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# *The Petroleum Industry in Transition: Antitrust and the Decline of Monopoly Control in Oil*

JOSEPH A. PRATT

The discovery of vast oil fields in Texas after 1901 encouraged competition in an industry previously dominated by Standard Oil of New Jersey. The manner in which the state of Texas enforced its antitrust and corporation laws hastened the growth of several major new oil companies, most notably Gulf Oil and The Texas Company, by constraining the activities of Standard in the new fields. In so doing, these Texas laws shaped the transition from near monopoly to near oligopoly in the oil industry. Such beneficial results of state laws were, however, largely accidental, since weaknesses in the government's capacity to monitor changes in the burgeoning industry undermined its ability to define and implement systematic regulatory policies. Problems of adjustment that accompanied government's early efforts to regulate market structure in oil have continued to hamper subsequent efforts to regulate other aspects of the industry's operations.

**T**HE energy crisis of the 1970s has revived political interest in using antitrust to make the petroleum industry more competitive. Ongoing debates on this controversial issue have been notably lacking in historical perspective. Proponents of antitrust have largely ignored the historical record, which offers little encouragement for their crusade to restore "free" or even "freer" competition in the energy industries.<sup>1</sup> Defenders of the existing market structure in oil generally have treated oligopoly—that is, competition among numerous large firms—and vertical integration—that is, the organization in a single corporation of production, refining, transportation, and marketing—as natural, almost inevitable, products of the evolution of the petroleum industry. They argue that economics, not politics, have determined the structure of the industry, and that public policy aimed at changing existing arrangements would destroy a delicate balance that reflects fundamental economic realities underlying the operations of the industry.<sup>2</sup> When historians have entered the debate at all, they

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<sup>1</sup> For several strong proponents of antitrust, see John Blair, *The Control of Oil* (New York, 1976) and Norman Medvin, *The Energy Cartel* (Washington, D.C., 1976). For a history of antitrust in oil, including documents, see Burton Kaufman, *The Oil Cartel Case* (Westport, CT, 1978).

<sup>2</sup> For a collection of views on recent attempts at divestiture in the oil industry, see George Reigeluth and Douglas Thompson, eds., *Capitalism and Competition: Oil Industry Divestiture and the Public Interest* (Baltimore, 1976).

have generally supported this position, citing a well-developed body of historical literature that stresses the primacy of economic forces in defining the structure of the modern American petroleum industry. The events and processes described in this literature are, however, open to a different interpretation than that thus far offered by business historians. A reexamination of the emergence of oligopoly in oil places current debates about antitrust in the industry in a new historical perspective while suggesting the long-run impact of early efforts to enforce antitrust laws on the history of government-business relations in the petroleum industry.

#### HISTORICAL INTERPRETATIONS OF THE DECLINE OF STANDARD OIL

The modern market structure in the petroleum industry emerged in the first two decades of the twentieth century, as new competitors rose to challenge the monopoly position exercised by Standard Oil in the late nineteenth century. The symbol for this change both in the popular mind and in the historical literature has been the U. S. Supreme Court's dissolution of Standard Oil in 1911. The intense passions that accompanied the anti-trust cases against John D. Rockefeller and the "octopus" have remained to color historical accounts of this crusade, and much of the resulting literature reflects both the assumptions and the tone of the original dispute between the trustbusters and the defenders of Standard Oil.<sup>3</sup>

The reformers' view that the dissolution marked a turning point in the evolution of the modern oil industry market structure held sway until the 1950s before being challenged by the careful research of a new generation of "revisionist" business historians.<sup>4</sup> Foremost among their works were the excellent three-volume *History of Standard Oil Company (New Jersey)*, which drew extensively on the internal records of that company, and the two-volume *American Petroleum Industry*, which presented a detailed account of the first century of petroleum history from 1859 to 1959.<sup>5</sup> Along with several other major works that appeared at approximately the same time,<sup>6</sup> these histories argued convincingly that for several decades before

<sup>3</sup> For a detailed account of both federal and state antitrust cases against Standard Oil at the turn of the century, see Bruce Bringham, *Antitrust and the Oil Monopoly: The Standard Oil Cases, 1890-1911* (Westport, CT, 1979).

<sup>4</sup> Works that reflect reform views are discussed briefly in Harold Williamson and Ralph Andreano, "Competitive Structure of the American Petroleum Industry, 1890-1911: A Reappraisal," Staff of *Business History Review*, eds., *Oil's First Century* (Boston, 1960), pp. 71-84.

<sup>5</sup> The three volumes of the *History of Standard Oil Company (New Jersey)* are: Ralph Hidy and Muriel Hidy, *Pioneering in Big Business, 1882-1911* (New York, 1955); George Gibb and Evelyn Knowlton, *The Resurgent Years, 1911-1927* (New York, 1956); and Henrietta Larson, Evelyn Knowlton, and Charles Popple, *New Horizons, 1927-1950* (New York, 1971). See also Henrietta Larson and Kenneth Porter, *The History of Humble Oil and Refining Company* (New York, 1959). The citation for the two-volume history of the American petroleum industry is as follows: Harold Williamson and Arnold Daum, *The Age of Illumination, 1859-1899* (Evanston, IL, 1959) and Harold Williamson, Ralph Andreano, Arnold Daum, and Gilbert Klose, *The Age of Energy, 1899-1959* (Evanston, IL, 1963).

<sup>6</sup> In particular, see John McLean and Robert Haigh, *The Growth of Integrated Oil Companies* (Boston, 1954); Staff of the *Business History Review*, eds., *Oil's First Century*; and Arthur Johnson, "The Early Texas Oil Industry—Pipelines and the Birth of an Integrated Oil Industry, 1901-1911," *Journal of Southern History*, 32 (Nov. 1966), 516-28.

1911 “autonomous market forces” had begun to undermine Standard’s dominance in oil. Contrary to the “progressive” interpretation, political intervention did not abruptly make the existing market structure more competitive. Rather, the Supreme Court’s decision merely accelerated ongoing economic processes set in motion earlier by “the size, quality, and location of crude discoveries and the limited success in restricting market space in the new fields on the part of the Standard Oil Company.”<sup>7</sup>

Among the flush fields that hastened such changes, Spindletop—the first major oil deposit found in Texas—is accorded special importance. The discovery of oil at Spindletop in 1901 probably had a greater impact on the petroleum industry’s market structure than did the development of any other American oil field in the twentieth century. Gulf Oil and Texaco were born at Spindletop. It was there that Shell Trading and Transport Company first entered oil transporting in the United States on a large scale; its transportation investments later led it into other aspects of the industry. Sun Oil grew much stronger at Spindletop. The Magnolia Oil Company, absorbed by Standard of New York (now Mobil) in the 1920s, sprang from the new field. The men who later organized Humble Oil and Refining (now part of Exxon) got their start at Spindletop. The major new firms that grew out of the Gulf coast fields brought the first substantial alterations in the old order of near monopoly control by Standard Oil, and their subsequent growth, along with the expansion of several of the companies created by the dissolution of Standard in 1911, formed the core of the oligopolistic order that has since characterized the petroleum industry.<sup>8</sup>

The leading historians of the petroleum industry offer several slightly different explanations for Standard’s inability to control the early Texas oil fields. Henrietta Larson, who directed the research and writing of the Standard Oil history, cites a form of administrative fatigue, arguing that Standard lacked both sufficient managerial resources and adequate market outlets for Texas crude.<sup>9</sup> The authors of *The Age of Energy*, the second volume of *The American Petroleum Industry*, add that Standard “was much less active in the Gulf development than in other areas” because of “a hostile legal climate and more attractive opportunities elsewhere.”<sup>10</sup> In *Pioneering in Big Business*, the first volume in the *History of Standard Oil Company (New Jersey)*, Ralph and Muriel Hidy also mention the “un-

<sup>7</sup> Ralph Andreano, “The Emergence of New Competition in the American Petroleum Industry” (Ph.D. diss., Northwestern Univ., 1960). See also Harold Williamson, et al., *The Age of Energy*, p. 5.

