

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1934

## No. 135

PANAMA REFINING COMPANY ET AL.,  
PETITIONERS,

*vs.*

A. D. RYAN, S. D. BENNETT AND J. HOWARD  
MARSHALL.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT  
OF APPEALS FOR THE FIFTH CIRCUIT.

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[fols. ½ & A-K & 1] [Captions omitted]

[fol. 2]

**IN UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF TEXAS, TYLER DIVISION**

In Equity No. 635

and

Consolidated Causes Nos. 636 and 640

PANAMA REFINING COMPANY ET AL., Plaintiffs,

VS.

A. D. RYAN ET AL., Defendants

AMENDED BILL OF COMPLAINT—Filed Oct. 23, 1933

Comes now Panama Refining Company, a corporation, organized and existing under and by virtue of the laws of the State of Texas, with its home office in Kilgore, Gregg County, Texas, and A. F. Anding, a citizen of the United States and of Gregg County, Texas, hereinafter referred to as plaintiffs, and complaining of A. D. Ryan, an agent of the Department of the Interior of the United States, who is residing in Smith County, Texas, J. Howard Marshall, Assistant to the Attorney General of the United States, who is also temporarily residing in Smith County, Texas, and S. D. Bennett, United States District Attorney for the Eastern District of Texas and a resident of Beaumont, Texas. That the Panama Refining Company and the said A. F. Anding have joined as plaintiffs in this suit for the reason that they have a mutual interest in the relief prayed for by each of them, in this, that they each pray for injunctive relief, restraining the defendant, A. D. Ryan, his agents, servants, and employees from further enforcing against them and each of them the rules and regulations of Harold L. Ickes, Secretary of the Department of the Interior of the United States, promulgated under Section 9c of the National Industrial Recovery Act, and also to restrain the said A. D. Ryan, his agents, servants and employees from further coming upon their respective properties and gauging their tanks and digging up their pipe

lines and otherwise wrongfully interfering with them in their respective business and occupations, and also to restrain the defendants, J. Howard Marshall, and S. D. Bennett, from bringing criminal proceedings against them and each of them because of their failure to comply with said rules and regulations being enforced by the said A. D. Ryan.

## I

The Panama Refining Company, for cause of complaint, would show to the court that it is the owner and operator of a crude oil refining plant at Kilgore, Texas; that it does not own any oil and gas leases or oil wells, and does not produce any oil, but purchases all of its crude oil requirements from various and sundry crude oil producers whose oil is produced in Gregg and Rusk Counties, Texas, or from those who have purchased said oil from oil producers in [fol. 4] Gregg and Rusk Counties, Texas, and only after said oil has been produced. Therefore, the plaintiff, Panama Refining Company, has nothing whatsoever to do with the production of crude oil within the State of Texas, and the rules and regulations of the Railroad Commission of Texas promulgated under the oil and gas conservation statutes known as Title 102, R.C.S. of 1925 and the amendments thereto are not applicable to this plaintiff's business. That all oil purchased by this plaintiff is not only produced within the State of Texas, but is also situated within the State of Texas at the time same is purchased by this plaintiff, and same is manufactured into gasoline, kerosene, gas oil, and other products in the plaintiff's refining plant at Kilgore, Texas, and wholly within the State of Texas; that after said crude oil is manufactured into gasoline and other products, such products are sold to dealers within the State of Texas and those outside of the State of Texas. That this plaintiff is not engaged in interstate commerce in any manner whatsoever, except as to that proportion of the refined products of crude oil that it manufactures in its refining plant at Kilgore, Texas that it sells and transports into other states.

## II

Plaintiff alleges that by Section 9c, Title 1 of the National Industrial Recovery Act passed by the 73rd Congress (Public No. 67), it is provided as follows:

“The President is authorized to prohibit the transportation in interstate and foreign commerce of petroleum and the products thereof produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any state law or valid regulation or order prescribed thereunder, by any board, commission, office, or other duly authorized agency of the State. Any violation of any order of the President issued under this subsection shall be punishable by a fine of not to exceed \$1000.00 or imprisonment for not to exceed six months, or both.”

That after the enactment of said National Recovery Act by Congress, as aforesaid, and on July 11, 1933, the President issued a proclamation prohibiting the transportation in interstate and foreign commerce of any petroleum or the products thereof produced in violation of any state law or valid rule or regulation of any board, agency, etc. of the state promulgated thereunder, and designated Harold L. Ickes, Secretary of the Interior, as the agent of the President to promulgate rules and regulations for the carrying into effect of said Section 9c of said statute; and, thereafter, and on July 15, 1933 and July 25, 1933, and August 2, 1933, the said Harold L. Ickes, Secretary of the Interior, promulgated rules and regulations for the carrying into effect of said section of said act, copies of all of which are attached hereto marked Exhibit “A” and made a part hereof for reference thereto.

### III

Plaintiff alleges that said Section 9c of the act of Congress, as aforesaid, is void and of no force and effect for the reason that the same is an attempt upon the part of Congress to delegate to the President legislative power, that is, to authorize the President at his discretion to prohibit the movement in interstate and foreign commerce of the commodities referred to therein, which is in contravention of Section I, Article I of the Constitution of the United States; that said section is further void for the reason that it is not within the power of Congress to [fol. 6] prohibit the movement in interstate and foreign commerce of ordinary commercial commodities, harmless in themselves, because of the manner of their production, the

manner of such production being wholly within the jurisdiction of the state and local authorities. That if said section 9c of said act were valid and the President had the right and authority thereunder to prohibit the movement in interstate and foreign commerce of the commodities referred to therein, nevertheless, the rules and regulations of the said Harold L. Ickes promulgated thereunder, and especially Paragraph 5 thereof which requires the plaintiff to file a statement under oath every thirty days, or more often if the said Harold L. Ickes shall direct, setting forth the information called for therein, and also Paragraph 7 of said regulations, requiring the plaintiff to keep accurate books and records of all transactions involving the production and transportation of petroleum and the products thereof open for inspection of the agents of the Department of the Interior, are void and of no force and effect for the reason that the power and authority sought to be exercised and enforced by said regulations are not within the jurisdiction of the Federal government, as the matters and things sought to be regulated by said regulations are not interstate and foreign commerce as contemplated by the commerce clause of the Constitution of the United States, therefore, said regulations 5 and 7 are in excess of any power and authority on the part of the President or his appointee, Harold L. Ickes, and are therefore void.

#### IV

Plaintiff alleges that notwithstanding the invalidity of said regulations 5 and 7 of the said Harold L. Ickes, as aforesaid, the defendant, A. D. Ryan, who was in charge of a large body of men operating in the East Texas oil field [fol. 7] for the purpose of enforcing said rules and regulations of Harold L. Ickes, is enforcing the same against this plaintiff and demanding of it that it file with the Bureau of Investigation of the Department of the Interior daily reports covering the matters set forth in Paragraph 5 of said regulations, and that it also keep open, for his and his agents' inspection and examination, books and records showing the amount of oil that it purchases, from whom purchased, and the disposition thereof, and is threatening the plaintiff that if it fails to comply with said regulations, he will cause criminal prosecutions to be issued against its officers and agents for the infliction of fines and imprison-

ment against it for failure to comply with said regulations, and, in fact, since the filing of the plaintiffs' original petition herein, the said A. D. Ryan has caused the defendants, J. Howard Marshall and S. D. Bennett, to issue a complaint against the officers of this plaintiff and have them arrested because of having failed to comply with said rules and regulations, and said defendant, A. D. Ryan, has threatened plaintiff that he will continue to have them arrested and charged with the violation of said regulations if they continued to fail to comply with said regulations, and plaintiff fears that if they are not restrained, that they will continue to file complaints and arrest the officers and agents of the plaintiff for their failure to comply with said regulations, all of which is depriving them of their liberty without due process of law and in contravention of the Fifth Amendment to the Constitution of the United States.

## V

Plaintiff further alleges that the said defendant, A. D. Ryan, has, by force and over the objection of the plaintiff and its officers and agents, from time to time come upon [fol. 8] the property of the plaintiff and gauged its tanks and inspected its pipe lines and other equipment, all for the purpose of attempting to find some evidence of the plaintiff's violation of the rules and regulations of the said Harold L. Ickes or violation of the rules and regulations of the Railroad Commission of Texas, and that they have demanded the books and records of the plaintiff for their examination and inspection, all of which is an infringement upon the right of the plaintiff, and in violation of the Fourth amendment to the Constitution of the United States, and unless the defendant, Ryan, and his representatives are restrained, plaintiff fears that they will continue to come upon its property and gauge its tanks and inspect its books and records in an attempt to find some evidence upon which to base a criminal complaint against the plaintiff.

## VI

The plaintiff, A. F. Anding, for cause of complaint against the above named defendants, here re-adopts all of the allegations made by the plaintiff, Panama Refining Company, and, in addition thereto, would show to the court that he is the owner of two certain oil and gas leases, upon



each of which there has been drilled an oil well, which are situated in the East Texas oil field, one of which is upon a five acre tract of land upon the Sanders tract, Mary Van Winkle Survey, Gregg County, Texas, and the other being located in Rusk County, Texas. That the defendants are likewise enforcing against him the rules and regulations of Harold L. Ickes attached hereto, and particularly Paragraphs 4 and 7 of said regulations; that this plaintiff is merely producing oil within the State of Texas and does not transport any oil outside of the State of Texas, and, by reason thereof, he is not in any wise engaged in interstate commerce; that said Paragraphs 4 and 7 of said regulations are void and of no force and effect for the reason [fol. 9] that the matters sought to be regulated thereby are wholly within the jurisdiction of the State of Texas and the local authorities and over which the Federal Government has no jurisdiction whatsoever; but, notwithstanding their invalidity, defendant, A. D. Ryan, has demanded that he comply with the same and file with the Department of the Interior the reports called for by said Paragraph 4 and that he also keep open, for the inspection of him and his agents, books and records showing the amount of his production and his disposition thereof, and said defendant has threatened this plaintiff that if he fails to comply with said regulations, he will cause the defendants, J. Howard Marshall and S. D. Bennett, to institute criminal proceedings against him for such violations of said rules and regulations, and, in fact, since the filing of this petition in this court, the said defendant, A. D. Ryan, has caused the said J. Howard Marshall and S. D. Bennett to file a complaint against him and have him arrested, charging him with a criminal offense against the laws of the United States because he has failed to comply with said regulations; and said defendant, Ryan, has threatened this plaintiff that he will continue to have him subjected to criminal prosecutions if he further fails to comply with said regulations, and the plaintiff fears that he will cause the said J. Howard Marshall and S. D. Bennett to institute further criminal proceedings against him and subject him to criminal prosecutions for the failure to comply with said rules and regulations, all of which has deprived and will continue to deprive the plaintiff of his liberty without due process of law and in violation of the Fifth Amendment to the Constitution of the United States.

## VII

This plaintiff further alleges that in addition to the requirement and demand that he comply with said rules and [fol. 10] regulations, the said A. D. Ryan and his agents and representatives have come upon the oil lease of the plaintiff, above referred to, by force and over the objection of the plaintiff, and have dug up the plaintiff's pipe lines and severed and destroyed the same, all in an attempt to obtain some evidence against this plaintiff upon which to predicate a criminal charge against the plaintiff, all of which is in violation of the Fourth Amendment to the Constitution of the United States, and the plaintiff fears that if said defendants are not restrained from further coming upon his property that they will continue from time to time to come upon his property, dig up his pipe lines, and gauge his tanks in an attempt to obtain evidence against the plaintiff and in violation of his constitutional guarantee, as aforesaid.

## VIII

Plaintiffs join in alleging that even though said Section 9c of said National Industrial Recovery Act is valid, and even though the rules and regulations of the said Harold L. Ickes, complained of herein, were valid, nevertheless, the defendants have no right or authority to enforce the same against these plaintiffs, for the reason that said Section 9c and all rules and regulations promulgated thereunder become operative in Texas only in the event oil is being produced in excess of a state law or valid rule and regulation by any commission, board, or other state agency; that there is no state law prohibiting or restricting the amount of oil that may be produced from any oil well within the State of Texas; that the Railroad Commission of Texas is the only commission or board or agency authorized by law to make any rules or regulations with reference to the production of oil within the State of Texas; that there is no valid rule or regulation of the Railroad Commission of Texas restricting the production of oil in Texas, in this, that before the Railroad Commission of Texas can make a valid rule or regulation [fol. 11] restricting the amount of oil that may be produced from any oil well in Texas, it must, at a hearing called for that purpose, and after ten days notice, find from the evidence heard at said hearing that it is necessary in order to prevent waste that the production of oil be re-

stricted to the amount so found by the Commission. That the orders and regulations of the Railroad Commission promulgated on September 5th, 1933, as amended on September 30th, 1933 and as further amended on October 18th, 1933, copies of which are attached hereto and marked Exhibits "B", "C", and "D", were not promulgated within the purview of the conservation laws of the State of Texas, being known as Title 102, R. C. S. of 1925 and the amendments thereto, that is, after notice and hearing of evidence as to the necessity of said orders, but said orders were promulgated and put in force and effect and are now being enforced by the Railroad Commission because of instructions given to the members of the Railroad Commission by Harold L. Ickes, who styles himself as Administrator of the Petroleum Code promulgated by the President under the provisions of the National Industrial Recovery Act, in which he advised the members of the Railroad Commission how much oil could be produced in Texas, all of which is apparent from the face of said orders of the Railroad Commission. That since said orders of the Railroad Commission are not the result of the deliberation and finding from evidence heard by the Commission as to the necessity of said orders to prevent waste as provided by the Statutes of Texas, they are void and of no force and effect, as said orders are in excess of any power or authority of the members of the Railroad Commission. That since the orders of the Railroad Commission are invalid, Section 9c and all orders of the National Industrial Recovery Act and all rules and regulations promulgated thereunder do not apply to the plaintiffs, and the further enforcement of said act of [fol. 12] Congress and the regulations and rules thereof against the plaintiffs, either as to intrastate or interstate business, is without authority of law and is depriving the plaintiffs of their property without due process of law and in contravention of the Fifth Amendment to the Constitution of the United States.

Wherefore, plaintiffs pray that the court immediately issue a temporary restraining order, restraining and enjoining the defendants from further coming upon the refining plant of the plaintiff, Panama Refining Company, or interfering with it in any manner in the operation of its refining business, and from further interfering with it in the purchase of oil and the refining of the same, or the dis-

position of said oil and the disposition of the refined products of the oil so refined; and that they be further restrained from coming upon the property of the plaintiff, A. F. Anding, or molesting him or his property in any manner whatsoever, or interfering with him in the operation of his oil wells; and that they be further restrained from further demanding of either of the plaintiffs reports called for in Paragraphs 4 and 5 of the regulations attached hereto; and that the defendants, A. D. Ryan, J. Howard Marshall, and S. D. Bennett, be restrained from instituting any criminal proceedings against these plaintiffs because of the violation of said Paragraphs 4 and 5 of said regulations of the Secretary of the Interior, and that upon the preliminary hearing hereof that an interlocutory injunction to the same effect be granted and that upon the final hearing hereof that said injunction be made permanent; that they recover their costs herein expended and have such other general relief to which they may be entitled under the facts proven.

