



SCENES FROM THE OIL REGIONS OF PENNSYLVANIA  
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## ORIGINS OF THE INTERSTATE COMMERCE ACT OF 1887

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A COMPREHENSIVE history of railroad regulation for the period after 1865 still remains to be written, but several investigations have pointed to possible approaches to the subject. Thus it has been recognized increasingly that the agrarian, or Western, influence in the movement for national legislation was in the past much overemphasized. Not only did the Granger movement have very definite Eastern antecedents, but the Granger legislatures themselves were dominated primarily by small businessmen, not by farmers.<sup>1</sup> At the same time, the activities of urban merchant groups on behalf of federal regulation are only beginning to be explored.<sup>2</sup> While the exact composition of the movement for federal legislation has not as yet been delineated clearly, it is apparent that it was too diverse and complex to be explained in terms of one set of influences only. Rather it resulted from the planned, as well as disjointed, efforts of a great multiplicity of groups.

The main purpose of this paper is to describe the activities of another of these groups, the independent oil producers and refiners of Pennsylvania. Here was a body of aggrieved interests, neither urban nor agrarian, but representing Eastern producers. They must, however, be counted among the most important groups

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<sup>1</sup>John D. Hicks, "The Development of Civilization in the Middle West, 1860-1900," in Dixon Ryan Fox, ed., *Sources of Culture in the Middle West* (New York, 1934), 88-89; Frederick Merk, "Eastern Antecedents of the Granger Movement to 1875," *Agricultural History*, VI (January, 1949), 1-8; G. H. Miller, "Origins of the Iowa Granger Law," *Mississippi Valley Historical Review*, XL (March, 1954), 657-680.

<sup>2</sup>See Lee Benson, *Merchants, Farmers, and Railroads: Railroad Regulation and New York Politics, 1850-1887* (Cambridge, 1955), pp. 204-205, 214-221, 228-232, 241-246. For an earlier statement of this position, see John Moody, *The Railroad Builders* (New Haven, 1919), pp. 229-231.

pressing for government regulation, for it was their direct influence which in 1878 led to the introduction of the Reagan Bill in the House of Representatives. And it was the Reagan Bill from which the Interstate Commerce Act of 1887 was finally written. Since the positive contributions of the Standard Oil Company are at present receiving careful scrutiny, it is perhaps appropriate, too, to examine the activities of the independent oilmen in the 1870's.<sup>3</sup> Theirs may have been a losing battle, yet one which was not without its positive results.

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Two oil wars marred the process of consolidation which John D. Rockefeller was undertaking in the 1870's. The first of these, in 1872, was called forth by the formation of the South Improvement Company. This corporation was established, in part, to facilitate the granting of rebates to the Standard Oil Company by the various railroads. Yet it had hardly been created when it met vigorous resistance from the Independents of western Pennsylvania. Almost immediately they embarked on a publicity campaign in which they enlisted the public's, and even the President's, support.<sup>4</sup> Then, too, a bill for the federal regulation of interstate commerce was introduced in the House of Representatives.<sup>5</sup> And, amidst the general uproar in Pennsylvania, the legislature there took steps to revoke the charter of the corporation.<sup>6</sup> Under such circumstances the South Improvement Company was abandoned, with results that seemed at the time to constitute a victory for the Independents. But it was a Pyrrhic victory at best.

For the growth of Standard Oil and the consequent decline of the Independents continued to lead by various steps to one final, desperate outburst in the Oil War of the fall of 1877. Already

<sup>3</sup> Studies of the Standard Oil Company that have appeared already include R. H. Hidy and M. E. Hidy, *Pioneering in Big Business, 1882-1911* (New York, 1955); S. Gibb and E. H. Knowlton, *Resurgent Years, 1911-1927* (New York, 1956); and Paul H. Giddens, *Standard Oil Company (Indiana), Oil Pioneer of the Middle West* (New York, 1955).