<sup>8</sup> The size of the field, its location near the Gulf coast, and Texas laws prohibiting Standard’s open entry into Texas are cited as reasons for Spindletop’s importance. See Joseph Pratt, *The Growth of a Refining Region* (Greenwich, CT, 1980), pp. 33–60. See also Henrietta Larson and Kenneth Porter, *History of Humble Oil*, p. 13; Harold Williamson, et al., *The Age of Energy*, pp. 16 and 97. For a general account of the development of the Spindletop field, see James Clark and Michel Halbouty, *Spindletop* (New York, 1952).

<sup>9</sup> Henrietta Larson, “The Rise of Big Business in the Oil Industry,” in *Oil’s First Century*, pp. 38–40.

<sup>10</sup> Harold Williamson, et al., *The Age of Energy*, p. 76.

friendly” political environment before asserting that “more important than any other factor explaining Standard Oil’s relatively slight interest in Texas was the overwhelmingly greater attractiveness of activity in Mid-Continental petroleum.”<sup>11</sup> When discussing the Gulf coast fields, these accounts thus acknowledge that political constraints limited Standard’s participation, but they emphasize economic considerations in explaining the rise of new competition. More important, when they leave the subject of the Gulf coast fields and begin to generalize about the causes for the transformation of the national petroleum industry market structure, these influential works stress market forces to the near exclusion of public policy considerations.

Their overriding conclusion that antitrust laws essentially ratified changes previously initiated by economic forces has gained general acceptance. Its broad implications for historians of the American economy are most evident in the synthesis of the history of the modern corporation contained in the works of Alfred D. Chandler, Jr., who attributes a distinctly secondary role to antitrust in explaining the transition from monopoly to oligopoly.<sup>12</sup> Chandler argues that “markets and technology and not antitrust laws have determined why the automobile, rubber and oil industries have always been concentrated and that the furniture, apparel, and leather industries have almost never been. . . . Clearly the passing of laws will not readjust the fundamental structure of a modern industrial economy.”<sup>13</sup> This lesson from the past is supported by the best historical accounts of the development of the modern petroleum industry.

A reexamination of events in the industry in the first decades of the twentieth century suggests, however, that existing research generally underestimates the impact of legal and political factors in explaining the rise of oligopoly in oil. One reason for the relative neglect of antitrust is simply a matter of focus. The earliest and most far-reaching impact of antitrust was felt at the state, not the national, level. The dissolution of Standard in 1911 did indeed ratify an ongoing economic process that had previously generated new competition, but this process had been shaped in crucial ways by the enforcement of state antitrust laws before 1911. Events in Texas were of special importance in these years, and the manner in which that state enforced its corporation laws encouraged the transition from near monopoly in oil in 1900 to near oligopoly by 1911. The

<sup>11</sup> Ralph and Muriel Hidy, *Pioneering in Big Business*, p. 394. At this point, it is essential to acknowledge the debt that any student of the history of the oil industry owes to the last generation of petroleum scholars. Their excellent research prepared the way for subsequent work by scholars with different perspectives.

<sup>12</sup> For Chandler’s treatment of antitrust, see Alfred D. Chandler, Jr., *Strategy and Structure* (Cambridge, MA, 1962), pp. 383–86. Also, Alfred D. Chandler, Jr., *The Visible Hand: The Managerial Revolution in American Business* (Cambridge, MA, 1977), pp. 350–53, 373–76.

<sup>13</sup> Reigeluth and Thompson, eds., *Capitalism and Competition*, pp. 8–9. Chandler’s quotation is from a paper delivered as a historical introduction to a symposium on the feasibility of antitrust as a public policy toward the oil industry in the late 1970s.

“autonomous” market forces at work in the industry before the Supreme Court’s decision had been unleashed, or at the very least channeled into numerous new firms, by the efforts of Texas and other states to challenge the monopoly power of Standard Oil.

The relative importance of economic versus political forces in determining the modern market structure in oil is less interesting and less useful in understanding the past or the present than is the question of how the two interacted. Antitrust was the focal point of the initial confrontation between the state and national governments and the young Gulf coast companies that emerged as new competitors to Standard Oil. A closer look at the early efforts to enforce antitrust laws supplements the existing histories of the oil industry while directing attention to political variables that have become increasingly important over the course of the twentieth century.

#### POLITICAL CONSTRAINTS FACING STANDARD IN TEXAS

A very hostile political environment blocked Standard’s open and aggressive entry into the newly discovered Texas oil fields. Legal obstacles to its operations and strong public suspicion of its motives and methods made Standard the focus of much political attention. Such constraints did not completely prevent Standard from entering the field, but they did limit the extent to which “the Trust” could attempt to control this major new source of oil.

Under the antitrust law in effect in Texas at the time of the Spindletop discovery, Standard could not operate legally in that state. Passed in 1889, one year before the Congress of the United States passed the Sherman Antitrust Act, this strict law prohibited combinations in restraint of trade and blocked one company from owning stock in another. Its passage had been pressed by farmers and ranchers who sought to regulate the companies that controlled the price of cotton bagging, beef, and other similar products, but it applied equally to the oil industry.<sup>14</sup> The general corporation laws of the state reinforced this strong antitrust law by limiting each business chartered in the state to one particular corporate purpose. Strictly interpreted, these laws forbade vertically integrated operations within one oil company, and Standard had built its monopoly by coordi-

<sup>14</sup> For general background on the passage of the Texas antitrust law of 1889, see Alwyn Barr, *Reconstruction to Reform: Texas Politics, 1876–1906* (Austin, 1971), p. 108. For a description of efforts to enforce the antitrust law as it applied to the Texas oil industry, see Bringhurst, *Antitrust and the Oil Monopoly*, pp. 40–68. See also, John O. King, *Joseph S. Cullinan: A Study in Leadership in the Texas Petroleum Industry, 1897–1937* (Nashville, 1970), pp. 112–45; Jewel Lightfoot, *Anti-Trust Laws of Texas* (Austin, 1907); H.R. Seager and Charles Gulick, Jr., *Trust and Corporation Problems* (New York, 1929); Tom Finty, Jr., *Anti-Trust Legislation in Texas: An Historical and Analytical Review of the Enactment and Administration of the Various Laws Upon the Subject* (Dallas, 1916); and John Allison, “Survey of the Texas Antitrust Laws,” *Antitrust Bulletin*, 20 (Summer 1975), 215–308.

nating production, refining, transportation, and marketing in a single organization.<sup>15</sup>

The actual enforcement of the law was more important than its wording, and enforcement was strict, if uneven, in the first decades after the law's passage. A special target of the state was the Waters-Pierce Oil Company, a Standard Oil marketing affiliate active in much of the Southwest. Waters-Pierce first came under attack in Texas in 1899, when the state revoked its charter because of its ties to Standard Oil. In the next decade the Waters-Pierce case remained at the center of a heated controversy that dominated Texas politics as charges and countercharges of wrongdoing in the original case flew back and forth between Senator Joseph Bailey and his political opponents.<sup>16</sup> The Bailey controversy kept the issue of antitrust violations attributed to Standard Oil and its affiliates in the press and on the campaign stump throughout the early history of the Texas oil industry. By couching much of the debate over antitrust in the oil industry in highly personal terms, the Bailey controversy encouraged public officials to make choices on antitrust policy based on personalities, not on changing economic circumstances in the industry.