F. W. Fischer, Tyler, Texas, Attorney for Plaintiffs.

[fol. 13] NOTE.—Exhibit “D” is not attached hereto for the reason that a copy of said order of the Railroad Commission of October 18th, 1933, is not yet obtainable by the public, and therefore reference to the original order on file in the office of the Railroad Commission at Austin, Texas, is here made.

*Duly sworn to by A. F. Anding. Jurat omitted in printing.*

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#### EXHIBIT “A” TO AMENDED BILL OF COMPLAINT

United States Department of the Interior, Office of the  
Secretary, Washington

The following general rules and regulations are prescribed in conformity with the requirements of the Act of [fol. 14] Congress of June 16, 1933, known as the “National Industrial Recovery Act” (Public No. 67, 73rd Congress), and the orders of July 11 and July 14 of the President of the United States issued pursuant to such legislation.

## Regulations

### I

Under the terms of the aforesaid act and orders petroleum or the products thereof is in interstate and foreign commerce (1) when petroleum or any of the products thereof is in the course of shipment or transportation by rail, pipe line, water, truck, or any other means of conveyance from any State, Territory, or District of the United States to any other State, Territory or District of the United States, or to a foreign country, or (2) when petroleum or any of the products thereof is in any quantity or in any manner commingled with petroleum or the products thereof some part of which is in the course of such shipment or transportation, regardless of how such commingling occurs during the various processes of shipment or refining. Excess production of petroleum or the products thereof under said act and orders includes petroleum produced in excess of proration quotas, oil-gas ratio requirements or any other purported conservation measure which tends to limit, directly or indirectly, the production of petroleum or the products thereof.

### II

Any producer, operator, lessee, royalty owner, or other person, natural or artificial, having an interest in any petroleum producing property, or possessing any right, title or interest in petroleum or the products thereof, who shall ship, transport, or deliver to another for shipment or transportation or shall acquiesce in the procuring or conspire with any other persons, natural or artificial, to procure the transportation in interstate or foreign commerce of any petroleum or the products thereof; or any person, natural or artificial, who shall receive for shipment or transportation in interstate and foreign commerce, or shall purchase for shipment in interstate and foreign commerce any petroleum or the products thereof, with the knowledge that such petroleum was produced or withdrawn from storage in violation of any law, or valid regulation or order prescribed thereunder by any Board, Commission, Officer, or other duly authorized agency of a State, shall be deemed to have violated the provisions of Section 9(c) of the National Industrial Recovery Act (Public No. 67, 73rd Con-

gress) and the orders and regulations thereunder, and shall be subject to the penalties prescribed in the Act. And each transaction shall be deemed a separate offense.

### III

Because of the interrelation of interstate and intrastate commerce in petroleum and the products thereof and the direct effect upon intrastate and foreign commerce of petroleum and the products thereof moving in intrastate commerce, it is essential and hereby required for the proper enforcement of the provisions of Section 9(c) of the National Industrial Recovery Act (Public No. 67, 73rd Congress) and the orders and regulations issued thereunder, that there shall be furnished the Division of Investigations of the Department of the Interior such information as respects production, purchases and shipments as is hereinafter required, regardless of whether such production, purchases and shipments are in interstate and foreign commerce or in intrastate commerce.

[fol. 16]

### IV

Every producer of petroleum shall file a statement under oath, sworn to before any duly authorized State or Federal officer, not later than the fifteenth day of each and every calendar month, beginning with August 15, 1933, with the Division of Investigations of the Department of the Interior, unless otherwise ordered to report at more frequent intervals by the Division, which statement shall contain the following information for the given field involved covering the preceding calendar month:

(1) The residence and post-office address of the producer.

(2) The location of his producing properties and wells, the allowable production for each property and well as prescribed by the proper State agency for both property and wells.

(3) The daily production in barrels produced from each property and well.

(4) A report of all deliveries of petroleum showing the names and places of business of all persons to whom such petroleum was delivered whether purchasers, consignees

or transporting agencies, and the quantity involved in each delivery, transportation or other disposition thereof, together with a report of all petroleum in storage, wherever located, at the beginning and at the end of said calendar month, the place of storage and the amount in storage at each place.

(5) A declaration that no part of the petroleum or the products thereof produced and shipped has been produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any State law, or valid regulation or order prescribed there-[fol. 17] under by any Board, Commission, Officer, or other duly authorized agency of the State in which the petroleum was produced. As amended by Order of July 25, 1933.

## V

Every purchaser of petroleum shipper (other than a producer) of petroleum, and refiner of petroleum (including all persons engaged in the processing of petroleum in any manner), shall file a statement under oath sworn to before any duly authorized State or Federal officer, not later than the fifteenth day of each and every calendar month beginning with August 15, 1933, with the Division of Investigations of the Department of the Interior, unless otherwise ordered to report at more frequent intervals by the Division, which statement shall contain the following information for the preceding calendar month:

(1) The residence and post-office address of the purchaser, shipper, refiner, or processor.

(2) The place and date of the receipt, the names and business addresses of the producers and/or other parties from whom the petroleum was received, the amount received of such petroleum and the amount of petroleum held in storage or otherwise on the last day of the calendar month next preceding the period covered by the report.

(3) The disposition of said petroleum, including the place and date of delivery, the amount delivered, the names and business addresses of the consignees to whom delivered, the transporting agencies, and the amount of petroleum held in storage or otherwise at the end of said calendar month.

(4) A declaration that to the best of the information and belief of the affiant, none of the petroleum received and/or [fol. 18] disposed of was produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any State law or valid regulation or order prescribed thereunder by any Board, Commission, Officer, or duly authorized agency of the State in which the petroleum was produced. As amended by Order of July 25, 1933.

## VI

No transporting agency whether by rail, pipe line, water, motor vehicle, or any other means of conveyance shall receive for transportation any petroleum or the products thereof unless the respective shippers and producers hereinafter described shall each furnish, and the transporting agency or agencies shall receive in good faith, and without reasonable grounds for believing that any fact stated is untrue, affidavits sworn to before any duly authorized State or Federal officer setting forth the information required by this regulation for the respective shippers or producers.

The following rules and classifications shall govern the furnishing of affidavits under this regulation:

### Class "A" Shipments

Any shipment of petroleum, offered for shipment to any transporting agency, in the area where produced.

Class "A" shipments shall be supported by affidavits of both the shipper and the producer containing the following:

(a) The residence and post-office address of both the producer and the shipper.

(b) A declaration that none of the petroleum shipped has been produced or withdrawn from storage in excess of [fol. 19] the amount permitted to be produced or withdrawn from storage by any State law or valid regulation or order prescribed thereunder by any Board, Commission, Officer, or other duly authorized agency of the State in which the petroleum was produced.

(c) A recital of supporting facts, including the number of barrels included within the shipment, a designation of the properties producing the petroleum shipped, the time



during which such petroleum was produced and the rate of daily production during this period, together with the amount of production allowed by State law or regulations thereunder during this period of production, and wherever the State law or regulations thereunder limiting production apply to individual wells, then a designation of the wells from which such petroleum was produced, and a number of barrels contained in the shipment produced from each well, together with the daily production of each well during the period when such shipment was produced.

(d) Such other information as may be required from time to time by the Division of Investigations of the Department of the Interior, for the proper enforcement of these orders and regulations.

Provided, however, That if the petroleum offered for shipment was produced on or before July 11, 1933, and such petroleum has been acquired from any other shipper and/or producer and has been purchased or otherwise acquired from many sources and areas and has been so commingled that it is impossible for the shipper to furnish the facts required in subparagraph (c) above, the recital of facts required in such subparagraph (c) may be omitted and the following statement submitted in lieu thereof:

“(c1) The date and place of each transaction involving the acquisition of petroleum so commingled subsequent to [fol. 20] June 16, 1933; the name and business addresses of the producers and/or shippers from whom such petroleum was acquired and the amount of petroleum involved in each transaction.

“(c2) A statement setting forth the reasons why the information requested in subparagraph (c) above cannot be furnished.”

#### Class “B” Shipments

Any shipment of the products of petroleum when such products are, after processing or refining, offered for shipment to any transporting agency, in the area where the petroleum, which has been processed or refined, was produced.

Class “B” shipments shall be supported by an affidavit of the shipper containing the following:

- (a) The residence and post-office address of the shipper.
- (b) A declaration that the shipper did not acquire such petroleum or the products thereof with the knowledge that such petroleum had been produced in violation of any State law, or rule or regulation or aid or abet any other person in so producing the same, and that to the best of his information and belief the products of petroleum shipped have not been derived from petroleum produced or withdrawn from storage in excess of the amount permitted to be produced or withdrawn from storage by any State law or valid regulation or order prescribed thereunder by any Board, Commission, officer, or other duly authorized agency of the State in which the petroleum was produced.
- (c) Such other information as may be required from time to time by the Division of Investigation of the Department of the Interior for the proper enforcement of these orders and regulations.

#### Class "C" Shipments

Shipments of petroleum or the products thereof, when such shipments are made from a point outside the area where the petroleum was produced.

Class "C" shipments need not be supported by affidavit.

Provided, however, That under this regulation, carriers outside of the State where such petroleum was produced may receive from other carriers for such transportation and may transport any petroleum without requiring such affidavits and shall not be subject to any liability or penalty for or on account of so receiving or transporting the same; provided, further, That with respect to the products of petroleum any carrier or carriers may receive from other carriers for such transportation such products if the affidavit required for Class "B" shipments is furnished to the originating carrier and due endorsement of its receipt is stamped upon the shipping papers.

Provided further, That the provisions of this regulation shall not apply to shipments of the products of petroleum by rail in less than carload lots.

Provided further, That where shipments of petroleum or the products thereof are offered for shipment in intrastate commerce and are subsequently in any manner diverted into interstate commerce, in whole or in part, the

interstate carrier may not accept for shipment such petroleum or such products.

Provided further, That the term "area where produced" as used in this regulation, for the East Texas and Oklahoma City fields, respectively, shall include:

[fol. 22] 1. For the East Texas field, the counties of Upshur, Smith, Gregg, Cherokee, Rusk and Harrison in the State of Texas, and that portion of the State of Louisiana adjoining Harrison County which is included with the area described as follows: (including boundary points named): Beginning at a point on the Louisiana-Texas State line opposite the northeast corner of Harrison County, Texas, east to the Morringsport on the Kansas City Southern Ry.; thence southeast to Cash Point on The Texas and Pacific Ry.; thence east to Vanceville on the St. Louis Southwestern Ry. Co.; thence southeast to Adner on the Louisiana and Arkansas Ry Co.; thence south to Bodcau on the Illinois Central R. R.; thence southwest to Curtis on the Louisiana Arkansas and Texas Ry. Co.; thence southwest to Lucas on The Texas and Pacific Ry. Co.; thence west to Forbing on the Kansas City Southern Ry.; thence southwest to Keithville on the Southern Pacific Lines and The Texas and Pacific Ry. Co.; thence northwest to the southeastern corner of Harrison County at the Louisiana-Texas State line; and thence to the point of beginning.

2. For the Oklahoma City field, the area within a 15-mile radius of Oklahoma City, Oklahoma. As amended by Order of July 25 and August 2, 1933.

## VII

All persons, natural or artificial, embraced within the terms of Section 9(c) of the National Industrial Recovery Act (Public No. 67, 73rd Congress) and the Executive orders and regulation issued thereunder, shall keep and maintain available for inspection by the Division of Investigations of the Department of the Interior adequate books and records of all transactions involving the production and transportation of petroleum and the products thereof.

[fol. 23]

## VIII

All reports required by these regulations shall be filed with the Division of Investigations of the Department of

the Interior in Washington, D. C., or with such regional agencies as may be from time to time designated by the Division of Investigations.

#### IX

Each and every false declaration in any statement under oath required by these orders and regulations, or each and every failure to file reports or to keep and maintain adequate records, as required by these orders and regulations, and any participation by any officer or agent of a corporation in any acts of commission or omission in performing the duties described by these orders and regulations shall constitute a violation under the terms of Section 9(c) of the National Industrial Recovery Act (Public No. 67, 73rd Congress).

#### X

These regulations may be suspended in whole or in part by the Secretary of the Interior in any region, area, field, pool, or as applied to any particular properties or wells whenever, in his discretion, he deems their application unnecessary for the proper enforcement of the said act or orders issued thereunder, but no such suspension shall relieve any person, natural or artificial, from the duty of complying with the aforesaid act and orders; these regulations may be by him at any time amended or changed in whole or in part.

#### XI

In order to carry out the purposes of said Executive orders of July 11, and July 14, 1933, and of these regulations, the word 'petroleum' when used in these regulations, [fol. 24] singly, and separate and apart from 'the products thereof' shall be understood to mean petroleum in its crude form; and the 'product or products of petroleum' or 'Petroleum product or products' shall be understood to mean such products of petroleum as are ordinarily shipped or transported by pipe line, tank car, tanker, tank trucks and gasoline, nap-tha, fuel oil, kerosene, distillates, road oil, gas oil, blended gasoline, refined oil, and lubricating oil." Added by Order of July 25, 1933.

#### XII

Such pipe lines and gathering systems as serve areas in which producers and/or shippers are required to furnish

an affidavit or affidavits with the tender for shipment of petroleum shall file a statement under oath, sworn to before any duly authorized State or Federal officer not later than the fifteenth day of each and every calendar month beginning with August 15, 1933, with the Division of Investigations of the Department of the Interior, unless otherwise ordered to report at more frequent intervals by the Division, which statement shall contain the following information for the preceding calendar month:

(1) The residence and post-office address of the pipe line or gathering system.

(2) The place and date of all receipts of petroleum, the names and business addresses of the producers and consignor (principals and agents) from whom petroleum was received, and the amount received of such petroleum from each producing property properly identified.

(3) The disposition of said petroleum, including the place and date of delivery, the amount delivered, the names and business addresses of consignees to whom delivered, [fol. 25] and the amount of petroleum held in storage or otherwise at the beginning and end of said calendar month. Added by Order of July 25, 1933.

### XIII

When any affidavit and/or other sworn statement under oath is required by these regulations to be tendered or filed by any person such affidavit and/or statement must be tendered or filed by the real party in interest owning, producing, purchasing, shipping, refining or otherwise dealing with the petroleum or the products thereof involved in the transaction or transactions which are the subject of such affidavit or statement.

Provided however, That such affidavit or statement may be tendered or filed by a duly authorized agent of such real party in interest, when proof of such authorization has been filed with the Division of Investigations of the Department of the Interior on or before the date of the making or filing of said affidavit or statement. Added by Order of July 25, 1933.

Having determined that the enforcement of the Executive orders of July 11 and July 14, 1933, prohibiting the

transportation in interstate and foreign commerce of petroleum and the products thereof illegally produced or withdrawn from storage, does not require the complete application of the regulations prescribed July 15, as amended July 25, 1933, pursuant to such orders, except in certain regions, the operation of such regulations is hereby limited and extended as follows:

1. Regulation VI is hereby suspended except in so far [fol. 26] as it affects shipments of petroleum or its products from the East Texas and Oklahoma City areas, as hereinafter defined, when such petroleum has been produced in whole or in part in such areas or such products have been derived in whole or in part from petroleum produced therein.