<sup>4</sup> Ida Tarbell, *The History of the Standard Oil Company* (New York, 1904), I, 78, 94; Rolland H. Maybee, *Railroad Competition and the Oil Trade, 1855-1873* (Mount Pleasant, Mich., 1940), 407.

<sup>5</sup> *Cong. Record*, 42d Cong., 2d sess., 2298.

<sup>6</sup> Harold M. Helfman, "Twenty-Nine Hectic Days: Public Opinion and the Oil War of 1872," *Pennsylvania History*, XVII (April, 1950), 137. A scholarly study of the independent oil producers and refiners in Pennsylvania is greatly needed.

in March of 1875 the Standard combination openly took the initiative by organizing the Central Association, a group of refiners under the presidency of John D. Rockefeller. While the objectives of this group were at first not clearly known, by October its function had become quite obvious. Much like the South Improvement Company, it was designed to facilitate the granting of rebates to the Standard Oil Company from the Central, Erie, and Pennsylvania Railroads.<sup>7</sup> With pressures mounting, the Independents looked about for means of relief.

Early in 1876, therefore, their demand for federal regulation of railroads was again heard in Congress. The spokesman for the Oil regions in the House of Representatives was Congressman James H. Hopkins from Pittsburgh.<sup>8</sup> As a first step to the eventual enactment of such legislation, he endeavored to secure a Congressional investigation of railway discriminations. On May 21, 1877, the House passed his resolution, calling for such an inquiry to be conducted by the regular Committee on Commerce.<sup>9</sup>

Whatever hopes the independent oilmen may have had were soon clouded, however, since the investigation failed dismally in its objectives. When the Committee began to hold hearings early in June, few of the railroadmen summoned even bothered to answer its subpoena, while those who came revealed practically nothing concerning their company's discriminatory practices.<sup>10</sup> Nor were the hearings conducted in an impartial manner. In fact, at various sessions the Committee's chairman, Representative Hereford from West Virginia, was "advised" by Johnson N. Camden, also of West Virginia, who had just joined Standard Oil. Camden sat at Hereford's side to whisper suggestions in his ear and, as a contemporary put it, "practically presided."<sup>11</sup> Finally such testimony as had been taken by the Committee simply "dis-

<sup>7</sup> Tarbell, *op. cit.*, I, 148-149; Allan Nevins, *John D. Rockefeller, the Heroic Age of American Enterprise* (New York, 1940), I, 482-483.

<sup>8</sup> Tarbell, *op. cit.*, I, 168; Nevins, *op. cit.*, II, 95-96; *Biographical Directory of the American Congress, 1774-1950* (Washington, D. C., 1950), 1329.

<sup>9</sup> *Cong. Record*, 44th Cong., 1st sess., 3309. An earlier resolution which proposed to set up a special investigatory committee had failed. *Ibid.*, 3104.

<sup>10</sup> *New York Times*, June 21, 28, July 11, 1876.

<sup>11</sup> *New York Herald*, January 19, 1884; Harold Peck, *Twenty Years of the Republic* (New York, 1906), 139. Camden's connections with Standard Oil are discussed in Festus P. Summers, *Johnson Newlon Camden* (New York, 1937), 180-193.

appeared" from the Committee room.<sup>12</sup> Consequently, the whole investigation was abandoned.

Hopkins, nevertheless, introduced an interstate commerce bill designed to serve the needs of his constituents. The actual bill reputedly was prepared by one of the legal counsel of the Philadelphia and Reading Railroad, a line chafing under Rockefeller's agreements with competing railroads.<sup>13</sup> Simple and short, the measure prohibited rebates and discriminations, and provided for open posting of rate schedules. Responsibility for the enforcement of these provisions was left to the regular courts.<sup>14</sup>

To emphasize the national appeal of such an interstate commerce measure Hopkins sought to enlist the support of others. Among those who had expressed an interest in his efforts was Congressman John H. Reagan of Texas, the former Postmaster General of the Confederacy.<sup>15</sup> Ever since ante-bellum days the Texan had shown great concern over the problem of monopoly in transportation.<sup>16</sup> Reagan was in a better position to further railroad legislation than Hopkins, for he was a member of the Commerce Committee, which the latter was not. Hopkins, accordingly, asked Reagan to take full charge of his bill, and to see it through. But in 1876 Reagan refused to take an active part in the advocacy of national railroad legislation, since he had not resolved his own doubts regarding the constitutionality of federal action in this sphere.<sup>17</sup> The Hopkins Bill of 1876 thus died in the Committee of Commerce to which it had been referred.