In the twenty years after Spindletop, Standard remained the object of public scrutiny and the focus of the antitrust activities of the Texas attorney general. Standard's vertically integrated operations meant that it was, by definition, in restraint of trade, and any Texas company with close ties to it faced suspicion and legal harassment from the state. After an even stricter antitrust law in 1907 replaced the 1889 law, for example, Waters-Pierce and other Standard affiliates were prosecuted for the second time in a decade. Such legal actions in Texas were strengthened by similar court cases in neighboring states and by a national investigation by the Bureau of Corporations in 1905 and 1906 of Standard's involvement in all aspects of the industry.<sup>17</sup>

The legal and political objections to Standard arose in Texas at least as much from the company's national image as from its actual behavior in the state. Before 1901, Standard's business in Texas was almost entirely in marketing. Even after the Spindletop discovery it did not openly and ag-

<sup>15</sup> On the eve of the Spindletop discovery, Standard Oil dominated all phases of the oil industry in the United States. In 1899 Standard still controlled about 85 percent of crude supplies, 80 percent of refining capacity, 85 percent of the market for kerosene—the most important refined product of that time—and most of the pipeline and tanker capacity in the nation. See Harold Williamson, et al., *The Age of Energy*, p. 7.

<sup>16</sup> For contemporary accounts of the controversy, see William A. Cocke, *The Bailey Controversy in Texas*, 2 vols. (San Antonio, 1908) and W.L. Crawford, *Crawford on Baileyism* (Dallas, 1907). For historical accounts, see Sam Acheson, *Joe Bailey, The Last Democrat* (New York, 1932); Bob Holcomb, "Senator Joe Bailey, Two Decades of Controversy" (Ph.D. diss., Texas Technological College, 1968); and Bringhurst, *Antitrust and the Oil Monopoly*, pp. 40–68.

<sup>17</sup> A summary of this investigation was published as U.S. Bureau of Corporations, *Report of the Commissioner of Corporations on the Petroleum Industry*, 2 vols. (Washington, D.C., 1907). The records of the investigation are in Record Group 122, Records of the Bureau of Corporations, National Archives, Washington, D.C.

gressively enter Texas and attempt to drive out competition. If Standard's actions were restrained, however, its image was more than potent enough to attract political attention. Populist sentiment had run high in Texas, and a major concern was the power of the trust, especially that of Standard Oil, one of the oldest, most powerful, and most visible of the industrial combinations. Its large size and widespread reputation for secretiveness and ruthlessness made Standard a popular symbol of the evils of concentration. Therefore, it was not surprising that after the discovery of the vast new supplies of oil in Texas many citizens—taking a cue from politicians and newspapers—became obsessed with protecting the new-found wealth of Texas from the Trust.

The rhetoric used by the attorney general of Texas in explaining the 1907 antitrust law reflected the passion of the opposition to Standard. In describing "the most drastic antitrust law enacted by any state," he vowed to use it to "drive every trust and unlawful combination out of Texas," since their "well known purpose was to appropriate the territory of Texas for their greed and exploitation."<sup>18</sup> Such harsh words reflected both the conviction of the speaker and the political benefits to be gained from attacking Standard Oil.

Area newspapers reinforced this passionate opposition to Standard by printing exaggerated accounts of its involvement in the booming Gulf coast fields. Many articles were little more than unsubstantiated rumors, but repetition gave them at least the appearance of fact. Perhaps the depths of such sensationalism came in 1903 when a Fort Worth paper printed a story that was subsequently reprinted in eastern newspapers. In what the *Oil Investors' Journal* referred to with admirable candor as a "jack-assy story," these papers printed as fact an incredible account of an alleged Standard Oil project to build, under cover of darkness, a pipeline from the Gulf of Mexico to the Spindletop field. The reported purpose of this secret project was to pump salt water from the Gulf of Mexico into the field, thereby stopping production by Standard's competitors.<sup>19</sup> Similar though less extreme reports of devious maneuvers by Standard appeared almost daily, as local papers vied with each other to uncover its secret efforts to "take over the field."<sup>20</sup> At one time or another, a printed report linked every major company active in the field to the Trust, and executives of these companies felt sufficiently threatened by popular sentiment to make repeated public avowals of their independence.<sup>21</sup> Under-

<sup>18</sup> Lightfoot, *Anti-Trust Laws of Texas*, p. 51.

<sup>19</sup> *Oil Investors' Journal* (September 15, 1903), 4. See also undated newspaper clipping, file marked "1902-The Texas Co. (Ancient History, Clippings, etc.)," Box 14, Papers of James Lockhart Autry, Rice University, Houston, Texas.

<sup>20</sup> See, for example, *Oil Investors' Journal* (December 15, 1902), 10; *ibid.* (November 1, 1904), 6; *ibid.* (May 18, 1905) 6-8; *Port Arthur Herald* (May 4, 1901), 1; and *Beaumont Enterprise* (January 17, 1901), 1.

<sup>21</sup> *Oil Investors' Journal* (January 15, 1903), 3. For Texaco's statement and a response, see Arnold Schlaet to Joseph Cullinan, letter dated March 6, 1903, vol. 2, *Texas Company Archives*, in the Texas Company Archives, White Plains, New York.



mining the effectiveness of the companies' rejoinders was the publicity given to Ida Tarbell's series of articles in *McClure's*, which outlined Standard's past ruthlessness, and to the widely publicized report of the Bureau of Corporation's damning investigation of Standard in 1906.<sup>22</sup>

Such condemnations of the Trust were, however, at least partially offset by the recognition that Standard's participation could hasten the rapid development of the Texas oil industry. Often side by side with accusations of wrongdoing by the company ran stories that pointed out important economic benefits to be gained from its involvement in the field. The *Oil Investors' Journal*, which was perhaps less biased against Standard than any other local paper, captured this sentiment while discussing Standard's financial backing of the largest refinery in Beaumont, Texas, the town nearest Spindletop. After noting that the plant was "an immense undertaking and is ample evidence of Standard's presence in the Southern fields," the *Journal* concluded that "it does not, however, cause any jealousy in the public mind; on the contrary, it lends an element of permanency and stability to the situation which is not unpleasant."<sup>23</sup> Earlier, a group of small producers had even sent a telegram to Standard asking if it planned to serve as a common carrier for all the production of the field.<sup>24</sup> In response, a delegation of "Standard visitors" came to Beaumont to inspect the field. On their departure, they proclaimed that their company "would willingly enter" the field except that the Texas antitrust laws were "in the way."<sup>25</sup> One local paper that carried regular attacks on Standard aptly expressed the existing ambivalence toward the Trust by answering that Beaumont was "the one place on earth where Standard is to be devoutly wished."<sup>26</sup> Recognizing and even fearing the company's power, many of those involved in the development of the Gulf coast fields nonetheless saw the advantages to be gained from the entry of the highly organized, much experienced company, with its access to markets, transportation, and technical expertise.

#### STANDARD'S ROLE IN THE EARLY TEXAS OIL INDUSTRY

As a result of such ambivalence, Standard's arrival in Texas was accepted in the way an older, nonbelieving child greets the arrival of Santa Claus: winking at Standard's disguise, many in the region gladly accepted the economic gifts that it brought. Despite strict antitrust laws and strong political rhetoric, Standard was allowed to operate in all phases of the industry. Its involvement was a well-known secret, and, within the limits set

<sup>22</sup> For the comments of local papers on Ida Tarbell's articles see, for example, *Oil Investors' Journal* (December 15, 1902), 5.

<sup>23</sup> *Oil Investors' Journal* (January 1, 1903), 3. This journal is the forerunner of the *Oil and Gas Journal*, and it established a widespread reputation for accuracy from its earliest issues.

<sup>24</sup> *Beaumont Daily Enterprise* (April 4, 1901), 1.

<sup>25</sup> *Beaumont Daily Enterprise* (April 12, 1901), 2; (April 13, 1901), 1.

<sup>26</sup> *Port Arthur Herald* (May 4, 1901), 1.

for it by the threat of antitrust, the company played a major role in the development of the youthful Texas oil industry.<sup>27</sup>

Standard entered the field as aggressively as the potentially hazardous political environment allowed. This meant widespread participation in production, transportation, and refining. To make its activities less conspicuous and therefore less open to political attack, it made use of thinly disguised subsidiaries and of other, less formal arrangements with independent companies.