2. The affidavits required by Regulation VI shall be furnished in duplicate.

3. The first general proviso to Regulation VI is hereby amended to read as follows: (Note—The amendment has been incorporated in the Regulation, the full text of which appears at PP. 6716).

4. The last general proviso to Regulation VI is hereby amended to read as follows: (Note—the amendment has been incorporated in the Regulation, the full text of which appears at PP. 6716).

5. Regulation IV is hereby suspended except in States, fields or areas in which reports are required each month from producers of petroleum under a regulation or regulations issued by any Board, Commission, Officer, or other duly authorized agency of the State acting under a State proration law.

6. Regulation V is hereby suspended except in so far as it affects purchasers, shippers and refiners of petroleum, deriving such petroleum in whole or in part from the East Texas and Oklahoma City areas.

7. Regulation XII is hereby suspended except in so far as it affects pipe lines or gathering systems serving the East Texas and Oklahoma City areas.

This order shall not affect any shipment in interstate or foreign commerce of petroleum or the products thereof, produced or withdrawn from storage in violation of State

law or valid regulation issued thereunder, and the penalties [fol. 27] prescribed by these regulations and the orders of July 11 and July 14, 1933, of the President of the United States issued pursuant to the authority vested in him by section 9(c) of the act of June 16, 1933, known as the "National Industrial Recovery Act", shall remain in full force and effect.

Approved and Promulgated this 2nd day of August, 1933.  
Harold L. Ickes, Secretary of the Interior.

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EXHIBIT "B" TO AMENDED BILL OF COMPLAINT

Railroad Commission of Texas, Oil and Gas Division

Oil and Gas Dockets 108, 120, 123, 124, 125, 126, 128, 129  
and 132

In re Conservation and Prevention of Waste of Crude  
Petroleum and Natural Gas in the State of Texas

Austin, Texas,  
September 5, 1933.

Emergency Order

Whereas, by decree of the Congress of the United States of America a national emergency has been declared to exist; and

Whereas, under the authority of the National Industrial Recovery Act a hearing was had in the City of Washington, D. C., and a code of fair competition for the petroleum industry was promulgated; and,

[fol. 28] Whereas, under date of August 19, 1933, the President of the United States, Franklin D. Roosevelt, approved the Code of Fair Competition for the Petroleum Industry; and,

Whereas, we have been advised by the Hon. Harold L. Ickes, Administrator of the Code, that the allowable production for the State of Texas, effective 7 a. m., September 8, 1933, will be 975,200 barrels daily; and,

Whereas, it is the desire of the Railroad Commission of Texas to cooperate fully with the President of the United States and the administrator of the Petroleum Code under the National Recovery Administration; and,

Whereas, under the last regular order of the Railroad Commission of Texas the allowable production of Texas was set at a figure which is presently 1,216,000 barrels; and,

Whereas, under the laws of the State of Texas the Railroad Commission of Texas is required to give ten days notice of a hearing, and said notice has this day been given setting the hearing at the earliest possible moment, namely—9 a. m., September 16, 1933, at Austin, Texas, but, realizing that this date is eight days later than the date set by the National Administration, and wishing to fully cooperate with the National Administration;

We, therefore, hereby order that all fields and all wells in Texas except "marginal wells" as defined by the laws of Texas be reduced in daily allowable production by exactly 25%, which amount of reduction will bring the allowable production of the State of Texas within the figure set by the National Administrator as the amount of oil which [fol. 29] can be produced in Texas and allowed under the Code to go into the channels of interstate commerce.

It being the provisions of the Code that should such quotas allocated in conformity with the provisions of this Section not be made within the State or if the production of petroleum within the State exceed the allowance within such State, the President may regulate the shipment of petroleum or petroleum products in or affecting interstate commerce out of said State to the extent necessary to effectuate the purpose of the National Industrial Recovery Act, and, since the Railroad Commission of Texas desires to make possible the smooth administration of the orders of the Administrator of the Code of Fair Competition for the Petroleum Industry, the Railroad Commission of Texas is making this temporary order to be effective until further orders which shall come after the date of said hearing which has been called for September 16, 1933, in conformity with the laws of the State of Texas. This order shall become effective at seven o'clock A. M., September 8, 1933.

Railroad Commission of Texas, by Lon A. Smith,  
Chairman; C. V. Terrell, Commissioner; Ernest  
O. Thompson, Commissioner.

Attest: C. F. Petet, Secretary. (Seal.)



[fol. 30] EXHIBIT "C" TO AMENDED BILL OF COMPLAINT

Railroad Commission of Texas, Oil and Gas Division

Oil and Gas Dockets 108, 120, 123, 124, 125, 126, 128, 129  
and 132

In re Conservation and Prevention of Waste of Crude  
Petroleum and Natural Gas in the State of Texas

Austin, Texas,  
September 30, 1933.

Amended Temporary Emergency Order

Pursuant to hearings held according to notice in above cause, and evidence presented to this Commission, and to authority conferred by the conservation laws of the State of Texas:

It is hereby ordered that the Emergency Order of this Commission entered September 5, 1933, and effective at 7 o'clock A. M., September 8, 1933, be amended so as to bring to total production of crude oil of the State of Texas within the amount allotted to the State of Texas, namely—965,000 barrels, by the Administrator of the Code for the Petroleum Industry under the National Recovery Act so as to hereafter and until superseded read as follows:

"We, therefore, hereby order that all fields and all wells in Texas except 'marginal wells' as defined by the laws of Texas be reduced in daily allowable production as of September 7, 1933, by exactly 26% which amount of reduction will bring the allowable production of the State of Texas within the figure set by the National Administrator as the amount of oil which can be produced in Texas and allowed under the Code to go into the channels of interstate commerce. Where there is no limit to production of crude oil set by order of the Commission the average daily production for the week ending August 26, 1933, shall be the basis upon which the 26% reduction shall be calculated. No exception to the foregoing will be granted under this order for any cause.

"It being the provisions of the Code that should such quotas allocated in conformity with the provisions of this

Section not be made within the State or if the production of petroleum within the State exceed the allowance within such State, the President may regulate the shipment of petroleum or petroleum products in or affecting interstate commerce out of said State to the extent necessary to effectuate the purpose of the National Industrial Recovery Act, and, since the Railroad Commission of Texas desires to make possible the smooth administration of the orders of the Administrator of the Code of Fair Competition for the Petroleum Industry, the Railroad Commission of Texas is making this temporary order to be effective at seven a. m., October 1, 1933."

Railroad Commission of Texas, by Lon A. Smith,  
Chairman; C. V. Terrell, Commissioner; Ernest  
O. Thompson, Commissioner.

Attest: C. F. Petet, Secretary. (Seal.)

[fol. 32] [File endorsement omitted.]

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IN UNITED STATES DISTRICT COURT

ANSWER OF DEFENDANTS TO AMENDED BILL OF COMPLAINT—  
Filed Nov. 6, 1933

Come now the defendants, A. D. Ryan, J. Howard Marshall and S. D. Bennett, and for their answer to the Amended Bill of Complaint state:

1. The Amended Bill of Complaint is fatally defective in that there is a misjoinder of parties plaintiff, as shown upon the face of the Bill;

2. The Amended Bill of Complaint is fatally defective in that there is a misjoinder of causes of action, as shown upon the face of said Bill;

3. The said Amended Bill of Complaint is fatally defective in that there is a misjoinder of parties defendant, as shown upon the face of said Amended Bill;

4. The said Amended Bill is fatally defective and should be dismissed so far as the same attempts to attack the validity of any order of the Railroad Commission of Texas for the reason that neither the State of Texas nor said

Railroad Commission is made a party defendant, all as shown upon the face of the Amended Bill, with particular reference to Paragraph VIII thereof, which paragraph should be dismissed;

5. The said Amended Bill fails to state the cause of [fol. 33] action against the defendants and should accordingly be dismissed for the following reasons: (a) The Act of Congress of June 16, 1933 (Public 67—73d Congress) is valid and constitutional; (b) The promulgation or Order of the President of July 11, 1933 is valid and constitutional; (c) The promulgation or Order of the President of July 14, 1933 delegating the President's powers under Section 9(c) of said Act to the Secretary of the Interior is valid and constitutional; (d) The Regulations of the Secretary of the Interior of July 15 and 25 and August 2, 1933 are valid and constitutional; (e) The orders of the Railroad Commission of the State of Texas limiting the production of oil within said State, including production by the individual plaintiff, are valid under the Constitution and Statutes of the State of Texas—all as shown upon the face of said Amended Bill of Complaint;

6. The said Amended Bill of Complaint is fatally defective so far as the same attempts to raise any question as to the validity of the orders of the Railroad Commission of Texas in that the State of Texas or the Railroad Commission of Texas are indispensable parties defendant.

Further answering, they admit the allegations of the first unnumbered paragraph of said Amended Bill of Complaint as to the residence of the parties, but they deny any alleged joint interest on the part of the plaintiffs, and they further deny all other allegations of fact set forth in said first unnumbered paragraph of the complaint.

## I

They have no knowledge as to the allegations of paragraph I of the Amended Bill of Complaint as to the ownership and operation by plaintiff, Panama Refining Company, of a crude oil refining plant, its lack of ownership of oil [fol. 34] or gas leases or wells, and its production and purchase of oil, and they accordingly deny the same and call for strict proof thereof so far as said allegations are material; they deny each and every other allegations of said

paragraph I of the Amended Bill of Complaint, except they admit that the Panama Refining Company sells gasoline and other products of petroleum to dealers, both within and outside of the State of Texas, and they aver that said company is accordingly engaged in interstate commerce in petroleum and the products thereof;

## II

They admit the allegations of paragraph II of said Amended Bill of Complaint;

## III

They deny each and every of the allegations of paragraph III of said Amended Bill of Complaint;

And further answering the allegations of said paragraph III of the said Amended Bill of Complaint, they aver that the oil field commonly known as the East Texas Oil Field located in the State of Texas in the Counties of Smith, Gregg and Rusk, in which field Kilgore, Texas, is located, and in which field the plaintiff company operates a refinery and the plaintiff individual owns an oil and gas producing well, is an oil field in which there are and were at the time of the filing of said Amended Complaint more than 11,000 producing oil wells and approximately fifty-seven refineries, which latter, including the refinery operated by the plaintiff company, obtain crude oil or petroleum from the wells of said field, and manufacture therefrom gasoline, kerosene and other products of petroleum; that the daily legal production of oil in said field, under the laws of the [fol. 35] State of Texas and the orders of the Railroad Commission of the State of Texas, is limited to the legal production of approximately 400,000 barrels per day; that for a period of many months last past the actual production of oil in said field has been largely in excess of said legally authorized production, such excess being produced in violation of the laws of the State of Texas and the orders of the Railroad Commission of the State of Texas made thereunder; that such excess production, known as "hot oil," that is, bootleg oil, has been for many months and is now sold greatly below the posted price in said field of legally produced oil, is run into refineries, sold and transported in intrastate and interstate commerce at prices greatly below the price of legally produced oil; and many refineries

in said field refine products, including gasoline, from said illegally produced oil, and sell, dispose of and transport large quantities thereof at a price far below the posted price of said products in said field, without paying the State and Federal taxes therein, in intrastate and interstate commerce; that there are many owners and producers of oil in said field who comply with the laws of the State of Texas and the orders of said Railroad Commission, who pay the State and Federal taxes due, but who are unable to compete with the aforesaid illegal production of petroleum or with the sale of the refined products thereof; that the sale and production and transportation of said illegally produced oil and the products thereof affect the price of crude oil and its products both in the State of Texas and in the whole of the United States, particularly on the Atlantic and Pacific coasts and in the mid-continent area, and thus the production and refining of petroleum in the East Texas Oil Field directly affects interstate commerce in crude petroleum and its products; that the production and refining of petroleum in the East Texas Oil Field and the transportation thereof from said field into other States by rail, pipe line and water directly affects interstate commerce in petroleum and its products, in that, of the whole production of petroleum in the United States, more than one-third is derived from the East Texas Oil Field. The chief products of said petroleum are gasoline, kerosene and fuel oil of which millions of barrels are daily consumed throughout the United States, and the production and refining of the oil produced in said field has a controlling influence upon the price structure of crude oil and its products throughout the United States, directly involves the use of interstate transportation facilities throughout the United States, particularly in the mid-continent area and along the Gulf, Atlantic and Pacific coasts, including the facilities, pipe lines, railroads, motor vehicles and water; that large quantities of illegally produced oil in said East Texas Oil Field and the products derived therefrom have been and were at the time of the filing of the Amended Complaint and still are being produced and shipped from said East Texas Field by all methods of transportation, in interstate commerce, although said oil has been and is being produced in violation of the laws of the State of Texas and, though illegally produced, such oil and products have been for a

long period of time and are now being sold at cut-rate prices in competition with petroleum and the products thereof produced and refined in accordance with the laws of the State of Texas and of the United States;

Further answering said paragraph of said Amended Bill, defendants aver that by reason of the fact that the East Texas Oil Field produces such a large proportion of the total crude oil production of the United States, from which gasoline and other products are manufactured and sold throughout the United States, and by reason of the further fact that approximately 82 per cent of all oil produced in [fol. 37] said field enters the stream of interstate commerce, the regulation of interstate commerce of oil and its products necessitates the requirement of information and inspection as to the production of crude oil, the refining thereof and the shipment thereof in and from the said East Texas Oil Field, in which the plaintiffs allege they respectively own a refinery engaged in interstate commerce and producing wells;

Further answering said paragraph, defendants aver that the regulations complained of are reasonable, desirable and necessary to administer and enforce Section 9(c) of the National Industrial Recovery Act of June 16, 1933, and the President's orders issued thereunder referred to in the Amended Complaint;

#### IV

They admit the allegations of fact set forth in paragraph IV of said Amended Complaint, but they deny that by reason of said facts the plaintiffs are being deprived of or have been deprived of their liberty without due process of law or in contravention of the Fifth Amendment of the Constitution of the United States.

#### V

They deny that the defendant, A. D. Ryan, has by force and over the objection of the plaintiff company and its officers and agents from time to time come upon the property of the plaintiff and gauged its tanks and inspected its pipe lines and other equipment, and on the contrary they aver that they have never gone upon the property of said plaintiff over objection and gauged tanks or inspected pipe lines or equipment; they admit that they have requested

the books and records of the plaintiffs for information and inspection, but they deny that any of these matters [fol. 38] are an infringement on the rights of the plaintiffs or in violation of the Fourth Amendment of the Constitution of the United States; and further answering said paragraph, they state that the defendant, Ryan, claims a right, under the regulations of the Secretary of the Interior complained of, to gauge plaintiff's tanks and inspect its books and records, not, however, in an attempt to obtain evidence upon which to base criminal complaint against plaintiff, but as a proper, reasonable, desirable and necessary procedure in connection with the prohibition of shipment in interstate commerce of petroleum or its products produced or withdrawn from storage in violation of the laws of the State of Texas and order made thereunder;

## VI

Answering the allegations of paragraph VI of said Amended Bill of Complaint, the defendants **admit that the** plaintiff, Anding, is merely producing oil within the State of Texas, but they deny that he does not transport any oil outside of said State, and in this connection the defendants further aver that even though said particular individual, Anding, limited his operations to production within the State of Texas and did not transport oil outside of said State, nevertheless the regulations complained of are reasonable, proper, desirable and necessary in connection with the prohibition from shipment in interstate commerce of petroleum or its products produced or withdrawn from storage in violation of State law or order by reason of the matters and things hereinabove, in paragraph III set forth, and for the further reason that a reasonable method of enforcing said Section 9(c) of the Act of June 16, 1933, and the President's said orders issued thereunder, is by obtaining the information required from producers and refiners by the regulations complained of, and that this information, in order to be of assistance in enforcing said Section 9(c) of said Act, must necessarily be obtained from all producers and refiners in the East Texas Oil Field so that the sources of illegally produced oil and its products may be ascertained.

