored monopoly, leaving him a margin on which he cannot possibly cover minimum marketing expenses.

And this is only one example of how the unsubsidized independent oil marketer is being surely ground to extermination by this gigantic monopoly.

To explain reason (2):

When this new huge oil monopoly has vanquished the independent oil marketer through bankruptcy, then with higher prices does the consumer pay.

We have members who have served the industry as marketers for more than 50 years, and to whom, until a few years ago, the major oil companies depended to serve the consuming public. Then the major oil companies entered the consuming field, and now these oil marketers, too, are vitally adversely affected by the present monopoly and now face ruin.

As a conservation measure the act is diametrically opposed by the present high tariff on petroleum products. A lower import tariff or, preferably, none at all would certainly be a surer way to conserve our own supply, and it would give a freer market in which the independent marketer could buy.

However, should the committee insist upon production control, then the committee must equally insist on marketing control. Embodied in the same bill must be clauses which will—

(1) Guarantee to the unsubsidized independent oil marketer a profit; or

(2) Complete divorcement of marketing from the rest of the industry, thus putting the marketing department of the major integrated oil companies on its own responsibility and giving the independent an equal opportunity in buying as well as in selling.

Respectfully submitted.

OIL MARKETERS ASSOCIATION OF NEW YORK, INC.,
ALVIN A. ALTHEIMER,
Chairman, Board of Governors.

Senator CONNALLY. We thank all of you gentlemen for your testimony and are very happy to have had you appear here in order that we might get the facts with regard to this proposition.

(Whereupon, at 3:30 p. m., the subcommittee hearing was adjourned.)