Both the importance of Standard's early role and the constraints imposed by the political environment were evident in its operation of a large refinery during the first decade of the development of Gulf coast oil fields. In 1902 a mysterious stranger, one George Burt, got off a train in Beaumont, bought a large tract of land near Spindletop, constructed a high fence around the land, and built one of the largest and best equipped refineries in the state. Burt's plant, later acquired by the Security Oil Company, was paid for by people connected with Standard Oil, operated by former Standard employees, and sold its products almost exclusively to Standard. Security owned no producing wells. It simply bought oil from others, processed it, and shipped it by railroad tank car and tanker to Standard and its subsidiaries. For all practical purposes, Security was itself a Standard subsidiary. Most of those involved in the region's oil business understood and tolerated this arrangement. Standard was one of the few organizations with access to the capital, the expertise, and the markets needed to build and operate a refinery large enough to purchase substantial quantities of oil from the expanding area fields. As a result, those concerned with the rapid development of these fields and of the city of Beaumont ignored Security's ties to the "octopus." Recognizing that the company "was a potent force in the prosperity of South East Texas,"<sup>28</sup> they were not eager to cut off the tentacle that was feeding them.

Although Security did not own producing properties, it developed a series of very close ties with a number of large producers. Strong evidence suggests that Standard gained control over the Higgins Oil Company (a large producer in the early years after Spindletop) and perhaps also secretly directed the activities of several other regional producing companies.<sup>29</sup> Actual ownership of a majority of stock in a company was not, however, required for Standard to exercise great influence over its development. As the largest available market for crude, Standard's decisions

<sup>27</sup> Throughout the early years after Spindletop, it appears that almost everyone connected with the Texas oil industry knew of Standard's role. In fact, most seemed to assume that Standard's involvement went beyond control of Security to include a measure of control over other major companies active in Texas.

<sup>28</sup> *Oil Investors' Journal* (November 19, 1907), 12.

<sup>29</sup> Support for this conclusion comes from *Oil Investors' Journal* (December 15, 1902), 10; (May 15, 1903), 12. For interviews with the managers of many of the small companies at Spindletop, see Bureau of Corporation's Petroleum Investigation, Record Group 122, National Archives, Washington, D.C.

determine the fate of many producers in the first years after Spindletop. A Bureau of Corporation's study in 1906 showed that in the five years after the opening of the coastal fields, Standard was the major purchaser of Gulf coast crude. Almost half of all tanker shipments from the new fields in the period between January 1904 and June 1905 went to Standard. Excluding the shipments of Gulf Oil, which by then had begun to develop its own tanker system and marketing network, Standard bought more than two thirds of the oil shipped by tanker from the rest of the companies on the Gulf coast.<sup>30</sup> This was not the action of a company that lacked markets for Texas crude. Indeed, as the primary East coast purchaser of Gulf coast crude, Standard exercised a large measure of control over the pace of the development of the early Texas oil industry.

Despite antitrust laws that banned its open entry, Standard thus had a substantial interest in all phases of the early Texas oil industry. The company's widespread involvement in the Gulf coast fields suggests that it recognized the potential importance of that area as a producing and refining center. State laws, which posed a constant threat to Standard, were at least as important as the "overwhelmingly greater attractiveness" of other fields in limiting the company's participation in the Texas fields. Indeed, without such politically imposed constraints on its economic decisions, the company would have played an even greater—and probably controlling—role.

Such a strong statement is supported by an examination of the impact of political forces on the growth of the Security Oil Company. Although this Standard affiliate had been allowed to operate in the early years after Spindletop, its sustained growth finally brought a response from the Texas attorney general's office. In 1906 Security planned to expand its refinery and to build a costly pipeline from the Mid-Continent fields in Oklahoma to Beaumont, but antitrust action against the company blocked its proposed expansion. In response to the increasingly hostile political environment in Texas, Standard transferred many of its key employees and all of its projected investment dollars to the more favorable political climate of Louisiana, selecting Baton Rouge as the site for a new refinery that subsequently grew into one of the largest refineries in the world.<sup>31</sup>

After finding Security Oil Company in violation of the antitrust law in 1909, the state of Texas forced the sale of its properties. The history of the Beaumont plant in the next two decades reveals much about the working of the political system, and further suggests its impact on the growth of this important regional company. Before John Sealey, a Galveston capitalist, purchased Security's refinery out of receivership, he disclosed to the

<sup>30</sup> File 3386, "Texas Shipments of Domestic Petroleum by Vessels," Bureau of Corporation's Petroleum Investigation, Record Group 122, National Archives, Washington, D.C.

<sup>31</sup> *Oil Investors' Journal* (February 6, 1909), 59; (April 20, 1909), 1 and 24. See also, Mobil Oil Company Publications Staff, "History of the Refining Department of the Magnolia Petroleum Company" (Beaumont, TX, n.d.). A copy is filed in the library of the Mobil refinery at Beaumont.

attorney general that most of his financial backing came from the same Standard of New York interests that had originally built the plant. Despite this, the sale was approved and the company, now renamed the Magnolia Petroleum Company, reopened. Several years later, however, a different attorney general discovered the arrangement and brought another suit that resulted in the loss of the ability of the Standard investors to vote their stock. In response, Magnolia asked for an opinion by the Federal Trade Commission on the legality of an outright sale of the plant to Standard of New York. Even in 1917, six years after the dissolution of Standard, the FTC replied unfavorably to such a proposal. Finally, in 1925 the formal, legal purchase of Magnolia by Standard of New York took place. Thus, for twenty-four years the growth of this "secret" Standard affiliate was shaped by the political system's periodical assaults on its Standard connections.<sup>32</sup> In the process of harassing the various owners of this company, state officials groped down a path that ultimately increased competition in the oil industry by encouraging both Standard Oil of New Jersey (Exxon) and Standard Oil of New York (Mobil) to build large Gulf coast refineries that supplied many of the same markets.

Prevented by law from taking control of the Texas oil industry through the aggressive expansion of a directly owned subsidiary, Standard sought indirect control over its development. In light of existing political constraints, its strategy was logical and fairly successful. While profiting from the handling of large quantities of Gulf coast crude, Standard attempted to check the growth there of any company capable of breaking out of the regional market and posing a challenge to its near monopoly position in the national oil industry.

The first president of Texaco, Joseph S. Cullinan, correctly summarized this strategy:

... while 26 [Standard] wants the goods, they are running a kind of incubator, fostering local competition, which will in turn assure their getting the supplies wanted at a very nominal margin as between cost of production and delivery to them, and this is a feature that we should aim to correct, if we undertake to expand and handle the business on broader lines.<sup>33</sup>

When Gulf Oil sought to expand to "broader lines" by entering into competition with Standard for eastern markets, Standard demonstrated the accuracy of Cullinan's appraisal by providing information to Texaco that allowed it to undercut Gulf in bidding for regional business.<sup>34</sup> Such a

<sup>32</sup> Information on these events comes from several sources. See, for example, *Oil Investors' Journal* (November 19, 1907), 12. For a somewhat confused account of Magnolia's problems with the Texas antitrust laws in this period, see Charles Wallace, *Nine Lives: The Story of the Magnolia Companies and the Anti-Trust Laws* (Dallas, 1953). See also, File 1-1434-3, Federal Trade Commission's Oklahoma Oil Investigation, Record Group 122, National Archives, Washington, D.C.

<sup>33</sup> Joseph Cullinan to Arnold Schlaet, letter dated May 5, 1904, vol. 30, *Texas Company Archives*, Texas Company Archives, White Plains, NY.