## VII

They deny each and every allegation of paragraph VII of said Amended Complaint, except that they admit that they exposed on the property alleged to belong to the plaintiffs what is known as a "by-pass," but they did not destroy or sever the same; that said "by-pass" had been installed by the plaintiff, Anding, so that oil could be run through it without being gauged as required by the State of Texas, and so that said oil could be run in a hidden and secret manner, so that taxes could be evaded and so that oil could be produced and transported therethrough in excess of the lawful production allowed the plaintiff under the laws and orders of the State of Texas; and they deny that the exposure of said "by-pass" violated any constitutional right of the said plaintiff under the Fourth Amendment of the Constitution of the United States.

## VIII

Answering the allegations of paragraph VIII of said Amended Complaint, the defendants deny each and every allegation of fact therein set forth, and in this connection they aver that even were it true, which the defendants deny, that the orders of the Railroad Commission of Texas promulgated September 5 and September 30, 1933, and October 18, 1933, were invalid, such conclusion would be immaterial for the reason that Title 102, R. C. S. of 1925 and the amendments thereto, being statutes of the State of Texas, [fol. 40] authorizes the Railroad Commission of the State of Texas to fix the allowable production of crude oil in the State of Texas, and prior to said orders of September 5 and 30, and October 18, there had been duly and legally promulgated by said Railroad Commission valid orders to that end, which would still be in effect notwithstanding such invalidity of the orders of said Commission of September 5 and 30, and October 18, or any of them, and the enforcement of said Section 9(c) of said Act of June 16, 1933, made and still does make it necessary and desirable to put into effect and to keep in operation the regulations complained of; and further answering said paragraph, these defendants aver that the authority of the Railroad Commission of the State of Texas under the laws of said State



to fix the allowable production of crude oil in said State is now in existence and has been since 1925, and the Railroad Commission of said State, in pursuance of said statute, has constantly and continuously, from time to time, duly made and promulgated orders fixing the allowable production of crude oil in said State, and has had for many years and now has a large field force aiding in the regulation and enforcement of such orders under the authority of said State with widespread, carefully prepared and competently maintained personnel and equipment, actively engaged for many years, and now so engaged, in endeavoring to secure compliance by producers and others engaged in the oil industry with the orders of said Commission from time to time made and promulgated; that the validity of the Federal regulations now complained of and the validity of all actions of the defendants thereunder and under statutes of the United States now complained of, depend in no manner upon the validity of the particular orders of September 5 and 30, and of October 18, 1933, referred to in said paragraph VIII of the Amended Complaint, said regulations not being in any sense limited in their application [fol. 41] by orders of the Railroad Commission last above referred to, but being general in application for the purpose of prohibiting the transportation in interstate and foreign commerce of petroleum and its products produced or withdrawn from storage in violation of any law or order of the State of Texas or any agency thereof; that even if said orders of the Railroad Commission of Texas of September 5 and 30, and October 18, 1933, were for any reason invalid, which the defendants deny, there would nevertheless be in full force and effect in said State valid orders of said Commission theretofore made and promulgated limiting as to each well in said State the daily allowable production of crude oil therefrom, and there would remain in effect the statutes of the State authorizing the Railroad Commission of Texas to exercise constantly and continuously the function of control of production of oil in said State; that said Commission has constantly exercised said function for a long period of time; that the statute authorizing it so to do is valid and in effect; that said Commission and the State of Texas is now and has been for a long period of time engaged in the enforcement of orders promulgated under said statute; that the promulgation of

such orders is the duty of said Commission which it must continue to perform;

And further answering said paragraph VIII of said Amended Complaint, the defendants state that said orders of the Railroad Commission of the State of Texas, promulgated September 5 and 30, and October 18, 1933, must be taken as valid in this suit for the reason that the same may not be collaterally attacked or indirectly attacked in a court of the United States in a suit to which members of the said Railroad Commission are not parties or to which the State of Texas is not a party, and in which it is sought to enjoin only the enforcement of regulations issued under the [fol. 42] authority of the United States and ont of the State of Texas.

And further answering said paragraph VIII of the Amended Complaint, these defendants state that the validity of said last referred to orders of the Railroad Commission of Texas may not be determined in this suit for the reason that such determination is not a Federal question or one alleged in the Amended Complaint upon any ground giving rise to Federal jurisdiction, and the question of the validity of said orders of said Commission is a matter which may be determined only by the courts of the State of Texas in the absence of attack upon said orders upon any Federal ground;

Further answering paragraph VIII of said amended Bill of Complaint, the defendants deny that any of the orders of the Railroad Commission of the State of Texas promulgated September 5 and 30, and October 18, 1933, are invalid for any reason, and they deny that any one of said orders was made without due and proper hearing or in an arbitrary or capricious manner, or without evidence; and in this connection they aver that the said orders, as appears upon the face of the copies of the order attached as Exhibits to the Complaint, were made after consideration of such evidence and hearing as was deemed necessary by said Commission, and that such evidence and hearing was, as shown upon the face of said orders, sufficient under the statutes of the State of Texas;

And further answering said paragraph VIII, these defendants state that the plaintiffs are not entitled to complain in this cause of any of said orders, or to attack the validity thereof, for the reason that the complaint fails to

allege, and the fact is, that the plaintiffs have not exhausted their remedies for review of the edicts of said orders granted to the plaintiffs under the statutes of the State of [fol. 43] Texas, which statutes give the plaintiffs the right, if dissatisfied with any of said orders, to petition in a court of competent jurisdiction in Travis County, Texas, and thus obtain a speedy determination of the matter, as provided in Sec. 6 of Ch. 313 of the Acts of 1929, 41st Leg. of the State of Texas;

And further answering said paragraph VIII, the defendants state that there are no facts set forth therein or in the Amended Bill showing in what respect, or that in any manner the plaintiffs have been deprived of any right, or have been injured in any manner by either of the said orders of the Railroad Commission of the State of Texas;

Further answering the Amended Bill of *Company*, the defendants state that under the provisions of said Act of June 16, 1933 there was duly adopted and approved by the President, to wit, August 19, 1933 a Code of Fair Competition for the Petroleum Industry, and thereafter, to wit, September 13, 1933 there were adopted and approved by the President, under the provision of said Act, certain Modifications to said Code, under the provisions of which Code and Modifications the Federal agency therein referred to was authorized to estimate the market or consumers' demand in the United States of Petroleum and to allocate said demand among the several oil producing states; that under the provisions of said Act, Code, and Modifications the Department of the Interior was, to wit, the 27th day of August, 1933, duly, legally designated by the President as the Federal agency so to do, and the Secretary of the Interior was on the same day designated the Administrator of said Code and Modifications; that thereafter and from time to time the said Federal agency has estimated said market or consumers' demand and has allocated same among the oil producing states, including [fol. 44] the State of Texas, and has certified the same to the Governor and Railroad Commission of Texas; that under the Constitution and Statutes of the State of Texas the Railroad Commission of Texas has duly and legally after hearing and in compliance with the Statutes of Texas and in order to prevent waste, fixed the market demand of oil produced in the State of Texas in conformity with the

allocation to Texas made by said Federal agency and certified as aforesaid, and has fixed the allowable production in the East Texas Oil Field allocated to said field, including all the wells thereon, the allowable production of said field and wells, which is greatly less than the potential production thereof; and the order of said Commission bearing date of September 30, 1933, copy of which is attached to the said Amended Bill as Exhibit "C" is one of said orders of said Railroad Commission of Texas; and prior to the adoption of said Code of Fair Competition and prior to any estimation of market or consumers' demand and certifications thereof made by the Department of the Interior, and on, to wit, the 13th day of June, 1933 and, to wit, the 22d day of April, 1933, the said Railroad Commission of Texas, in full compliance with the laws of the State of Texas, made and issued valid orders of the allowable production of said East Texas Oil Field and the wells therein, under the Constitution and laws of said State; and since said dates and now there has been and are vast quantities of petroleum and products thereof stored in said East Texas Oil Field, which petroleum was produced in violation of said orders; and since said subsequent orders of the Railroad Commission of Texas and the acts of the said Federal agency as aforesaid there have been and are tremendous quantities of petroleum and the products thereof stored in the East Texas Oil Field, which petroleum was produced in violation of said orders of the Railroad Commission of Texas.

[fol. 45] Further answering said Amended Complaint, defendants state that paragraphs IV, V and VII of the regulations, being the only part of said regulations of which the plaintiffs complain, are reasonable, desirable and necessary in order that the Act of Congress and said order of the President may be made effective; that they do no more than require the furnishing of certain information desirable, advisable or necessary in the proper and orderly enforcement of the Act of Congress and the President's order thereunder, and they are accordingly valid, and a proper exercise of the power to make rules and regulations granted by the Act of Congress;

And in this connection they aver that the information called for by said Regulation IV, applicable to a producer,

is information necessarily within the knowledge of the producer and is only such information as is reasonably calculated to aid in preventing the transportation of illegally produced crude oil and the products thereof; that the information called for by said Regulation V, applicable to a refiner, is only such information as is necessarily within the knowledge of said refiner and is the information desirable, advisable and necessary to bring about the enforcement of said Act and President's order and is such information as is within the knowledge of the refiner, which he is capable of furnishing and which is necessary to be furnished in order that the Government may enforce its said statute and the President's order thereunder; that the regulations have been fitted largely to the bookkeeping systems of the refiners affected, the reports may be easily made, are being made regularly by a large number of refiners, and the Government representatives are cooperating with the refiners in a courteous manner in furnishing information and collecting the reports so as not to burden such refiners;

[fol. 46] That in the East Texas Field here involved local refineries are often tied directly to wells; that in order to check production it is accordingly necessary to check purchases by refineries; that refineries have been and now are the chief instrumentalities for the disposition of illegally produced oil, making it necessary in order to cure the evil to which the law is directed that reports be required of refineries; that refineries in the field are an adjunct of loading racks from which enormous amounts of oil are shipped; that the East Texas Field is of great territorial extent, with innumerable refineries in close proximity to producing wells, with innumerable by-passes and intricate systems of pipe lines, with facile means of railroad and truck movements of crude oil and refined products, and the necessity of reports from refineries is further shown by the impossibility by checking pipe lines and producers, due to the innumerable pipe lines of unknown character and ownership and by the impossibility of checking the ownership of many producing properties, with rapid changes of name and transfers of title, innumerable temporary incorporations, the switching of title back and forth and into quickly formed corporations, all of which is a part of a gigantic evasion of State and Federal law; that the obtaining of

reports from refineries is a definite and certain source of information necessary to enforce the law; that enormous quantities of illegally produced oil and the products thereof have been for a long period of time run through refineries in said field, in violation of State law, and tremendous quantities of this oil and its products have been constantly entering the stream of interstate commerce through refineries;

That the East Texas Oil Field has a potential production of many millions of barrels of crude oil per day; that now and for a long time past hundreds of thousands of barrels of crude oil and the products thereof produced in [fol. 47] the East Texas Oil Field have been shipped in the interstate and foreign commerce; that hundreds of thousands of barrels per day of this production and refining have been and now are produced in violation of the orders of the State Railroad Commission of the State of Texas and the laws of the State of Texas, and since the 11th day of July, 1933, and up to the present time likewise in violation of said Act of Congress of June 16, 1933; that this production and refining is followed by the shipment in interstate and foreign commerce of such oil and its products, and this has had and does now have the effect of demoralizing the whole petroleum industry of the United States, representing an investment of more than twelve billions of dollars, by shipment of such oil and the products thereof in interstate commerce and the sale thereof without payment of State or Federal taxes, at below reasonable recovery and marketing cost, and with underselling by unfair competition petroleum and its products produced, shipped and sold in conformity to State and Federal law, upon which taxes have been paid; that the only reasonable means of enforcing the State and Federal laws prohibiting production and shipment in violation of State and Federal law is through the obtaining of information, as to the source of the production and as to the refining thereof, from producers and refiners as sought by the regulations complained of; and that this is further necessary and desirable so that the law-abiding producers and refiners and shippers may obtain a market in interstate commerce for their products at a fair and reasonable price free from the competition of illegally produced oil and its products;

That the crude oil of the United States and particularly of the East Texas Oil Field is a natural resource which enters daily into and affects interstate commerce through [fol. 48] the mid-continent marketing area by rail, pipe line and water transport, mingled in large part with the crude and refined products of other States and fields; that the prevention of waste of this natural resource and the proper regulation of interstate commerce therein makes mandatory the regulation of production and the shipment of refined products thereof and this can not successfully be accomplished except through the obtaining of information such as is required by Regulations IV, V and VII complained of.

Further answering, the defendants aver that the complaint is fatally defective in that, as shown upon the face of the Amended Complaint, the Secretary of the Interior is an indispensable party defendant;

Further answering, the defendants allege that in the State of Oklahoma and in the State of New Mexico there have been enacted and are now in force State statutes limiting the production and withdrawal from storage of petroleum; that said States border on the State of Texas; that from and into said States pass transportation facilities which also pass through the East Texas Oil Field, through and by means of which petroleum and petroleum products are constantly being transported from and to New Mexico and Oklahoma, commingled with and/or shipped or transported simultaneously with and by means of the same facilities as petroleum and/or petroleum products originating in Texas; that large quantities thereof go into interstate commerce; that in order to aid in effectuating the purpose and intent of the act of Congress of June 16, 1933, it is necessary and desirable to have the regulations complained of to avoid easy evasion and frustration of said act and by such evasion and frustration of the act of Congress to nullify the same; and this is true whether or not the said orders of the Railroad Commission of Texas are valid;

[fol. 49] Further answering the complaint, these defendants allege that there is now in full force and effect under the statutes of the State of Texas, duly authorized thereunder, a valid order or valid orders promulgated by the Railroad Commission of said State, fixing the allowable

production of crude petroleum within said State from the wells therein located, including more than 11,000 producing wells in the East Texas Oil Field; that said order or orders have never been held invalid in a court of competent jurisdiction, are now in full force and effect, and are being administered by said Railroad Commission of the State of Texas under the statutes of said State, including the orders of said Commission dated June 13, 1933, September 5 and 30, 1933, and October 18, 1933; that is, one or all of said orders; that production in said State and in said East Texas Oil Field exceeds the amount limited under any of said orders, and such excess production and the products thereof move in large part in interstate commerce, that 82 per cent of all the production in said East Texas Oil Field, and the products thereof, moves from said Field into interstate commerce, and that this condition has existed for more than six months last past, and exists at the present time.