But Hopkins' prodding of Reagan was to continue. Hopkins himself could take little direct action since he was not elected to the 45th Congress. In the fall of 1877, however, he wrote a letter to Reagan, the chairman of the Committee on Commerce, in which he urged him to carry on, to introduce an interstate com-

<sup>12</sup> Hopkins in *Cong. Record*, 48th Cong., 2nd sess., 63. Representative Reagan of Texas said it had been stolen. See Nevins, *op. cit.*, II, 98.

<sup>13</sup> According to the *Chicago Tribune*, January 28, 1880.

<sup>14</sup> The bill is reprinted in *Cong. Record*, 44th Cong., 1st sess., 5029.

<sup>15</sup> Reagan in U. S. Congress, House, *Miscellaneous Documents*, 47th Cong., 1st sess., XIII, No. 55 (Washington, 1882), 265, hereafter cited as *Hearings*, 1882.

<sup>16</sup> See, for example, *Cong. Globe*, 36th Cong., 1st sess., 2336-2337, 2412; Confederate States of America, *Annual Report of the Postmaster General*, 1863 (Richmond, 1864), p. 11 in Reagan Papers.

<sup>17</sup> Reagan in *Hearings*, 1882, p. 265.

merce bill in this new Congress.<sup>18</sup> Meanwhile Reagan's doubts concerning the constitutionality of Congressional legislation on the subject had been resolved by the United States Supreme Court decision in *Munn v. Illinois*, on March 1, 1877.<sup>19</sup> Reagan's persistent fear of monopoly in transportation, therefore, and the needs of the oil producers, coincided.

In the fall of 1877 a second major oil war was in the making. On October 17, 1877, Rockefeller signed a famous agreement with the Pennsylvania Railroad by which, in return for a guaranteed tonnage, he was to receive rebates on all oil shipments.<sup>20</sup> Moreover, one of the major pipe lines, the Empire Pipe Line, was sold to the Pennsylvania Railroad, which immediately transferred it to the Standard Oil Company.<sup>21</sup> Utter and complete terror prevailed among the independent oilmen. Apart from the general depreciation of the oil business brought about by the publication of the agreement, the loss to the oil country of the single day's transaction was estimated at \$400,000.<sup>22</sup>

The reaction of the oil regions was immediate. A wave of excitement swept western Pennsylvania which resulted in a flurry of activity. "The Spirit of '72' is abroad," declared the *Oil City Derrick*.<sup>23</sup> From November 21 to 23, 1877, a congress of producers and refiners met at Titusville to unite on action to be taken against the Standard Oil combination.<sup>24</sup> Here a Producer's Union was formally organized, designed specifically to fight this latest of Rockefeller's moves. While the newspapers reported the proceedings of the congress, its sessions were held in secret, for, if the Independents were to be successful, "the only weapons that will lead them to victory . . . are the same art and the same

<sup>18</sup> Reagan in U. S. Industrial Commission, *Report* (Washington, 1900), IV, 344; original typescript of his testimony in Library of Interstate Commerce Commission, Washington, D. C.

<sup>19</sup> Reagan in *Congress. Record*, 45th Cong., 2d sess., 3405.

<sup>20</sup> For a copy of agreement see U. S. Congress, House, *Report on Investigation of Trusts*, 50th Cong., 1st sess. (Washington, 1888), IX, 208-210.