<sup>34</sup> Arnold Schlaet to Joseph Cullinan, letter dated September 26, 1904, vol. 34, *Texas Company Archives*, Texas Company Archives, White Plains, NY.

strategy encouraged the growth of numerous competing companies, all incapable of challenging Standard's dominance in the national petroleum industry. A reasonable assessment of political realities, not "administrative fatigue," underlay this choice of strategy. Recognizing that its traditional market position would inevitably be eroded, Standard nevertheless attempted to adjust by shaping a new market structure in which it would occupy the position of a giant among pygmies.

As indicated by the Cullinan statement, the pygmies were by no means content with their status. In trying to grow large enough to assert their independence from Standard, Gulf Oil and Texaco each saw the necessity of building a vertically integrated company patterned after Standard. To operate outside of the incubator, these companies had to become "mini-trusts" with sufficient production, transportation, refining, and marketing capacities to withstand the economic retaliation that would inevitably accompany a direct challenge to Standard. In the transitional decade after Spindletop, the symbol of the old order in petroleum thus provided an organizational model—vertical integration—for those companies that were building the new order. Standard's potential ability to crush its much smaller competitors also provided powerful incentives for the new companies to adopt this structure as rapidly as possible.<sup>35</sup>

In addition to furnishing a model for organization, Standard also furnished many of the people who filled these organizations. Texaco was especially fortunate in acquiring talented executives and technical experts who had gained experience while working for Standard subsidiaries in the eastern oil fields. Joseph Cullinan, perhaps the single most able and influential oil man in the formative years of the Texas industry, had learned the business while working in various Standard affiliates, as had Texaco's first chemist, its early marketing expert in New York, and the heads of its pipeline and refinery. Gulf's first manager and the head of its first refinery shared this background. Security, the "secret" subsidiary, was of course staffed with employees from other Standard operations.<sup>36</sup> Not all men with the skills needed to be good managers, drillers, or refiners had acquired their knowledge as employees of the Trust. What was important was practical experience, and in the last thirty years of the nineteenth century, most of those who had worked in the oil industry had worked for Standard. Such men were sometimes looked upon with suspicion as

<sup>35</sup> For an excellent account of this process, see McLean and Haigh, *The Growth of Integrated Oil Companies*. For a slightly different interpretation of the move toward vertical integration in oil, see Melvin G. de Chazeau and Alfred Kahn, *Integration and Competition in the Petroleum Industry* (New Haven, CT, 1959), pp. 75-118.

<sup>36</sup> The best source of biographical information on Texaco employees is a bound volume of biographical sketches filed in the Texas Company Archives in White Plains, New York. For Gulf Oil, see W.L. Mellon, *Judge Mellon's Sons* (Pittsburgh, 1948), pp. 161 and 275. For a thorough account of Cullinan's role, see King, *Joseph S. Cullinan*. For information on Security's early employees, see Mobil Oil Publications Staff, "History of the Refining Department of the Magnolia Petroleum Company."

agents of their former employer with secret missions to deliver the field to Standard. Despite such generally understandable but unfounded worries, these men were still eagerly sought after in a booming field with scarce managerial and technical skills. As the training school for those who developed the southwestern oil fields, Standard provided a service essential for orderly growth.

The much-maligned Trust thus filled several practical and essential roles in the emerging Texas oil industry. In addition, it filled a symbolic role that was perhaps even more important to the survival and growth of Gulf Oil and Texaco. As the focus of public and political attention, Standard protected the growing Gulf coast companies from political forces that might have blocked their expansion. From their inception, these new oil companies were larger than most corporations previously chartered in Texas, but because they were perceived as smaller, "Texas" alternatives to the giant "foreign" Standard Oil Trust, they enjoyed a great deal of political leeway in their operations. In particular, they quickly became in fact, if not in strict legal terms, vertically integrated oil companies, despite Texas laws that forbade this form of organization.<sup>37</sup> These growing companies therefore had the best of both worlds. They could grow into vertically integrated minitrusts in an oil-rich area from which their prime competitor—and their model of organization—was legally banned from open entry. Yet they could also benefit from the limited participation of Standard in the field since the legal strictures against its activities were only loosely enforced.

#### THE EVOLUTION OF COMPETING FIRMS

By expanding the economic space available to the growing Gulf coast oil companies, political constraints on Standard shaped the rise of important new competitors to the former monopolist. This is not to say that public officials in Texas consciously or systematically implemented this policy for economically and politically sound reasons. Rather, they reacted to popular opinion by attempting to use existing antitrust laws to banish the evil octopus from the state. Because they lacked sufficient authority, information, or popular support to root out all violations of the law, however, these officials only partially banished Standard, leaving several other vertically integrated companies largely untouched. So, as much by accident as by design, Texas officials allowed Standard to encourage the growth of its emerging competition but prevented it from absorbing these new companies. In so doing, the state political system defined the boundaries within which market forces shaped the rise of new competition.

<sup>37</sup> Texaco and Gulf Oil avoided potential legal problems by never formally absorbing the producing companies that supplied their crude oil. Instead, individual stockholders in the two large companies bought substantial blocks of stock in these smaller "independent" producing concerns.

Gulf Oil was the earliest major competitor to Standard to emerge from the Spindletop field. It entered the field with larger resources than any other firm, and the continued financial backing of its Mellon interests put it in the best position of all Gulf coast companies to challenge Standard. It was plagued, however, by administrative problems. When the Mellons had previously faced such a situation in the eastern oil field in 1895, they had elected to sell out. In Texas, as earlier in the East, Standard was the only logical buyer for the substantial properties of Gulf Oil. But whereas only seven years before Standard had eagerly absorbed the smaller, Mellon-run oil company, it refused to consider the offer to buy Gulf Oil in 1902. The proposed purchase would have altered greatly the development of the early Texas oil industry, since Gulf was by far the largest and most rapidly growing company there. Indeed, Standard's acquisition of Gulf Oil would have gone a long way toward giving it effective control of the field. Standard's reason for refusing such an attractive opportunity to strengthen its dominance in oil was simple: it did not want to risk more money in the hostile political environment of Texas.<sup>38</sup>

To protect its substantial investment, Gulf Oil then turned to a policy of aggressive expansion, filling out a vertically integrated structure as rapidly and thoroughly as possible. Once spurned by Standard, Gulf recognized the necessity of competing independently with its much larger rival. The most obvious answer, a merger with Texaco, was seriously considered. The combination of Gulf's resources and Texaco's superior managerial talent would have created a major new force in the regional and national oil industry. After extensive negotiations, the companies seemed very close to merger in 1905, but several difficult problems could not be resolved. The first was the exact exchange value of each company; equally bothersome were the legal implications of a merger. The two companies spent considerable time and effort in lobbying the Texas legislature for a new law to make such a combination possible. They were unsuccessful, in part because their efforts were perceived by some opponents as a Standard Oil-backed ploy to take control of the field.<sup>39</sup> Without such a legal change, both companies recognized that the state government was unlikely to allow their merger. Officials previously had looked the other way as these two growing companies operated in ways that were, strictly speaking, against the law; after all, the growth of such Texas companies would weaken Standard's dominance in oil. The possibility of a merger of these two potential giants raised considerable political opposition, however, especially in light of a widely held fear that one or both were secretly controlled by Standard.

Aside from blocking its proposed merger with Gulf Oil, suspicions of

<sup>38</sup> Mellon, *Judge Mellon's Sons*, pp. 269-70.

<sup>39</sup> For material on this proposed merger, see John O. King, *Joseph S. Cullinan*, pp. 159-83. See also, Joseph Cullinan to J. W. Gates, letter dated March 8, 1905, Drawer 1-A, Papers of Joseph Stephen Cullinan, Metropolitan Research Center, Houston Public Library, Houston, Texas.

Texaco's links to Standard did not prove particularly harmful to its growth. Perhaps more than any other company, Texaco benefited from the political constraints on Standard. In its formative years, Texaco did not possess the financial resources to expand as aggressively and quickly as did Gulf Oil. To develop more gradually into a major, vertically integrated oil company, Texaco remained in the incubator provided by Standard longer than had Gulf.