Wherefore, the defendants pray that the rule be discharged, the application for injunction denied, the Amended Bill of Complaint be dismissed, and that the defendants may be hence dismissed with their costs.

J. Howard Marshall II, A. D. Ryan, S. D. Bennett,  
by Charles Fahy, Defendants. Charles Fahy, J.  
Howard Marshall II, Attorneys for Defendants,  
Washington, D. C.

[fol. 50] *Duly sworn to by A. D. Ryan. Jurat omitted in printing.*

[File endorsement omitted.]

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IN UNITED STATES DISTRICT COURT

STIPULATION AS TO ISSUES, ETC.—Filed March 17, 1934

It is hereby stipulated and agreed by and between the attorneys for all of the parties in the above entitled action as follows:

[fol. 51] (1) That the issues tried and determined in said above styled and numbered causes were those fixed by the Amended Bill of Complaint filed by the complainants,



Panama Refining Company, and A. F. Anding on October 23, 1933, and the answer of defendants, A. D. Ryan, S. D. Bennett, and J. Howard Marshall, to the Amended Bill of Complaint filed November 6, 1933.

(2) That all of the evidence introduced by any one of the complainants should be considered as though introduced by each of them within the issues framed, as described in Paragraph (1) above, and that all evidence introduced by the defendants with reference to any of the complainants should be considered with like force and effect as though introduced with reference to all of them.

In witness whereof, the attorneys of record have hereunto signed their names this the 15th day of March, A. D., 1934.

F. W. Fischer, Attorneys for Complainants. Chas.  
I. Francis, Attorneys for Defendants.

[File endorsement omitted.]

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[fol. 52] IN UNITED STATES DISTRICT COURT FOR THE EAST-  
ERN DISTRICT OF TEXAS, TYLER DIVISION

In Equity No. 635

and

Consolidated Causes Nos. 636 and 640

PANAMA REFINING COMPANY ET AL., Plaintiffs,

vs.

A. D. RYAN ET AL., Defendants

**Statement of Evidence**—Filed April 2, 1934

Be it remembered that the above-entitled cause came on regularly for trial before the above Court sitting in Equity on the 6th day of November, 1933, upon the issues formed by the Amended Bill of Complaint and the Amended Answer thereto Mr. F. W. Fischer appearing as counsel for plaintiffs and Mr. Charles Fahy appearing as counsel for defendants.

## Plaintiffs' Case

## OFFERS IN EVIDENCE

Plaintiffs introduced in evidence certified copies of Orders of the Railroad Commission of Texas dated September 5, 1933, September 30, 1933, and October 27, 1933, which, so far as is material to this cause, limited the daily production of crude petroleum from wells in the East Texas Field to fixed percentages of their average hourly potential producing capacity as determined by the Commission. The most recent of these orders limited daily production to 5.75 per cent of such hourly potential.

Plaintiffs introduced in evidence a statement by Tom Potter, who stated that he is Vice-President of the Panama [fol. 53] Refining Company, one of the plaintiffs in this case; that a few days before the filing of this suit, agents of the Department of the Interior, who informed him that they were working under the direction of A. D. Ryan, came upon the property of the Panama Refining Company and stated that they desired to gauge the tanks on the property and examine the same; that he stated to said agents that he would not consent for them to gauge the tanks and come upon the property; that they replied they had been sent out by Mr. Ryan to gauge the tanks and were going to gauge them regardless of whether he protested or not; that in order to avoid personal difficulty with these agents, he made no further resistance and these agents did go upon the tanks and property of the Panama Refining Company and gauged the tanks and inspected the property; that they stated to him they had instructions from Mr. Ryan to gauge these tanks and to examine the refining property as often as they saw fit. He further stated that thereafter, they came back upon the property during the night-time and gauged the tanks of the Refining Company and they demanded of him as the officer in charge of the Refining Company that he file reports as required by Paragraph V of the Regulations of the Department of the Interior, and that, at the time of these demands, they informed him that, if the reports were not furnished, criminal proceedings would be instituted against him.

Plaintiffs introduced in evidence a statement by A. F. Anding, who stated that he is one of the plaintiffs named

in this cause and is the owner of oil wells referred to in the [fol. 54] Bill of Complaint; that he is President of the Panama Refining Company, another plaintiff in this case; that on September 4, 1933, agents and representatives of the defendant, A. D. Ryan, came upon an oil well owned by him and located on the Ira Birdwell land, in the R. W. Smith Survey, Rusk County, without his consent or authority and dug up the pipe lines, known as the flow lines, from this well to his tanks, and over his protest and by force cut said line with a blow torch; that these agents, whose names are unknown to him, then and there informed him to report immediately to the defendant, A. D. Ryan; that in compliance with these instructions, he did report to A. D. Ryan who admitted that he had sent these agents and representatives upon the property for the purpose of inspecting and examining the same, and that he had the right and authority under the Rules and Regulations of the Secretary of the Interior to go upon the property and examine it and dig up the pipe lines thereon and disconnect the same if, in his opinion, such pipe lines constituted what is known as by-passes; that Mr. A. D. Ryan stated that under the Rules and Regulations of the Secretary of the Interior he had the right and authority as the representative and agent of the Secretary of the Interior to come upon the property and examine the same and dig up the pipe lines and gauge the tanks as often as he saw fit, in order to prevent the production of oil in excess of the Railroad Commission's order. He further stated that a few days prior to the filing of this suit, the agents and representatives of the defendant, A. D. Ryan, whose names he did not know, but who showed credentials as agents of the Department of the Interior and who said they were working under the instructions of the defendant, A. D. Ryan, came upon the premises of the Panama Refining Company for the purpose of gauging the tanks of the Refining Company; that these agents were informed [fol. 55] by Tom Potter, Vice-President of the Panama Refining Company and who was in charge of the property, that the officers of the Panama Refining Company would not consent to the gauging of the Refining Company's tanks; that these agents informed Mr. Tom Potter that regardless of whether he consented to such gauging or not they intended to gauge said tanks; that in order to avoid

personal conflict with said agents their entrance upon the property was not resisted; and that these agents did gauge the tanks of the Refining Company and subject the property to their examination and inspection.

Plaintiffs introduced in evidence copies of letters signed by Archie D. Ryan, which are in words and figures as follows, to-wit:

“United States Department of the Interior, Division of  
Investigations

Tyler, Texas, August 14, 1933.

Panama Refining Company, Kilgore, Texas.

GENTLEMEN: On August 27th, 1933, I mailed to you Questionnaire requesting that certain information be furnished me under authority vested in me by Executive Orders of the President of the United States on July 11 and July 14, 1933, under Section 9-C of the National Industrial Recovery Act (Public No. 67, 73rd Congress).

I am in receipt of this Questionnaire marked ‘Panama Refining Company is covered by Federal Injunctions’ [fol. 56] Signed ‘Panama Refining Company, By Tom Potter, President’. I wish to call your attention to the fact that the information requested by me is for the Division of Investigations, Department of the Interior, the power of the Government empowered by the Secretary to carry out Section 9-C of the National Industrial Recovery Act, and whatever Federal Injunctions that you might have against the Railroad Commission of Texas have no effect against the enforcement of the orders of the Secretary of the Interior in enforcing Section 9-C of the National Industrial Recovery Act.

I am returning a new Questionnaire to you and demand that the information requested therein be furnished me within five days after the receipt thereof, and I wish to call your attention to Section 9-C printed on the back of the Questionnaire giving the penalties for not complying with that Section of the Act.

Your immediate attention to this matter is requested.

Yours very truly, (Signed) Archie D. Ryan, Special  
Agent in Charge.”

“United States Department of the Interior, Division of  
Investigations

Tyler, Texas, October 23, 1933.

Ortiz Oil Company, Joinerville, Texas.

GENTLEMEN: This office is in receipt of your E-B report for the month of September, 1933 (marked ‘October’), filed [fol. 57] with this office under Regulation IV of The Regulations issued by the Secretary of the Interior under dates of July 15, and 25, 1933.

This report shows an overproduction in excess of the proration laws of the State of Texas in the amount of 73 barrels. Immediately advise this office in affidavit form your reason for permitting this overproduction to occur.

Your very truly, (Signed) Archie D. Ryan, Special  
Agent in Charge.”

Plaintiffs introduced in evidence a statement by J. W. Smith, who stated that on or about the first day of September, 1933, he was employed by the Bureau of Investigations of the Department of the Interior to investigate; that he remained in its employ for several days, resigning from said position about September 15th; that during this time he was working out of the office of A. D. Ryan, Chief Investigator, at Tyler, and under the direct supervision of Jimmie English of Kilgore, who had charge of that territory; that the nature of his work was to gauge refinery and pipe line tanks; that his work, however, was confined to independent refineries and independent pipe lines; that his instructions from Jimmie English and Mr. Whittier, who apparently received their instructions from Mr. Ryan, as they went back and forth from the office at Kilgore to the office at Tyler and were in constant telephone communication, were to go upon the tanks of refineries and pipe lines without their knowledge or consent and gauge their tanks and obtain evidence, if possible, as to whether or not they were shipping in interstate commerce oil that was produced in excess of the Railroad Commission’s orders, that, in accordance with these instructions, he went from time to time [fol. 58] upon the tanks of the various independent refineries in the Kilgore District in search of evidence as to whether any of them were shipping excess oil or refining

excess oil and shipping the products produced therefrom in interstate commerce; that he never at any time asked any owner or refinery operator for permission to gauge their tanks and that he would turn in reports as to his findings to Jimmie English.

He further stated that on or about the 6th or 7th of September, 1933, Jimmie English advised him that the Panama Refining Company had brought a suit against Mr. Ryan and the Federal agents to restrain them from coming upon its property and to relieve them from making reports; that he was instructed to find some evidence against the Panama Refining Company as to its shipment of excess oil in interstate commerce or gasoline manufactured from excess oil; that in accordance with his instructions, he thereafter gauged the tanks of the Panama Refining Company without its knowledge in an effort to find evidence of it receiving excess oil or shipping excess oil or gasoline manufactured from excess oil, but was unable to find any evidence of this and so reported to Mr. English; that he was told to find some evidence of law violation on the part of the Panama Refining Company before its suit came up in Tyler, for if he found this evidence, it would help the government in its suit, but that he was unable to find any such evidence. He further stated that during the time of his employment by the Department of the Interior, he asked Jimmie English how long he thought the jobs as investigators for the Government would last and he stated only so long as they could find evidence of violations of the law.

The Plaintiffs introduced in evidence a statement by F. R. Stapp, who stated that he is manager of the loading [fol. 59] rack at Kilgore, Texas, known as the Texas Unity and has been for the past year; that on Saturday, November 4, 1933, Jimmie English, an employe of the Bureau of Investigations of the Department of the Interior, came to him and asked him to make an affidavit to the effect that on September 23, 1933, A. F. Anding was running oil through a certain pipe line which is known as the Franklin Adams line which was connected with said loading rack; that he told Mr. English that he could not make such affidavit, as he did not know that Mr. Anding or anybody else was running oil through said line and loading through said loading rack on said date; that, on the other hand, according to his knowledge of said loading rack,

there had been no oil run through said line; that about October 1st he broke the said line out of said loading rack and no oil was spilled on this occasion; that if any oil had been run through this line since Mr. Anding had put in his connections into the loading rack at least 10 or 15 barrels would have spilled out at the time of breaking out said connections; and that Jimmie English then stated to him that as an agent of the Federal Government he then and there subpoenaed him to appear before A. D. Ryan at 815 Citizens National Bank Building, Tyler, Texas, at 8:30 o'clock A. M., Monday, November 6, 1933.

The Plaintiffs introduced in evidence a statement by W. I. Jones, who stated that for the last year he has been employed by the Panama Refining Company of Kilgore, Texas; that on or about September 5, 1933, he was Refinery Yard Foreman for the Panama Refining Company; that as a part of his duties, he installed a pipe line from the refinery to the north end of the loading rack used by the Panama Refining Company, which is a privately owned loading rack; that this pipe line was installed for the purpose of loading in tank cars from the refinery crude oil, fuel oil, or any other petroleum products; that immediately [fol. 60] after this line was installed, R. L. Knight, an Agent of the Department of the Interior, and another agent by the name of McClure, came to the place where said pipe line was connected with the loading rack and asked why the pipe line was installed; that he informed them that it was installed for the purpose of loading crude oil, fuel oil, and other by-products that might be shipped from time to time by the Panama Refining Company over the railroad; that Mr. Knight informed him that the pipe line would have to be disconnected since the Federal Government would not permit the same; that he asked Mr. Knight what objections the Federal Government had to the pipe line and Mr. Knight stated that he had decided that it was installed for the purpose of running "hot" oil; that he advised him that he was mistaken that it was installed for the purpose of loading crude oil, fuel oil, gasoline, kerosene, or any other products that the Panama Refining Company might desire to ship when it was shipped direct from the refinery, as the line was connected with the discharged pumps located at the refinery used for load-

ing out commodities from the refinery and that said line was installed for that purpose only; that Mr. Knight replied that it didn't make any difference for what purpose the line was installed; that it could not be used; that Mr. Knight then and there stated that if he attempted to use the line that he would take him to jail immediately. He further stated that Mr. Knight was armed with two large six-shooters at the time and stated that he would have an agent of the Department of the Interior placed on each end of the loading rack day and night for the purpose of preventing the use of said line by the Panama Refining Company, and if it was ever used against his orders that he would lodge him in jail immediately; that said pipe line was, in truth and in fact, installed only for the purpose as above stated, and was not installed for the purpose of transporting what is known as "hot" oil and that the Panama Refining Company has refrained from using said line for any purpose since the date of said threats so made by Mr. R. L. Knight, and until its case against A. D. Ryan can be determined by the Federal Court, for the reason that the officers of the Panama Refining Company believe that if they should use it without the protection of an order from said Court, the said Knight will carry out his threats as aforesaid.