<sup>21</sup> *Pittsburgh Daily Despatch*, October 20, 1877.

<sup>22</sup> *Parker Daily*, quoted *ibid*.

<sup>23</sup> November 22, 1877.

<sup>24</sup> *Pittsburgh Daily Despatch*, November 21, 22, 23, 24, 1877; *Pittsburgh Post*, November 21, 22, 23, 24, 1877; *Oil City Derrick*, November 21, 22, 23, 24, 1877. Tarbell is not correct when she writes that the newspapers did not report the proceedings: Tarbell, *op. cit.*, vol. II, p. 213. See also "A History of the Organization, Purposes, and Transactions of the General Council of the Petroleum Producer's Unions," in *Report on Investigation of Trusts*, IX, 692.

quiet, underhanded working that their enemies know so well how to use."<sup>25</sup> The object of the first meeting had been to secure a working organization. Now a second was scheduled to assemble from December eleventh to the fourteenth, to decide on final strategy to be taken by the Producer's Union.<sup>26</sup>

The main concern of Congress was with the transportation problem. Among the first actions taken in November was the appointment of a Committee on Transportation which was to initiate, and lobby through the United States Congress, some form of legislation to outlaw discriminations in railway transportation, the main grievance of the oilmen.<sup>27</sup> Chairman of the committee was E. G. Patterson, one of the most active oilmen in the region, who had already done much to secure the Congressional investigation of 1876. Within a month, by the time of the second meeting, he had prepared the first draft of an interstate commerce bill, more elaborate than the old, simple Hopkins measure, to which the Union's counsel, George Hibbard of Buffalo, then put the final legal touches.<sup>28</sup>

Speed was required, since the plight of the Independents steadily worsened. Consequently, on January 21, 1878, the interstate commerce bill prepared by the Producer's Union was introduced in the House of Representatives by Congressman Watson of Pennsylvania.<sup>29</sup> At the same time, a delegation of oilmen, including Patterson, went to Washington to lobby for the measure in the House.<sup>30</sup>

Nor was the Union inactive on the local scene. An energetic effort was made to secure the passage of an anti-discrimination bill in the Pennsylvania Legislature. On February 14, 1878, Senator Fertig introduced the bill in the State Senate where it passed, 36 to 1. Despite repeated attempts, it failed by one vote to obtain the approval of the lower house.<sup>31</sup> This bill was an exact

<sup>25</sup> Parker *Daily*, quoted in *Pittsburgh Daily Despatch*, October 23, 1877.

<sup>26</sup> See *Oil City Derrick*, December 12, 15, 1877.

<sup>27</sup> *Titusville Herald*, quoted in *Pittsburgh Post*, November 20, 1877; *Oil City Derrick*, November 22, December 12, 15, 1877; *Pittsburgh Daily Despatch*, November 22, 1877.

<sup>28</sup> Tarbell, *op. cit.*, I, 169; II, 214-215.

<sup>29</sup> *Cong. Record*, 45th Cong., 2d sess., 442; Tarbell, *op. cit.*, II, 215.

<sup>30</sup> *Oil City Derrick*, January 24, 1878.

<sup>31</sup> *Journal of the Senate of the Commonwealth of Pennsylvania*, 1878 (Harrisburg, 1879), 283, 518; *House Journal* (1878), 615, 764, 1017, 1143-1145; *Oil City Derrick*, February 15, April 23, May 6, 13, 16, 1878.

copy of the Watson Bill, then pending in Washington.<sup>32</sup> With its tabling in the lower chamber of the State Legislature, the Independent's main hope lay in federal action.