One price of this period of heavy dependence on Standard was considerable political harassment. Several Texas attorneys general as well as the investigator for the Bureau of Corporations speculated that Texaco was controlled by Standard. On another occasion, Texaco was forced to defend itself publicly against similar accusations leveled by the perennially embattled Senator Joseph Bailey. Local newspapers, of course, printed these "revelations" and others, fueling the belief that Texaco was a secret subsidiary of Standard Oil.<sup>40</sup>

In retrospect, it is clear that Texaco was not an affiliate of Standard. An examination of the close cooperation between Texaco and Standard in this period, however, helps to explain why the younger company faced such frequent accusations of domination by Standard. Texaco's first president, Joseph S. Cullinan, had only recently left the employment of a Standard affiliate, and most of his closest officers and technical help had similar backgrounds. These men also sold much of the oil they produced to their former employer. Indeed, Texaco's contract to sell Standard more than \$1 million worth of oil (1.225 million barrels) over a seven-month period in 1903 provided a substantial portion of the large, secure market required for growth during its earliest years.<sup>41</sup> In refining, as in production, Standard furnished much of the market necessary for Texaco's early expansion. While planning its first major refinery, Texaco sought the advice of Standard and promised to offer the finished products to Standard before looking for other markets. After its Port Arthur works began operations, Texaco sent samples of its first refined products to Standard, which voiced its disappointment over the quality of the samples. In response, Texaco's marketing agent in New York—who had become "chummy" with his counterpart at Standard through his "frequent visits"—asked for a written criticism of the product.<sup>42</sup> Although Texaco remained in independent hands, it directed many of its activities toward filling a portion of the needs of Standard. Due to that company's continued domination in transportation and marketing, almost all of Texaco's early water shipments went from the Gulf coast to the East coast in Standard-owned tank-

<sup>40</sup> King, *Joseph S. Cullinan*, pp. 124–25.

<sup>41</sup> Fisher to Joseph Cullinan, letter dated April 18, 1903, Drawer A-2, Cullinan Papers.

<sup>42</sup> Arnold Schlaet to Joseph Cullinan, letter dated January 20, 1904, vol. 23, *Texas Company Archives*; Schlaet to Cullinan, letter dated September 29, 1903, vol. 19, *Texas Company Archives*; Schlaet to Cullinan, letter dated December 24, 1903, vol. 21, *Texas Company Archives*; Schlaet to Cullinan, letter dated September 26, 1904, vol. 35, *Texas Company Archives*. All of the above volumes are located in the Texas Company Archives, White Plains, NY.



ers. When Texaco decided to obtain its own tankers, it purchased part of the original fleet from Standard. Texaco thus drew very heavily on the expertise, the transportation network, and the established markets of its much larger competitor, and its access to the facilities and talents of a company that was, in theory, excluded from Texas shaped its early development.

Partly because of these close ties, Texaco recognized the necessity of creating a more favorable legal environment. In 1903 Texaco withstood strong local sentiment by "Texas" companies in support of a law establishing stricter controls on Standard's activities in the state. Texaco's spokesman argued that the proposed law was "an extremely dangerous precedent" and represented "a very low order of legislative sentiment" that should be "frowned upon." He added that:

If, at this time, legislation can be influenced and controlled upon a popular prejudice against the Standard Oil Company . . . would it not be true that at the next and succeeding legislatures it would be expected that bills would be introduced with reference to their application to other corporations individually singled out where popular prejudice can be aroused?<sup>43</sup>

In the first decade of existence, Texaco devoted considerable effort to opposing such sentiment and to lobbying for new laws to legalize vertically integrated operations within a single company.

Texaco did not prove immediately successful in its efforts to alter a hostile and potentially dangerous political environment. Several "Texaco bills" aimed at easing existing legal restraints against vertical integration failed in the Texas legislature, at least partially as a result of the success of small producers in using the fear of Standard to mobilize political support for their opposition to such changes. So strong was this sentiment that Texaco did not succeed in getting a new law passed that enabled oil companies to incorporate along broader lines until 1917.<sup>44</sup>

One other major participant on the Gulf coast, Shell Transport and Trading Company, was not initially in violation of the pre-1917 law that prevented one company from operating in all branches of the oil industry. At the turn of the century, Shell was primarily a transport company. It played a substantial role at Spindletop by providing tanker transport outside of Standard's control. Gulf Oil and Shell had especially close ties, and Gulf's access to European markets supplied by Shell accelerated its early development. There is evidence, however, that the political sentiment against Standard affected even Shell's early growth. In 1901, Shell's primary owner, Marcus Samuel, reportedly gave serious consideration to an attractive offer to sell out to Standard. The major stumbling block to the deal was Standard's fear of the political repercussions in the United

<sup>43</sup> Memo dated March 2, 1903, Drawer A-1, Cullinan Papers.

<sup>44</sup> Newspaper clippings, vol. 49, *Texas Company Archives*, p. 82. See, also, King, *Joseph S. Cullinan*, p. 123.

States from the proposed acquisition. To avoid a possible public outcry, Standard insisted that the transfer of ownership remain secret so that Shell could retain the appearance of independence. Samuel felt uncomfortable with such an arrangement, and for this and other reasons, the purchase fell through. In this case, as with Standard's dealings with Texaco and Gulf Oil, political considerations limited economic choices.<sup>45</sup>

The historian ventures onto uncertain ground when he begins to focus on what might have been, not on what actually occurred. A bit of speculation is useful, however, in understanding the far-reaching implications of some of the decisions affected by political constraints during this formative period for the oil industry's modern market structure. Had Shell agreed to Standard's offer, it is highly unlikely that it would later have merged with the Royal Dutch Company. Also, it would not have grown into a major vertically integrated company capable of competing with Standard. Similarly, the acquisition of Gulf Oil by Standard in 1902 could well have forestalled the emergence of any strong Gulf coast competitors to Standard. Finally, the merger of Gulf Oil and Texaco would have hastened the rise of such competition while limiting it to one, not two, new companies. Each of the above alternatives was considered; each was made impossible by the political environment.

As is often the case with antitrust, the threat of prosecution, not actual court cases, dictated these choices. As an often obscure part of the general decision-making calculus that persuaded individual corporate managers to avoid specific acquisitions, the impact of antitrust laws on the market structure that finally emerged in the oil industry has been slighted by historians.<sup>46</sup> Events in the early Texas oil industry, however, strongly suggest that antitrust and the fear of antitrust had a pervasive and far-reaching effect on the rise of oligopoly in oil. Without these laws, Standard Oil would have faced fewer and weaker competitors in the twentieth century. Such results obviously were more modest than had been hoped for by those who saw antitrust as a tool for returning "perfect competition" to the industry. Yet they were also more significant than a generation of business historians has since argued. State laws in Texas and elsewhere released new competitive pressures in the oil industry in the first decade of the twentieth century. In 1911 the United States Supreme Court climaxed this process by dissolving Standard Oil into numerous smaller companies, thus improving the competitive position of the companies that had begun to grow before 1911 while setting the stage for the gradual emergence of

<sup>45</sup> Interview with C.H. Ruhl dated June 2, 1905, Drawer 396, folder 3203, part 1, Bureau of Corporations Petroleum Investigation, Record Group 122, National Archives, Washington, D.C. See also, Kendall Beaton, *Enterprise in Oil: A History of Shell in the United States* (New York, 1957), p. 48.

<sup>46</sup> Antitrust is an issue that looks dramatically different from different vantage points. To reformers on the lookout for corporate abuses, the history of antitrust all too often appears to be a history of missed opportunities. To oil executives, however, the same events are viewed as evidence of an ongoing antitrust tradition that has been all too effective while remaining a constant threat to their operations.

competition among the companies that had formerly made up Standard Oil. Whether or not such changes represented fundamental readjustments in the industry's structure remains open to debate. What seems beyond dispute, however, is that antitrust laws at both the state and national levels redefined the boundary within which market forces were allowed free rein. In the oil industry, these laws channeled such forces into a market structure with more companies capable of competing with Standard Oil on relatively equal terms.