The Plaintiffs introduced in evidence a statement by P. B. Goodwin, who stated that he is President of the Upshur Refining Company and has been so employed since its incorporation in Texas in March, 1932, or thereabout; that during the period of his employment with said corporation, it has been engaged in the manufacture or refining of crude oil products from crude oil in the East Texas Field; that he is acquainted with the operations of the Lake Refining Company, Inc., Carnation Refineries, Inc., Locke Refining Company, Goodson Refining Company and the Lotus Refinery and of his own knowledge knows that they are engaged in the business of refining or manufacturing of crude oil into its by-products; that the crude oil they purchase comes from within the State of Texas; and that all refining and manufacturing they do is done within the State of Texas. He further stated that about the 3rd of September, 1933, J. G. Floyd, in company with Glen Briscoe, called at the office of the Upshur Refining



Company in Gladewater, Texas, and Mr. Joe Hemphill was also with them; that they represented that they were agents of the Department of the Interior, Bureau of Investigations, but did not exhibit any credentials; that on that day they presented him with forms of reports and stated that they wanted them filled out daily, in accordance with the orders of the Department of the Interior; that after they showed him how to fill them out, they then wanted to gauge the crude oil tanks which he permitted them to do, after they had stated that the same was in [fol. 62] accordance with the orders of the Department of the Interior; that since that date, he has caused said reports to be properly filled out daily and delivered to some agent of the Department of the Interior in an attempt to comply with all of the orders of the Department of the Interior; that among the agents that called at the Upshur Refining Company's plant at various times were Messrs. Floyd, Dupree, Briscoe, Hemphill, Parker, Guinn, Flanagan and Martin; that after several calls of the various agents, he consulted his attorney seeking his advice about what was the proper thing to do against what he thought was an unreasonable and improper invasion of their property rights; that his attorney advised him to comply with all demands and requirements as promulgated by any of the various Federal Departments and officials until such time as the Federal Court could finally adjudicate the matter upon a proper petition filed therein. He further stated that after the preliminary hearing held before Judge Randolph Bryant in October, 1933, in Tyler, Texas, his attorney advised him to continue to comply with all of the demands and requirements, but that he felt that in view of the testimony that it was not necessary to comply with the requests made by the various officials; that accordingly he instructed all of the employes to comply with all of the demands and requirements of all of the agents and to ask each and every one whether or not the **information** sought was by demand, requirement, or request; and that since that time the Upshur Refining Company has operated its business upon that basis. He further stated that about the 5th day of October, 1933, Mr. J. G. Floyd called at the office of the Upshur Refining Company and asked for a copy of a check and the stub showing payment to the Refinery Products Company for oil purchased about the

28th day of September; that Mr. Floyd was referred to Mr. Deavenport and asked for the information above stated to which Mr. Deavenport replied and informed [fol. 63] Mr. Floyd that it was the intention of the Upshur Refining Company to comply with each and every demand and requirement of the Federal Government and its agencies and wanted to know whether or not the information sought was a demand or requirement or just a request, and that if he, Mr. Floyd, would give him a letter to that effect the information sought would be furnished; that Mr. Floyd first stated that he would give him a letter to that effect but apparently changed his mind and stated that he would get a letter from Mr. A. D. Ryan; that on the 7th day of October, 1933, Mr. Floyd returned to the office and handed Mr. Deavenport a letter, said letter being in substance as follows:

“United States Department of the Interior, Office of the  
Secretary, Washington

Gladewater, Texas,  
Oct. 6, 1933.

Mr. Jim Davenport, Upshure Refinery.

DEAR MR. DAVENPORT: Would appreciate it if you would let Mr. J. G. Floyd of the Division secure a copy of check and stub showing payment to Refinery Products Co. for oil purchased about the 28th of Sept.

Very truly yours, A. D. Ryan, Spec. Agent in  
Charge.”

that upon presentation to the latter of the letter, Mr. Deavenport informed Mr. Floyd that it was not the kind of a letter he asked him to get but that if he would sign a receipt on the back of that letter of the information required as per the letter addressed on the reverse side and that the same was as per the demand of Mr. A. D. Ryan, he would then furnish the information, to all of which Mr. Floyd agreed, signing the receipt therefor in substance as follows:

[fol. 64] “This will acknowledge receipt of the information required as per letter addressed to you on the reverse side of this letter as per the demand of Mr. A. D. Ryan.

(Signed) J. G. Floyd, Dept. Interior.”

that upon the signing of the receipt, the check was delivered to Mr. Floyd for his approval and inspection; and that the check in controversy showed the payment to the Refineries Products Company, Inc., by the Upshur Refining Company covering crude oil purchased from them. He further stated that on the 31st day of October, 1933, Mr. Joe Dupree, in company with Mr. William E. Guinn, called at the office of the Upshur Refining Company and made an outright demand to gauge the crude oil tanks of the Upshur Refining Company; that they were informed that if it was not a request, that if it was a demand and a requirement to do so, they would be allowed to gauge such tanks, to which they replied that they had instructions to gauge those tanks, that they were going to gauge the tanks, and that they were demanding the right to do it; that they were permitted to gauge the tanks at that time in compliance with that demand; and that on the 3rd day of November, 1933, Mr. Glen Briscoe, in company with another man, came upon the property of the Upshur Refining Company, proceeded to gauge the tanks and informed the Gauger, Mr. C. F. Lindsey, that he did not need any permission to gauge the tanks and proceeded to gauge them without the consent of any person whatsoever connected with the Upshur Refining Company.

The Plaintiffs introduced in evidence a statement by Edward Rose, who stated that he is the owner of the Canyon Refining Company near Kilgore, Gregg County, Texas; that upon numerous occasions during the months of September and October, 1933, J. W. Smith and Mr. Pontius, [fol. 65] who stated that they were employed by the Bureau of Investigations, Department of the Interior, under the supervision of A. D. Ryan of Tyler, Texas, as well as other agents of the Department of the Interior, came upon his refining property by force and without his consent and over his protest and gauged his tanks; and that this was done on numerous occasions after he had filed suit in the Federal Court at Tyler against Mr. Ryan.

The Plaintiffs introduced in evidence a statement by R. B. Knight, who stated that he is President of the Carnation Refining Company, a corporation, and held that position on the 5th day of September, 1933; that on the 5th day of September, 1933, J. G. Floyd, in company with

another party, whose name he does not remember, called at his office at Gladewater, Texas, and represented that they were in the employment of the Department of the Interior of the United States Government as Special Investigators, but did not show any credentials; that they presented him with printed forms and stated that these forms were to be filled out daily in detail, an affidavit made thereto and were to be ready each and every day until further notice; that they demanded that these forms be made out the first day of September, 1933, and continued thereafter. He further stated that at the same time Floyd said and demanded that they had the right to gauge the tanks of the Carnation Refining Company; that Floyd did not gauge the tanks himself but later on that same day two other men whom he did not know gauged the tanks and questioned the operator at length; that he later learned that one of these men was Dupree, who is an Agent of the Department of the Interior; that he did not oppose the gauging of the tanks at this time for fear that he would get in trouble; and that later, after consulting his attorney, he refused them permission to gauge the tanks, as well [fol. 66] as refused to make the reports demanded. He further stated that this procedure was followed by various other persons claiming to be agents of the Department of the Interior, among whom were men by the name of Flanagan, Quinn, Hemphill, and Briscoe; that there were others whose names he does not know; that they repeatedly called at his office and asked for these reports and also asked to gauge the tanks and also went on the Carnation Refining Company's property and tried to trace out their pipe lines and stopped their employes from their work and asked them many questions concerning where he purchased oil and where it came from all of this being done without consent; that on or about October 23rd and 24, 1933, Briscoe and Parker demanded the reports and demanded the right to gauge the tanks; that at this time, Briscoe asked him many questions with reference to whether or not he purchased the oil from a certain specified lease; that he also asked him to give him the total amount of crude oil he had run for the months of September and October, 1933; at this time, Mr. Tom Patton, who is Vice-President of the Carnation Refining Company, was present

and he, Mr. Knight, asked Mr. Briscoe if he had specific instructions to demand this information and he stated that he had and that it was in his line of duty to do so; that on or about the 2nd day of November, before 9 o'clock A. M. six different men at least made three different gauges of his tanks and after the gauges were made on that date and about 10 o'clock A. M., he was served with a warrant of arrest by Deputy United States Marshal Stanley, who granted the privilege of going to Tyler later that day to appear before United States Commissioner Paul Kern, who set his bond at \$1000.00, which he made and he was thereupon released; that he has never at any time knowingly and intentionally violated any valid law of the United States or of Texas; and that this is the first time [fol. 67] that he has ever been arrested or charged with any offense in violation of any law.

The Plaintiffs introduced in evidence a statement by Ed Kendrick, who stated that he is Superintendent of the Lake Refining Company; that one night during the early part of September, 1933, he was asleep at his home when Mr. Soape, an employe of said Company, and Mr. Dupree woke him up; that Mr. Dupree informed him very distinctly that he was going to gauge the tanks, stating that he was in the employment of the Federal Government; that he asked Mr. Dupree to wait until he dressed, in order to go gauge the tanks with him; that Mr. Dupree informed him that it wasn't necessary for him to dress since he would go any way whether he was with him or not; that he informed Mr. Dupree that he had a night watchman and he had his orders and, no doubt would carry them out, so then Dupree waited until he dressed; that they both together gauged the crude tanks; that Mr. Dupree informed him that he was sorry about the way Mr. Soape had acted and no doubt would cause him, Mr. Soape, some trouble and that Mr. Dupree was very antagonistic all the way through.

The Plaintiffs introduced in evidence a statement by R. P. Soape, who stated that he is employed by the Lake Refining Company of Gladewater, Texas; that one night during the early part of September, Mr. Joe Dupree came onto the property of the Lake Refining Company and said that he wanted to gauge the tanks holding crude oil, at the same time telling him that he was employed by the Depart-

[fol. 68] ment of the Interior; that he asked Mr. Dupree if he had permission to gauge the tanks from the office and he said that he did not; that he told Mr. Dupree that he would first have to get permission from the office; that Mr. Dupree said that he did not have to get permission from anyone, and then pulled out a little book and asked him to put his name on it, which he did not do; that he, Mr. Soape, did offer to get Mr. Kendrick and if he said it was OK he would then permit Mr. Dupree to gauge the tanks; that Mr. Dupree insisted that he not wake up Mr. Kendrick, who was then asleep; since he was going to gauge the tanks anyway; that he, Mr. Soape, however, woke up Mr. Kendrick and left Mr. Dupree talking to Mr. Kendrick; that before leaving them, however, he heard Mr. Dupree tell Mr. Kendrick there was no use for him to put on his clothes to go with him to gauge the tanks; and that was the last he saw of them until Mr. Kendrick and Mr. Dupree passed him on their way to gauge the tanks, so he thought.

The Plaintiffs introduced in evidence a statement by John Kraker, who stated that he is Secretary, Treasurer and Manager of the Lake Refining Company. He further stated facts which substantially agree with those stated by Mr. R. B. Knight summarized above.

The Plaintiffs introduced in evidence a statement by N. S. Locke, who stated that he is President of the Locke Refining Company and further stated facts which substantially agree with those stated by Mr. R. B. Knight summarized above.

[fol. 69] The Plaintiffs introduced in evidence a statement by J. P. McGee, who stated that he is operating the Goodson Refining Company in Upshur County; that about Monday, October 30, 1933, Mr. Parker, in company with another man, both of whom represented that they were with the Department of the Interior in the Division of Investigations, visited him in his office and asked the right to gauge his tanks; that he stated to them that he had rather they would not gauge the tanks; that Mr. Parker stated that they were going to gauge them anyway and they proceeded to do so; that on or about Wednesday, November 2, 1933, Mr. Martin, who represented that he was in the employment of the Department of the Interior, in the Division of

Investigations, asked for the reports; that he asked whether the reports were essential; that Mr. Martin demanded them for the Department of the Interior; that Mr. Martin came back to his office on the following Friday and wanted the reports; that he refused to make them; that they have gauged his tanks every night since; that they do not ask permission and permission has never been given for them to invade his property and gauge his tanks; that Mr. Martin further asked who owned the plant and said: "I know that a little refinery cannot operate and pay the posted price."; that they gauged the tanks on November 4, 1933, and failed to ask permission from anybody and went on the property anyway; that he told Mr. Martin that he heard Mr. Ryan say on the witness stand in Tyler that unless permission was given they would not gauge the tanks or take reports, at least that is what he understood Mr. Ryan to say, to which Mr. Martin said there and then that "New rules had been made and we now demand the reports."; and that if there have ever been any new rules and regulations he has never been informed as to who made them nor when they were made.

[fol. 70] The Plaintiffs introduced in evidence a statement by E. J. Ekstrom, who stated that he has been, since July 15, 1933, employed as Office Manager of the Southport Petroleum Company at its refinery near Kilgore, Texas; that practically continuously since about September 1, 1933, he and other officers and employes of the Southport Petroleum Company have been harrassed, molested and browbeaten in the course of their employment by various men, who represented themselves as agents of the Department of the Interior, and in particular by R. L. Knight, J. H. McClure, H. W. Pontius, G. H. Flagg and one Matthews and one English; that these agents have many times come to the office of the Southport Petroleum Company and demanded of him and other officers and employes of said Company whether they were going to make certain reports demanded by said agents and when they were told the reports would not be made, they would start away and then immediately return and make such statements as: "You are not going to change your mind, are you?" and "You know you are not going to make these reports?"; and that these agents came in the office of the Southport Petroleum Company at all hours of the day without permission and

against the protests of the officers and employes of the Southport Petroleum Company and through their presence would prevent the officers and agents of the said Company from carrying on the business of the Company, and prevent them from making private business transactions for the Company. He further stated that about September 22, 1933, these agents commanded one W. B. McDuff, gateman for the Southport Petroleum Company, to place his hand on the gate of the fence around the refinery as if he was barring their entrance into the refinery and allow his picture to be taken in such position; that these agents very frequently encountered various employes of the Company, [fol. 71] such as night watchmen and tank gaugers, and questioned them about the Company's business, inquiring as to the amount of oil the refinery was handling, where it was coming from and where it was going to, causing such employes to lose time from their work and thus hampering the business of the Company, that frequently these agents will follow employes of the Company when leaving the plant or when returning to the plant; that they frequently enter the Company's premises, go on the Company's tanks and gauge them over the protest of the officers and employes of the Company and some times will return and gauge the tanks several times in one day, thus constantly interfering with the business routine of the Company and the morale of the employes; that on several occasions certain men would come on the Company's premises at night in a Plymouth sedan and sneak in the plant but when discovered by the employes of the Company, they would immediately drive off; that said Plymouth sedan is one used by the Department of the Interior and is driven by one Matthews, a Department of the Interior Agent; that he himself has recognized automobiles following him when he leaves the plant, or is otherwise off the Company's premises, as automobiles used by the Department of the Interior.

Plaintiffs then offered a certified copy of a criminal complaint filed against E. J. Ekstrom in the Tyler Division of the Eastern District of Texas charging before United States Commissioner for the said District and Division of Texas that the said E. J. Ekstrom in violation of Section 9 (c) of the Act of June 16, 1933, of the United States did unlaw- [fol. 72] fully refuse to furnish representatives of the Government information and reports necessary to successfully



administer said Act of June 16, 1933. Criminal complaint is signed by "J. H. Leech, Special Agent," and sworn to before United States Commissioner. Further, the warrant of arrest carried a request of the Commissioner to issue warrant for the arrest of the within named E. J. Ekstrom and is signed by J. Howard Marshall, Jr., Special Assistant to the Attorney General.

Plaintiffs then offered in evidence a copy of the Code of Fair Competition for the Petroleum Industry.