In Washington, Congressman Reagan sought to stir the House to action. On February 26, 1878, his Committee on Commerce reported out Watson's bill favorably, but temporarily recommitted it for textual revision.<sup>33</sup> Because of the hurry in which the measure had been drafted, little care had been taken to achieve clarity. In fact, it abounded with so many whereif's and whereas's that the Committee trying to simplify it had simply given up the task. Reagan himself spent the summer recess of 1878 in clarifying the rather simple provisions of the bill.<sup>34</sup> Besides the prohibition of rebates, taken over from the Hopkins Bill, the oilmen had added a rigid short-and-long-haul clause. Now Reagan included, too, a prohibition of railway pools.<sup>35</sup> It was in this form that the oilmen's interstate commerce bill was transformed into what was to become known as the Reagan Bill. When Congress reconvened in December, 1878, Reagan again brought up the railroad question. And on December 11 the House passed the Reagan Bill by a vote of 139 to 104, the Pennsylvania delegation casting twenty-one of its twenty-four votes for the measure.<sup>36</sup>

<sup>32</sup> Both bills are reprinted in full in *Oil City Derrick*. See February 15, 1878, for Fertig Bill; February 26, 1878, for Watson Bill. See also *Argument of John P. Green, vice-president of the Pennsylvania Railroad, before the Committee on Commerce of the House of Representatives on January 22, 1880* (Philadelphia, 1880), 1-3.

<sup>33</sup> *Cong. Record*, 45th Cong., 2d sess., 1339-1340; *House, Reports*, 45th Cong., 2d sess., No. 245; *New York Times*, February 28, 1878.

<sup>34</sup> *Cong. Record*, 45th Cong., 2d sess., 3409; *ibid.*, 45th Cong., 3d sess., 94.

<sup>35</sup> *Ibid.*, 45th Cong., 3d sess., 94.

<sup>36</sup> *Ibid.*, 101; *New York Times*, December 12, 1878. This vote has usually been interpreted as evidence of a sectional alignment of the South and West against the East, and as a manifestation of agrarian pressure: Solon Buck, *The Granger Movement* (Cambridge, 1913), 227, 230; C. V. Woodward, *Reunion and Reaction: the Compromise of 1877 and the End of Reconstruction* (Boston, 1951), 240; L. Hacker and B. Kendrick, *The United States Since 1865* (New York, 1932), 273; H. U. Faulkner, *American Economic History* (New York, 1943), 498. But the origins of the bill themselves bespeak the major influence behind railway legislation in December of 1878. Many Westerners opposed the bill since they were benefiting from the low through rates of the railroads, and thus were little interested in abolishing railroad discriminations. See, to this effect, declaration of National Grange in 1879, and its refusal to support the Reagan Bill in 1880, in National Grange, *Journal of Proceedings*, 1879 (Philadelphia, 1879), 86; *ibid.*, 1880 (Philadelphia, 1880), 92, 144. One of the Western fears, in fact, was that the short and long haul clause of the Reagan Bill would result in higher rates. See *Chicago Tribune*, December 13, 1878; remarks of Bragg and Cannon in *Cong. Record*, 45th Cong., 2d sess., 3392, 3395-3399.



Jubilation marked the Oil Region's reaction to the passage of the Reagan Bill in the House. "This is the measure on which the oil producers have set their hearts," declared the *Pittsburgh Post*,<sup>37</sup> Gratitude for the sponsor of the bill was not lacking since "the provisions in the interest of the oil producers . . . were brought forward by Mr. Reagan."<sup>38</sup> "This is a grand triumph for the producers unceremoniously obtained," noted the *Oil City Derrick*, inasmuch as the bill passed "embracing all the amendments suggested by the producers."<sup>39</sup> A general feeling of exuberance spread through western Pennsylvania. Congratulations were exchanged, telegrams conveying thanks sent to Washington, and special meetings held. "At last the long dark night of depression is about to give way to the broad genial rays of the coming day," wrote the *Oil City Derrick* in mirroring the general feeling of the day.<sup>40</sup>

Such optimism was as premature as it was unwarranted, however, since Senate opposition was too strong to allow for the passage of an interstate commerce bill. Though the Commerce Committee of the Senate held hearings on the Reagan Bill in January and February, 1879, no further action was taken. One of the Senators from Pennsylvania, Wallace, sought to expedite action by introducing a resolution on February 6, 1879, which urged Senate consideration of the measure, but this was tabled.<sup>41</sup> The Reagan Bill died in the 45th Congress, and the oilmen failed to secure relief. It is doubtful, to say the least, whether even the enactment of the bill would have restored competition in the oil trade. In 1880 the remaining Independents came to an agreement with the Standard Oil Company which amounted to virtual surrender.<sup>42</sup> The victory of 1872 was not to be repeated.