#### PUBLIC POLICY AMID PUBLIC CONFUSION

Measuring the impact of antitrust with any great accuracy is complicated by several characteristics of the public agencies that sought to administer the law in this transitional period. Rhetorical denunciations of monopoly by public officials far outstripped forceful, unambiguous policy aimed at reversing the trend toward economic concentration. Even when policy was clearly defined, the government quite often lacked the capacity to implement it. The state and national governments were ill equipped to deal effectively with the dynamic young oil companies that sprang up in the Gulf coast fields. Public institutions inherited from the less demanding days of the late-nineteenth century proved inadequate to understand, much less to react to, the rapid changes in the petroleum industry in the first decades of the twentieth century. In its initial efforts to regulate the modern petroleum industry, the public sector's capacity to govern effectively fell far short of its strong rhetorical commitment to tame the trusts. The result was a confusing lack of direction and coherence in public policy toward the major oil companies active in Texas.

A great deal of this confusion reflected the government's lack of reliable information about the petroleum industry. John D. Rockefeller had made secretiveness a trademark of Standard Oil, and most of the new oil companies on the Gulf coast followed suit. Standard's traditional use of "blind tigers"—that is, ostensibly independent companies secretly affiliated with Standard—caused a great deal of uncertainty.<sup>47</sup> Public officials not only lacked knowledge about the operations of individual companies, they could not even be sure of one most basic fact, the ownership of "independent" companies. Each dramatic disclosure of secret ties between Standard and a blind tiger cast suspicion on all independent concerns. The largest such companies, Gulf Oil and Texaco, also developed secret ties with numerous producing companies in order to avoid possible violations of the Texas antitrust laws. In confidential testimony to the Bureau of Corporations in 1906, Texaco's president, Joseph Cullinan, summarized his company's control of numerous producers while acknowledging

<sup>47</sup> A. W. Clem (General Manager, Clem Oil Company) to R.V. Davidson (Attorney General of Texas), letter dated November 17, 1906, "December 1905-July 1907-Anti-Trust letters" file, Box 4-8/386, Attorney General's Correspondence, Record Group 302, Texas State Archives, Austin, Texas.

that he was making a "fuller statement than we would have been willing to make . . . to the local Texas authorities." Cullinan justified Texaco's lack of candor with state authorities by reminding the bureau that "sometimes these antitrust laws have been invoked in a very unfair way by local officers and have been made the means of oppression." Although Cullinan asserted his company's innocence, "both of purpose and of act," he acknowledged that "candidly we are not inviting inspection and criticism of our positions by the officers referred to."<sup>48</sup> Cullinan and other oil executives thus sought to minimize what they considered the meddling of unreasonable government officials by limiting the access of these officials to information about the operations of their companies.

To fill the resulting void in information, the government turned to several alternative sources for "facts" about the oil industry. One particularly unreliable source was newspapers. Much misinformation resulted from sensationalism designed to sell papers. Many half-truths appeared as facts when reporters from local newspapers attempted to report on complex events from limited and biased sources. Such journalistic accounts were matched in tone by the more thorough reporting of Ida Tarbell, whose damning account of the early history of Standard Oil was appearing in national magazines during the early years of oil development in Texas.

When government agencies sought to augment such unreliable sources by investigating conditions in the oil industry, they generally had extremely limited resources with which to attempt to unravel a complex and rapidly changing situation. The attorney general's office in Texas had to rely on a variety of questionable sources in its efforts to discover antitrust violations. Small competitors of Texaco and Gulf Oil were only too happy to describe the secret ties of these companies to Standard Oil.<sup>49</sup> An anonymous letter submitted to the attorney general by a "wise witness" in 1909 exemplified the quality of much of the information available to public officials. The letter correctly outlined many of the connections between Texaco and Standard Oil before asserting that the author could prove that Texaco, Gulf Oil, and four other large Gulf coast companies were controlled by Standard.<sup>50</sup> In the politically charged atmosphere of the time, such claims were generally treated without the skepticism they deserved. The national investigation of the Bureau of Corporations also relied heavily on hearsay testimony taken in personal interviews throughout the nation with those involved in the oil industry. The bureau's investigators seemed particularly interested in recording the charges of every aggrieved competitor of Standard Oil, and the general approach to the investigation

<sup>48</sup> Joseph Cullinan to James R. Garfield, letter dated June 20, 1905, Bureau of Corporations Numerical File 3208, Record Group 122, National Archives, Washington, D.C.

<sup>49</sup> Arthur Johnson, "Public Policy and Concentration in the Petroleum Industry, 1870-1911," in *Oil's First Century*, pp. 57-70.

<sup>50</sup> W.J. Weaver to P.P. Vanulett, letter dated June 7, 1909, "June 1907-November 1909, K-V, Anti-Trust Letters" file, Box 4-8/396, Attorney General's Correspondence, Record Group 302, Texas State Archives, Austin.

was somewhat short of objective.<sup>51</sup> The bureau appears to have set out to prove that Standard Oil controlled the entire oil industry, not to determine conditions in the industry. Thus, even after a thorough investigation that included personal interviews with all major oil executives in the Texas fields, the bureau's investigators concluded that "the unusual secretiveness of the Texas Company and other suspicious circumstances gave ground for the belief that it is connected with the Standard Oil Company."<sup>52</sup> This deceptively inconclusive statement contained enough qualifiers to remove the burden of proof from the bureau, but it nonetheless tarnished Texaco's standing with the public and with public officials. Despite its outraged denials of this "charge," Texaco remained less than comfortable defending its position, for it was, of course, closely "connected" to Standard in ways that stopped just short of illegality. In the chaotic formative years of the modern oil industry, such distinctions were usually lost amid the half-truths and rumors that hovered around the largest companies like gasoline fumes in search of a match.

The government was not alone in its inability to monitor, much less to control, changes in the oil industry. Even the major companies active in Texas were uncertain about the relationship of their competitors with Standard and with each other. Sun Oil's leading representative in Texas wrote frequent reports to his superiors asserting that "there is no doubt, of course, that Security Company is the Standard Oil Company and . . . I think it is probable the Texas Company is very close to them." He earlier had advised that "I have no doubt that the Guffey Company (Gulf Oil), at least their refining end, is in the hands of the Standard, as I have previously suggested to you."<sup>53</sup> Texaco's executives were never quite certain of the affiliations of Security or of Gulf Oil, and those in charge at Waters-Pierce, a Standard affiliate, testified that they did not know if Gulf Oil and Texaco were controlled by Standard.<sup>54</sup> On occasion such ignorance was self-serving, as oil men justified their inability to obtain contracts or to defeat a competitor in selling oil by calling forth the invisible empire of Standard Oil. It is certainly not surprising that public officials did not know more about the industry than those involved in its everyday operations; nor is it surprising that politicians, like their counterparts in the industry, should at times seek to hide behind the image of an all-powerful concern to excuse their own shortcomings. It is worth point-

<sup>51</sup> For an overview of the Bureau of Corporation's investigations, see Arthur Johnson, "Theodore Roosevelt and the Bureau of Corporations," *Mississippi Valley Historical Review*, 45 (March 1959), 571-90.

<sup>52</sup> John Porter Hollis to Commissioner of Corporations, Report No. 2, July 29, 1906, Bureau of Corporations Numerical File 3208, Record Group 122, National Archives, Washington, D.C.

<sup>53</sup> J. Edgar Pew to J. Howard Pew, letter dated February 17, 1904, "J.E. Pew, January-May 1904" folder, Series 21-A, Administrative Files, Sun Oil Collection, Eleutherian Mills Historical Library, Wilmington, Delaware.