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#### Defendant's Case

The defendants introduced in evidence a statement by EDWARD B. SWANSON, who stated that he is Chief Economist of the Petroleum Economics Division, Bureau of Mines in the City of Washington, District of Columbia; that he has held this present position for five years (including the period in which he served as Acting Chief prior to final appointment); that in connection with his duties he has had supervision of the collection of statistics of production and refining of petroleum within the several states of the United States; and that for two years prior thereto he served as Assistant Chief of the Division. He further stated that the following is a true statement of the production, refining, consumption, etc., of petroleum and the refined products thereof, in the State of Texas and the exports and shipments to other states of petroleum and refined products thereof from the State of Texas:

[fol. 73]

#### Supply and Demand of Petroleum and Products Thereof in Texas in 1932.

(Figures in Barrels)

Supply within Texas:	
Production of crude oil.....	312,478,000
Production of Natural Gasoline.....	8,836,000
Imports of crude oil <sup>1</sup> .....	945,000
Receipts of crude oil from other states <sup>1</sup> .....	23,353,000
Decrease in stocks of crude oil and refined products	15,137,000
Total supply from Texas.....	360,749,000

Demand within Texas:		
Gasoline.....	17,883,000	
Lubricants (3% of above).....	536,000	
Gas, Oil and Fuel Oils (1931) <sup>1</sup> :		
Railroads.....	17,144,000 <sup>2</sup>	
Steamships.....	12,483,000 <sup>4</sup>	
Other.....	16,518,000 <sup>5</sup>	
	<hr/>	
Other refined products.....	46,145,000	
Crude as such plus losses.....	23,564,000 <sup>6</sup>	
Refining Losses.....	1,221,000	
	<hr/>	
Total Demand within Texas.....		94,582,000
Shipped from Texas:		
Exports		
Crude.....	7,680,000	
Refined products.....	21,684,000	
	<hr/>	
		29,364,000
[fol. 74]		
Deliveries to other states:		
Crude.....	143,170,000	
Refined products.....	93,633,000	
	<hr/>	
		236,803,000
Total shipped from Texas.....		266,167,000
Total demand for Texas Oils.....		360,749,000
Summary		
Oil used within Texas.....	94,582,000 barrels, or	26 per cent
Oil shipped out of Texas.....	266,167,000 barrels, or	74 per cent
Total.....	360,749,000 barrels, or	100 per cent

<sup>1</sup> Imports and receipts from other states of refined products are negligible.

<sup>2</sup> No figures for gas, oil and fuel oil consumption in Texas for 1932 are available, but the 1932 figures will closely approximate the 1931 figures.

<sup>3</sup> Total deliveries to railroads, some portion of which, possible 20% (3,428,000 barrels) is actually used outside of State.

<sup>4</sup> Delivered at Texas ports for bunker fuel—all consumed outside of Texas.

<sup>5</sup> Of this amount 14,284,000 barrels are consumed in the production and refining of petroleum.

<sup>6</sup> Some minor refined products such as kerosene, asphalt, etc., included in this figure, leave Texas, possibly as much as 15% of the total, which would amount to 3,535,000 barrels.

To arrive at a fair figure for the percentage of Texas oil which is consumed outside of Texas as against the total consumption of Texas oil by consumers other than the oil industry the following deductions from the figures for demand within Texas are reasonable and proper:

Oil delivered to ships at Texas ports for bunker fuel .....	12,483,000
Oil consumed by the oil industry in production and refining of petroleum.....	14,284,000
Refinery losses .....	5,233,000
	<hr/>
Total deduction .....	32,000,000

The fuel oil delivered to railroads within Texas and consumed outside of Texas (footnote 3 above) and the kerosene, asphalt, etc., which leave Texas (footnote 5 above) which together total almost 7,000,000 barrels are not deducted above because of uncertainty as to exact quantity.

With this modification of the foregoing tabulation "Supply and Demand of Petroleum and Products thereof in 1932" the following summary is true:

Oil used within Texas by consumers other than the oil industry .....	62,582,000	barrels or 18 per cent
Texas oil used outside of Texas ..	278,650,000	barrels or 82 per cent
Total .....	341,232,000	barrels or 100 per cent

The monthly statistics of the Bureau of Mines assembled for the first eight months of 1933 do not indicate that any material change has occurred during the present year in the percentages of oil used within Texas and Texas oil used outside of Texas.

[fol. 76] He further stated that the foregoing are official figures of the United States Bureau of Mines and that the above computations are accurate to the best of his knowledge and belief.

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The Defendants introduced in evidence statements by:

RALPH H. KINSLOE, Vice-President & Gen. Mgr., Magnolia Pet. Co., Dallas, Tex.,

R. L. Wheelock, Receiver for Central Texas Refining Co., Corsicana, Texas,

H. S. Lane, Crown Central Petroleum Corporation, Houston, Texas,

H. C. Wiess, Chairman Regional Refining Company, Houston, Texas,

C. R. Starnes, President, Texas Oil Products Company,

J. D. Wrather, President, Overton Refining Company,

L. B. Haberle, Manager and Vice-President of Chief Refining Company,

M. Taxman, Secretary-Treasurer, Taxman Refining Company,

H. W. Bass, Secretary H. W. Bass Drilling Company,  
Roy B. Jones, President, Panhandle Refining Company,  
D. G. Gray, Manager, Waggoner Refining Company, Inc.,  
John Hancock, Vice-President Texas & Pacific Coal &  
Oil Company,

Jno. G. Pugh, Assistant Manager, Southwest Division,  
Sun Oil Company,

[fol. 77] each of whom stated that he has been familiar with conditions in the oil business in the State of Texas for many years and especially with respect to the purchase of crude oil for refinery operations and the sale of refined products; that a large part of the oil produced in Texas is transported out of the State; that while a large amount of crude oil is refined in Texas, only a small per cent is consumed in the State, a large part, probably 85%, of the refined products being shipped out of the State for sale and consumption. Each further stated that as long as production of crude oil is reasonably in balance with consumers' demand, conditions tend to be stable and competition normal; that whenever production has been in excess of such demand, distress prices have followed with oil selling far below reasonable cost of production; that a similar reaction takes place with respect to refined products; that the effect is not merely local, as the price cutting spreads and disturbs markets through the entire nation; that there has been a great deal of oil, known as "hot" oil, produced in excess of the allowables fixed by the Railroad Commission; that usually it does not get to market in open channels, but is secretly produced and sold almost invariably at prices below the prevailing market price; that a part of this "hot" oil has been purchased by small refineries and especially those located near the field where the "hot" oil is produced; that these conditions have been notorious in East Texas; that the refineries which purchase the "hot" oil under the market price sometimes sell part of it, making shipments outside of the state; and that much of it is refined in Texas by the purchasing refineries and the refined products reach the consumer market in and outside the state at prices far below those which would exist if prevailing prices had been paid for the crude. Each further stated that competition of this character, which is believed [fol. 78] to be unfair, almost invariably affects prices over

a wide area; that those refineries which have not purchased "hot" oil must, if they meet competition, cut their prices to those of the "hot" oil refineries with the result that distress prices become general, both as to crude and as to refined products and the entire national market is demoralized, great losses occur to the royalty owner and the law abiding refiner and producer; and that beyond any question such sales of "hot" oil and the refined products even if confined to the State of Texas materially affect and burden interstate commerce in oil and products and prevent a normal flow of commerce in such commodities.

Each further stated that it is impossible by looking at a barrel of oil or its refined products to tell whether the oil was legally produced; that it is extremely difficult to check all producers over a twenty-four hour period; that this difficulty is greater in East Texas where refineries own production or are hooked up directly to producing wells; that vast pipe line systems, both gathering and trunk lines, together with other methods of transportation, are so numerous and intricate that it is extremely difficult to trace the source of oil or determine whether the movement is intrastate or interstate; that a simple, reasonable and effective way to check production and trace the movement of oil and products is to ascertain the amounts received or purchased by refineries, the name of the seller or person delivering and the subsequent disposition of the oil or its products; that forms have been provided for this purpose which can readily be filled in and the work causes no undue inconvenience or burden and that many refiners gladly give the information desired.

Each further stated that in his opinion large quantities of "hot" oil and products at distress prices have moved in interstate, as well as intrastate, commerce; that this movement destroys normal markets and prices, materially affects the normal flow of such commodities between states, and causes unfair and destructive competition; that, to detect such "hot" oil or its products, or both, it is necessary to require reports from refineries and the use of other means, such as inspection, to check the accuracy of such reports; and that it is no undue burden to subject refineries to inspection and to require them to make reports in compliance with the Rules and Regulations already issued.

The Defendants introduced in evidence a statement by EDWARD T. MOORE, who stated that he is President of Simms Oil Company, a Texas corporation, with principal offices in Dallas; that one of the main Capital Assets of this Company consists of a complete refinery located in West Dallas; that this refinery has a maximum crude throughput capacity of 4,000 barrels daily and was operated continuously from the date of its acquisition in June, 1925, until January 20, 1933; that it represents a Capital Investment of more than \$1,250,000.00, and was generally conceded to be one of the most efficient plants in North Texas; that when operated on North Texas crude, it is capable of producing 66.38% of gasoline, 4% kerosene, and 26.22% fuel, which indicates an unusually high degree of efficiency when compared with the yields of approximately 36% to 38% gasoline obtained from North Texas crude by the use of the ordinary skimming processes; and that through an exchange arrangement, Simms Oil Company has been able to obtain, delivered at its West Dallas plant, North Texas crude for East Texas crude on a barrel for barrel basis, plus transportation charges to the refinery.

[fol. 80] He further stated that in the year 1932, the throughput of this plant amounted to more than one million barrels of crude oil; that the results of operation for that year, after taking into consideration the depreciation of the plant, the overhead and selling expense, the operation and maintenance expense, the transportation of oil and the cost of the crude, based upon the established posted prices thereof, resulted in an aggregate loss of \$350,000.00, or approximately 35¢ per barrel, after making allowance for the amount realized for the refined products produced; that these disastrous results occurred in spite of the fact that operating expenses were pared to a minimum, a 25% reduction being accomplished by the end of the year from the costs experienced at the opening of that period; that the losses from operation at the end of the year were so great it became necessary on January 20, 1933, to discontinue further operation of the West Dallas plant; and that this discontinuance necessitated the laying off of some sixty-odd refinery employees, and has caused a \$1,250,000.00 investment to remain idle.

He further stated that during January and each subsequent month of 1933, they have carefully weighed the relative costs of crude, transportation, refinery operation,

depreciation, overhead and sales, comparing these costs with the possible realization from the sale of refined products as represented by the prevailing market prices for gasoline and fuel oil, and that in not one single month of the first ten months of 1933 would it have been possible to operate this West Dallas refinery upon a break-even basis.

He further stated that this state of affairs is attributed to the conditions existing in East Texas; that a large number of refiners in that field have been able to produce gasoline, by inefficient methods and with materially lower [fol. 81] yields, and to sell the same at prices far below his costs; that he knows the degree of efficiency of the East Texas refineries is less than his and he can only assume that they are able to produce this gasoline by reason of some advantage they have through their ability to secure their crude oil requirements at prices below the prevailing posted prices thereof, and that in his opinion many of these refineries are operated on "hot oil", and where "hot oil" is used in the operation of a refinery, gasoline taxes are being evaded.

He further stated facts which agree in substance with those stated by Mr. Kinsloe and others summarized above.

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The Defendants introduced in evidence a statement by J. R. PEARSON, who stated that he has been an independent oil producer for the past twenty years, with properties in the State of Texas and properties in the East Texas Field for the past 2½ years; that he has been active in a personal way in assisting the Railroad Commission and the Military forces in an endeavor to see that the proration laws were obeyed; that the reason for this activity is that he and his partners own oil properties in the East Texas Field which with stabilization and orderly production are worth over \$1,000,000.00, but that with stabilization such as has existed for the past two years, he would lose these properties, leaving him in debt over \$300,000.00. He further stated that he had abided by the proration laws although others have become rich by breaking them; that he believes the proration program to be proper and right; that during the [fol. 82] period of his operation in the Field, he has had close contact with all classes of operation, including production, refining, pipe lines and trucking; that practically

all the refiners in the Field have their own pipe lines or gathering systems and many also own their own wells; that these refineries do not use seals or lock stops on tank batteries located on the leases, with the result that the lock stops can be opened at any time, allowing oil to flow to the refinery at the same time the well is producing into the same tanks; that he is familiar with the small pipe line systems connecting these refineries in the East Texas Field; that these lines are so interconnected that oil can be delivered from practically any point in the Field to these refineries and can be delivered from one refinery to another; that royalty owners whose leases are connected to these refineries have no way of knowing how much oil is produced; that he personally owns an interest in two leases operated by the East Texas Refinery; that in the months of January, February, March and April, 1933, they sent him checks with statements attached for the proper allowable and in the same envelope each month was another check without the statement for 8 to 10 times the amount of the allowable check; that he returned these checks and requested a statement of the oil run, which it took several months to obtain; that on checking these figures on the oil run, it was discovered that the greater part of this oil, which was reported for January, February, March and April, 1933, was really run in June, July, August, September and December of 1932, when the posted price for oil was higher; that the refineries paid others 40¢ a barrel at the same time they paid him 25¢ a barrel for oil from the same lease; that daily reports from the refinery would have prevented this overproduction; that because of the intricate system of pipe line connections between wells and refineries [fol. 83] and between refineries, it is absolutely impossible to know the amount of oil the refineries handle or whence it comes, unless reports are required; that reports from refineries are necessary to supplement reports from pipe lines and producers; that many refineries in the East Texas Field are making these reports and that he believes the reason others refuse to make the reports is because it will disclose the amount of hot oil which they are handling.

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The Defendants introduced in evidence statements by  
A. L. Cone, Employe, Taylor Refining Company, Tyler,  
Texas,



P. G. Lake, Operator, Hunt Production Company, Tyler, Texas,

H. L. Hunt, Operator, Hunt Production Company, Tyler, Texas,

Roy Lee, Employee, Hunt Production Company, Tyler, Texas,

Mac Kennedy, General Manager, Taylor Refining Company, Tyler, Texas,

each of whom stated that he is connected with the Production and Refining Company mentioned in connection with their names above; and that as a part of his duties, he has prepared monthly reports under Regulations IV and V of the Department of the Interior pertaining to the production and refining of crude oil. That the time required for compiling these reports has been nominal (Mr. Cone estimated 7½ minutes); that, based upon his experience in the [fol. 84] preparation of the reports the data required is necessary in connection with the successful operation of refineries and production; and that he does not consider the reports and the data called for under said regulations as being burdensome or working a hardship upon him.

The Defendants introduced in evidence a statement by PAUL BRAMLETTE, who stated that he has resided in East Texas for a number of years, and is interested in oil properties in what is known as the East Texas Oil Field; that prior to July 15, 1933, the date on which Secretary Ickes issued Regulations under the National Industrial Recovery Act, a chaotic condition existed in this field, that the Proportion Laws of the State of Texas were utterly disregarded and excess oil in the sum of hundreds of thousands of barrels monthly entered the stream of interstate commerce; that since July 15, 1933, however, there has been a marked improvement in the field and excess oil has not been produced in appreciable amounts, and that the reports required under the Regulations of the Department of the Interior have not worked a hardship upon anyone and, in his opinion, the reports required under the Regulations are reasonable and are the best and most satisfactory means of enforcing Section 9(c) of the National Industrial Recovery Act.

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The Defendants introduced in evidence statements by R. W. FAIR, President, McMurrey & Fair, Inc.; J. W.