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The introduction and passage of the Reagan Bill in the House represented a last major effort by the independent oil producers and refiners to prevent domination of the oil industry by John D. Rockefeller. It was with deserved credit that the Union later

<sup>37</sup> December 12, 1878.

<sup>38</sup> *Pittsburgh Commercial Gazette*, December 12, 1878.

<sup>39</sup> December 12, 1878.

<sup>40</sup> December 13, 1878. See also *Pittsburgh Post*, December 12, 1878. *Pittsburgh Evening Chronicle*, December 12, 1878, for similar sentiments.

<sup>41</sup> *Cong. Record*, 45th Cong., 3d sess., 1045.

<sup>42</sup> "A History of the . . . Producer's Unions," in *Report on Investigation of Trusts*, 714.

claimed that "it procured to be prepared and introduced into Congress the first and original bill since known as the interstate commerce act . . . advocated by . . . Mr. Reagan."<sup>43</sup> As a remedy with which to halt their decline, and as an effort to impede the consolidation of the Standard Oil Company, the petroleum producer's bill clearly was a failure.

But the oilmen's bill must be considered an important step in the evolution of federal railroad legislation. It was a contribution not so much to entrepreneurship in the oil business as to the equally important function of government regulation of entrepreneurs. Though the bill of 1878 died in the 45th Congress, thereafter until 1886 Reagan advocated it in every succeeding Congress. Meanwhile, the sentiment for some form of interstate commerce legislation became stronger in the '80's. Aggrieved groups of all kinds, whether merchants, farmers, or producers, clamored for national railroad regulation. Whatever their particular demands, however, their efforts usually focused on specific measures already before Congress, of which the most noted was the Reagan Bill. It was in this manner that the bill framed by, and for, the oil interests of Pennsylvania took on the character of national legislation. A comparison, line by line, of the Interstate Commerce Act of 1887, with the Hopkins Bill of 1876, and the Reagan Bills of 1878 and 1885, in substantive content as well as in specific phraseology, reveals an identity which is explained by the earlier lineage.<sup>44</sup> The Massachusetts Railroad Commission or the Granger Laws may have influenced national railway regulation, but if so only indirectly. For the direct origins of the Interstate Commerce Act of 1887 must be sought very specifically in the Pennsylvania Oil Wars of the 1870's.

The Pennsylvania oilmen's influence on national railroad legislation suggests the need for a broad interpretation of the movement for federal regulation. Such was the diversity of the groups desiring regulation that no one-sided approach, whether sectional, urban, or agrarian, will suffice as an explanation. Moreover, conflicting demands within each group also cannot be ignored. Cer-

<sup>43</sup> *Ibid.*, 693.

<sup>44</sup> Those who wish to compare the bills can find them in the order named, in Edward McPherson, *Handbook of Politics*, 1888 (Washington, 1888), 7-10; *Cong. Record*, 44th Cong., 1st sess., 3409; McPherson, *Handbook*, 1880, 70-72; *ibid.*, 1886, 10-12.

tainly, agrarian pressures help to explain part of the movement for government railroad regulation. When the exact influence of urban merchants is better known, it may help to explain another significant segment. Further investigation into the subject will probably uncover other interests which played an important role. The emphasis accorded the Pennsylvania oilmen in this paper should not imply that their influence outweighed all others. Yet their important, if inconspicuous, role in the enactment of national railroad regulation must be stressed, since it was they who shaped the actual form which one of the earliest attempts at federal regulation of business enterprise was to take.