<sup>54</sup> Testimony of Clay Arthur Pierce, "The State of Texas versus Waters-Pierce Oil Company—Stenographer's Report," "Attorney General, 1906—General Files," Box 2-10/603, Attorney General's Correspondence, Record Group 302, Texas State Archives, Austin.

ing out, however, that oil men demanded more of government officials than they themselves could deliver.

The powerful, overriding image of Standard Oil brought a certain order to the confusion and uncertainty created by the absence of reliable information. If something went wrong, or even if something could not be easily explained, surely Standard Oil was to blame. Politicians were both victims and beneficiaries of such attitudes. Like the general public, they faced a bewildering lack of hard facts on which to base policy. Unfortunately, they often masked their own confusion by appealing to the lowest, most commonly shared political sentiment; they couched oil policy in language that attacked Standard Oil.

Such symbolic politics certainly characterized much of the enforcement of Texas's antitrust laws, but even the symbol at which these laws were directed was outdated. Before the discovery of oil in Texas, antitrust sought to control the activities of the "foreign" Standard Oil Company in Texas. Amid the changed economic realities brought by the early Texas oil boom, however, such laws and attitudes proved very difficult to adjust. If strictly enforced, they would have hampered the rise of strong, independent firms in Texas by preventing such companies as Texaco and Gulf Oil from copying the vertically integrated organizational structure that Standard employed throughout the nation. Indeed, Texaco's first attorney recognized the potential impact of these "very far-reaching" laws and sought "so far as possible, to remain on the safe side of the line of doubt."<sup>55</sup> While attempting to move the "line of doubt" by lobbying in Texas legislature for a broader incorporation law, Texaco remained "on the safe side" by obtaining much of its crude oil from nominally independent subsidiary companies that were in fact directly tied to it. As it became clear that the state would not challenge the use of such subsidiaries, Texaco became more open in their use. This, of course, presented a dilemma to public officials, since such arrangements were, strictly speaking, against the law. Their solution was expedient, if not wholly consistent; strong antitrust laws remained on the books but were enforced only sporadically and only against Standard.

More than expediency explains this policy of partial enforcement. The state attorney general's office suffered from the general absence of trustworthy information, and it also lacked sufficient resources to seek out and prosecute all offenders. The state's indignation in the face of "the abuse of corporate privileges" far outran its capacity to find and correct such abuses. As of 1901, the Texas attorney general's office had an annual budget of less than \$18,000, and the staff consisted of the attorney general, three assistants, one stenographer, and one clerk.<sup>56</sup> By way of contrast,

<sup>55</sup> James Autry to Joseph Cullinan, letter dated May 12, 1904, "1904" folder, Box 27, Papers of James Lockhart Autry, Rice University, Houston, Texas.

<sup>56</sup> *Annual Report of the Comptroller of Public Accounts of the State of Texas for the Year Ending August 31, 1900* (Austin, 1900), p. 123.

Gulf Oil's original charter authorized a capitalization of \$15 million. Such companies quickly outgrew state boundaries and became national and international concerns. Texas officials responded by seeking to share information about the oil industry with other states such as Missouri, which was also seeking to prosecute Standard Oil, but such ad hoc and temporary cooperative arrangements could not alter the central fact that the individual states lacked the clear legal authority or the resources to pursue nationally active concerns across state lines.<sup>57</sup> To defend themselves on intrastate matters, these companies generally had excellent legal staffs and a strong interest in assuring that the antitrust laws were not enforced against them. As if the companies' advantages in manpower and legal resources over the attorney general's office were not enough, biennial elections gave the public agency a much shorter time horizon than the private companies, making continuity of investigation, much less prosecution, most difficult. Faced with such problems, public officials generally focused their rhetoric and their attempts at enforcement of the existing antitrust laws on the largest and most vulnerable targets.

Strong public backing for strict enforcement of the antitrust laws might perhaps have forced the state government to surmount its own weaknesses. The polity was not, however, strongly or even unambiguously committed to antitrust. At times many Texans seemed almost obsessed with antitrust as a useful weapon with which to fight monopoly in the petroleum industry, but most were also committed to rapid development of the newfound regional wealth. When forced to choose between these two commitments, the public, through its political system, usually chose rapid growth at the expense of vigorous antitrust enforcement. At times both were possible. Attacks on the octopus allowed politicians to stand up against the most potent of all symbols of monopoly without impeding the growth of other large, dynamic firms that became the primary generators of regional prosperity.<sup>58</sup>

Such distinctions often were lost on executives in these other companies, who tended to listen to what public officials said instead of watching more carefully what they did. These executives interpreted the lack of coherent public policy as evidence of the opportunism or incompetence of politicians, not as the consequence of the weaknesses and confusion of a public sector trying to make very difficult adjustments to dramatically altered conditions:

<sup>57</sup> A.W. Whitfield, Jr. to Jewel Lightfoot, letter dated June 21, 1909, "June 1907-November 1909, K-V, Anti-Trust Letters" file, Box 4-8/396, Attorney General's Correspondence, Record Group 302, Texas State Archives, Austin. See also, Bringham, *Antitrust and the Oil Monopoly*, pp. 89-107.

<sup>58</sup> In this way, politicians avoided—at least temporarily—the conflicting views toward antitrust that Ellis Hawley has discussed in detail in analyzing the confusion of purpose in the enforcement of antitrust laws in the 1930s. See Ellis Hawley, *The New Deal and the Problem of Monopoly* (Princeton, 1966).

The oil business is young in Texas. Its operations are to a degree spectacular and attractive to public attention. Its profits are supposed to be large. It is the kind of shining mark which attracts the attention of the average politician.<sup>59</sup>

As products of the late-nineteenth century, these oil executives were pre-disposed to assume that the government could not intervene effectively and intelligently in economic affairs. The sporadic enforcement of the Texas antitrust laws and the exaggerated rhetoric that accompanied the ebb and flow of antitrust provided them with little evidence to the contrary. Indeed, many no doubt came to share the disdain of Texaco's first attorney for "the cheap *newspapers* and the cheaper *politicians*, and the still cheaper unions and ignorant *public sentiment* upon which both the former feed and which both encourage."<sup>60</sup> One logical response from the point of view of the individual firm was that of Texaco, which vigorously entered the political arena in an effort to control political uncertainty.

Business-government relations in this formative era in the evolution of the modern petroleum industry thus left a highly uncertain legacy. Despite an underlying confusion of purpose, antitrust policy ultimately encouraged the growth of new competitors to Standard. A strong antitrust law that the government was unable or unwilling to enforce systematically allowed Standard Oil to take a limited role in developing the new Texas field, yet blocked the former monopolist from crushing its youthful competitors. The subsequent growth of these new competitors was central to the emergence of oligopoly in oil.

Such largely accidental results should not, however, obscure the problems of adjustment that confronted both state and federal governments in their initial attempts to implement antitrust policies for an industry undergoing rapid, fundamental changes. This early confrontation between oil and state revealed a clear lag between the organizational capacities of the modern corporations that emerged from the Texas oil fields and those of the inexperienced and sparsely staffed and funded government agencies that sought to regulate the oil industry. Working within public institutions originally designed to deal with a much simpler political economy, officials in both Austin and Washington groped toward ill-defined—if forcefully proclaimed—regulatory goals. Their strained interaction with the young and growing Gulf coast oil companies shaped the transition from monopoly to oligopoly in oil while foreshadowing many of the difficulties that continue to accompany a broader transition at the heart of the subsequent evolution of the petroleum industry, the transition from monopoly control over oil policy by private corporations to shared control between private and public institutions.

<sup>59</sup> James Autry to Joseph Cullinan, letter dated May 12, 1904, "1904" folder, Box 27, Papers of James Lockhart Autry, Rice University, Houston, Texas.

<sup>60</sup> James Autry to John Porter Hollis, letter dated June 3, 1905, Bureau of Corporations Numerical File 3208, Record Group 122, National Archives, Washington, D.C.