McCulloch, G. C. Finch, B. A. Wight, L. N. Crim, A. O. [fol. 85] Godfrey, Robert E. Nolen, W. R. Nicholson, E. M. Bramlette, S. W. Ross, M. H. Bivins, P. A. Wylie, Fred S. Markham, L. W. Turner, John R. Alford, H. A. Pace, F. L. Sartain, A. R. Sharp, W. W. Wiss, R. A. Harman, Ben Laird, John T. Crim, Joe Cross, A. S. Jurvis, Maxie Wilson, S. S. Cook, R. W. Fair, President, Fair & Thompson, Inc., George I. McKee, J. A. Knowles, J. E. Bagwell, J. S. Elder, W. D. Northcutt, Jr., J. K. Wadley, R. T. Forman, L. S. Sartain, J. Malcom Crim, Roy H. Laird, R. L. Bauman, J. W. Barton, Vice-President, Longview Investment Company; Clark Dickson, J. F. Stuckey, Frank Elder, J. M. Dickson, C. G. Strong, N. B. Bean, Harold Vance, Douglas Godfrey, E. G. Green, W. B. Smith, J. T. Jeter, W. H. York, H. Hunter, J. C. Hunter, Carl B. Everett, John Droppleman, Rade Kangerga, E. C. Laster, Walter R. Smith, Mrs. Lon Emma Coolidge, J. A. Birdwell, L. A. Grelling, Jr., O. M. Boren, L. W. Lowe, G. Clint Wood, B. J. Peasley, W. E. Wylie, J. M. Shaw, H. M. Hale, E. W. Reagan, M. F. Thompson, R. S. Shaw, J. H. Spivey, A. P. Cary, J. E. Glover, W. C. Windsor, Bryan W. Payne, C. L. [fol. 86] Thompson, W. P. Moore, E. Fred Herschbach, Arcadia Refining Company; A. G. Morton, J. Solon King, T. A. Johnston, E. S. Holt, M. Kangerga, M. W. McVey, F. C. Condon, H. P. Leverette, H. A. Baker,

each of whom stated facts which agree in substance with the statement by Paul Bramlette summarized above.

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The Defendants introduced in evidence statements by C. A. LOTTIS, Secretary of the Omega Oil Company; A. D. BUSH, Secretary of the Miller-Lacy Oil Company and the Nicholson-Terrell Oil Corporation, each of whom stated that for a period of some seventeen months or more he has been engaged in the operation of oil properties in the East Texas Oil Field and has seen this field under the administration of the Railroad Commission of Texas and has also observed conditions in the field during the period when it was under martial law; that during this time there was utter disregard for the Proration Laws of the State by many operators and producers; that he had been compelled to stand helplessly by while oil from a common pool, part of which was his, was produced by these violators without

regard for any property rights that he had; that many operators and producers who followed this custom of producing oil in violation of proration laws reaped enormous profits; that this disregard for law on the part of those violating it caused him untold loss, as it took from him [fol. 87] that part of the common pool to which, under the law of possession, ownership and property, was his; and that hundreds of thousands of barrels of excess oil entered interstate commerce. He further stated that, being familiar with the field, he knows there has been a great change in conditions since July 15, 1933, the date the President prohibited illegally produced oil from entering the stream of interstate commerce; that the Regulations issued by the Secretary of the Interior requiring producers and refiners and others to submit reports has not been a burden or worked a hardship upon any legitimate operator in the field; and that the preparation of such reports requires a very small amount of time.

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The Defendants introduced in evidence statements by HARRY TURNER, royalty owner; Edwin Lacy, royalty owner; C. L. Taylor, Fee owner; J. K. Wadley, Lease owner; R. F. Northcutt, royalty owner; Isadore Maritzke, royalty owner; Tom Richardson, lease owner; M. M. Turner, royalty owner; James R. Curtis, lease owner; F. C. Persons, royalty owner; G. C. Finch, Fee owner; George [fol. 88] W. Rhodes, royalty owner; M. H. Bivins, Secretary-Treasurer, Skipper-Bivins Oil Company,

who stated facts which in substance agree with the statement of C. A. Loftis summarized above.

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The Defendants introduced in evidence statements by M. C. SELLS, J. H. Brogan, T. W. Lee, Barney Carter, C. J. Thompson, W. P. Keeling, Bert Ashton, S. S. Laird, each of whom stated that he is engaged in the operation of oil properties in the East Texas Oil Field; that prior to July 11th, the date of the President's Executive Order prohibiting the shipment of illegally produced oil in interstate commerce, hundreds of thousands of barrels of oil were

taken from the common pool to the untold injury of thousands of royalty owners in Texas and neighboring states; and that he believes that the most satisfactory means of enforcing the above mentioned Executive Order is to require monthly reports from producers, refiners, railroads and pipe lines.

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The Defendants introduced in evidence a statement by J. D. WRATHER, who stated that he had been engaged in the refining business in the East Texas Oil Field for many months; that the reports required by the Regulations issued by the Secretary of the Interior have not worked any hardship upon him as a refiner, and have required very little time for preparation; and that he believes the Regulations [fol. 89] reasonable and the best and most satisfactory way of enforcing Section 9(c) of the National Industrial Recovery Act.

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The Defendants introduced in evidence a statement by H. M. PREDDY, who stated that for the past two and one-half years he has spent the greater part of his time in the East Texas Oil Field with headquarters at Tyler, Texas; that prior to July 15, 1933, the date the Department of the Interior issued regulations under the National Industrial Recovery Act, very bad conditions existed in the field; that a great deal of excess oil was being produced, much of it going out of the field without any record being made which would protect the royalty owners; that oil thieves and "hot oil artists" did about as they pleased; that the Proration Laws of the State were disregarded and openly violated and he believes over 250,000 barrels of excess oil daily entered interstate commerce; that since the Department of the Interior sent its men into the field, this condition has been largely eliminated and, comparatively, a small amount of excess oil is now escaping; and that all of that of which he has any knowledge is being moved under so called tenders or by those who claim they are cleaning the tanks or treating bad oil. He further stated that he has heard of now law-abiding, reputable producer objecting to filling

out the form required by the Department of the Interior and does not believe that these forms or Regulations work any hardship on any law-abiding citizens.

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The Defendants introduced in evidence a statement by GUS F. TAYLOR, who stated that he is President of the Citizens National Bank of Tyler, Texas, and has been for many [fol. 90] years closely associated with the developments that have taken place in East Texas; that in the early months of 1933 hundreds of thousands of barrels of delinquent produced oil, oil produced in utter disregard for state regulation, were run from the field; that since July 15th, this condition has been remedied so that the amount of excess oil now leaving the field is, in fact, negligible; that in his opinion the Regulations issued July 15th and 25th, 1933, are the best and most satisfactory means of enforcing Section 9(c) of the National Industrial Recovery Act and that he believes that Federal regulation has placed the oil industry on a stable foundation to the benefit of millions of people.

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The Defendants introduced in evidence statements by M. C. PARRISH, JR., J. G. Floyd, J. N. English, H. E. Tyson, R. L. Knight, and Joseph L. Quinn,

each of whom, with the exception of Joseph L. Quinn, stated that he is an Oil Enforcement Agent of the Division of Investigations, Department of the Interior; that prior to entering the employ of said Department of the Interior, he had been employed for a considerable period of time by the Railroad Commission of Texas in connection with enforcement of the proration orders of said Railroad Commission; (Joseph L. Quinn stated that he is an Oil Enforcement Agent of the said Department of the Interior and for the past 13 years prior to entering said service he had been employed by large independent oil companies and is familiar with the conditions confronting the producers, refiners and marketers in the East Texas Field); that there are [fol. 91] some 11,200 producing oil wells in the East Texas Field and that it would be almost a physical impossibility to check actual production at the well; that such check would necessitate a force of some 25,000 men; that because of the vast system of pipe lines and interconnected and

interwoven gathering systems in the East Texas Field and the close proximity of producing wells to refineries, it is impossible to check wells to determine to which refinery the produced oil is delivered; that it is impossible by looking at a barrel of oil or its refined products to determine whether it was illegally produced; that it is extremely difficult to check all production over a 24 hour period, and this difficulty is greater in East Texas where refineries own production or are hooked up directly to producing wells; that vast pipe line systems, both gathering and trunk lines, together with other methods of transportation, are so numerous and intricate that it is extremely difficult to trace the source of oil or determine whether the movement is interstate or intrastate; that a simple, reasonable, and effective way to check production and trace the movement of oil and its products is to ascertain the amounts received or purchased by refineries, the name of the sellers or persons delivering and the subsequent disposition of oil or its products; that forms have been provided for this purpose which can readily be sent in and the work causes no inconvenience or burden; and that many refineries gladly give the information desired.

In addition to the above facts, M. C. Parrish, Jr., also stated that hundreds of thousands of barrels of illegally produced oil left the East Texas Field and entered interstate commerce; and that in his opinion the smaller refineries situated in the East Texas Field are the main out-[fol. 92] let for this illegally produced oil. He further stated that he has made investigations of the following named plaintiffs herein in connection with their refining and shipments of crude oil and the products thereof in commerce and has compiled the following data which he believes to be true and correct:

Panama Refinery, Kilgore, Texas

	July, 1933.
Fuel Oil .....	23
Gasoline .....	15
Gas Oil .....	6
Topped Crude .....	10
Distillate .....	7
	<hr/>
	61 Cars.

	August, 1933.
Gasoline .....	11
Gas Oil .....	12
Top Crude .....	6
Fuel Oil .....	13
Distillate .....	8
Kerosene .....	1
	<hr/>
	51 Cars.

The Panama Refinery loaded their refined products on the Texas Unity Rack and that the A & P Rack is owned by Anding and Potter, the owners and operators of the Panama Refinery. Attention is called to that part of this report covering shipments of crude oil made by various and sundry shippers from the A & P Rack during the months of July and August, 1933. Inquiries have been as to the identity of the shippers of this crude and they are not known in Kilgore, Texas.

[fol. 93]	Report of Refined Products Shipments of Panama Refinery, Kilgore, Texas.				
	(From records of I. & G. N. Office, Kilgore, Texas.)				
July 3, 1933					
GATX	14905	8115	Fuel Oil	Ed Bateman	Jewett, Texas.
STCX	8538	8052	"	Do	
PTX	4706	8078	Gasoline	Liberty Oil Co.	Dallas, Texas.
July 5, 1933					
LDLX	2043	10050	Fuel Oil	Ed Bateman	Jewett, Texas.
PTX	4651	8081	Gasoline	Goyer Co.	Greenville, Miss.
"	5510	8088	"	Nat'l O. & G. Co.	Jackson, Miss.
"	4579	8044	Gas Oil	Cooper Keller	Locust Ridge, La.
July 8, 1933					
QTX	271	8090	Topped Crude	Atlantic Pacific & Gulf.	Wichita Falls, Tex.
GATX	20145	8073	"	Do	
"	23455	8088	"	Do	
PTX	4004	8056	Gasoline	City of Dallas, Texas.	
July 9, 1933					
PTX	4602	8050	Gasoline	Kentucky Consumers Oil Co.	Nashville, Tenn.



[fol. 94]	Report of Refined Products Shipments of Panama Refinery, Kilgore, Texas.				
	(From records of I. & G. N. Office, Kilgore, Texas.)				
July 11, 1933					
GATX	72688	8204	Topped Crude	Atlantic Pacific & Gulf Refg.	Wichita Falls, Tex.
PTX	5907	10109	"	Do	
LDLX	772	10031	"	Do	
NOTM	6093	10500	"	Do	
STCX	1175	10097	"	Do	
July 12, 1933					
CHIX	10105	10197	Fuel Oil	H. K. Stahl Co.	Clzrion Ia.
GATX	16399	10046	Topper Crude	Atl. & Pac. & Gulf Ref.	Wichita Falls, Tex.
July 15, 1933					
STCX	9199	8057	Topped Crude	Atl. & Pac. & Gulf Ref.	Wichita Falls, Tex.
PTX	5639	10109	Fuel Oil	Ed Bateman	Jewett, Texas.
July 17, 1933					
GATX	27499	10069	Fuel Oil	Ed Bateman	Jewett, Texas.
PTX	4542	8044	Fuel Distillate	Nat'l O. & G. Co.	Eagle Pass, Texas.

[fol. 95]							
	PTX	1545	8247	Gasoline		Liberty Oil Co.	Dallas, Texas.
	PTX	4603	8042	"		Natl. O. & G. Co	Greenville, Ohio.
July 21, 1933	TIDX	1032	9996	Fuel Oil		Ed Bateman	Jewett, Texas.
	ASIX	835	10192	"		Do	
	GATX	13434	8079	"		Do	
	STCX	9327	8019	"		Do	
July 23, 1933	NOTM	6169	10070	Fuel Oil		I. & G. N. Ry.	Palestine, Texas.
	"	6107	10500	"		Do	
	I.&G.N.	10766	8090	"		Do	
July 19, 1933	DWOX	53	8080	Fuel Oil		Nat'l. O. & G. Co.	Wiergate, Texas.
	PTX	4844	8063	Gasoline		Liberty Oil Co.	Dallas, Texas.
July 22, 1933	PTX	4850	8060	Gas Oil		Cooper Keller	Livingston, Texas.
July 28, 1933	PTX	1848	8204	Distillate		Cooper Keller	Calvert, Texas.

[fol. 96]		Report of Refined Products and Crude Shipped by Panama Refining Co., Kilgore, Texas.				
July 18, 1933	PTX	4621	8050	Gas Oil	Cooper Keller	Ittabana, Miss.
7-19-33	PTX	4561	8044	Fuel Dist.	Wisconsin Mot. Corp.	Milwaukee, Wis.
7-20-33	PTX	3226	8261	" "	Natl. O. & G. Co.	Burlington, Ia.
	"	4521	8061	Gasoline	Bradford Oil Co.	Kansas City, Mo.
7-22-23-33	PTX	4042	8052	Gasoline	Primrose Pet. Co.	Anchorage, La.
	"	4668	8078	Gas Oil	"	Little Rock, Ark.
	"	4555	8084	Fuel Dist.	"	"
	"	4407	8069	"	"	"
	"	4651	8081	Gasoline	"	"
	"	3273	8256	Fuel Oil	Snider Co.	Connorsville, Ind.
	"	4002	8050	Gasoline	Chevrolet Mot.	Atlanta, Ga.
	"	4699	8083	Gasoline	Highland O. Co.	Little Rock, Ark.
CYCX		499	8164	"	"	"
PTX		2711	8078	"	"	"
IMRX		1184	8086	Fuel Oil	Kelly Williamson Co.	Rockford, Ill.
PTX		4604	8052	Fuel Dist.	W. T. Raleigh	Freeport, Ill.
ASX		629	10100	Fuel Oil	Orenda Corp.	Wilmington, Ill.
CYCX		1059	10148	"	Wrought Washer Co.	Milwaukee, Wis.

[fol. 97]					
7-24-33	GATX	75539	10170	Fuel Oil	Wrought Washer Co.
					Milwaukee, Wis.
7-25-33	SHPX	11471	10217	Fuel Oil	Ed Bateman
	PTX	4830	8063	Distillate	Cooper Keller O. Co.
	"	6087	8093	Gas Oil	"
					Jewett, Texas.
					Prestiss, Miss.
					Foley, Ala.
7-26-33	PTX	1444	10560	Fuel Oil	Ed Bateman
					Jewett, Texas.
7-30-33	GATX	72783	8199	Fuel Oil	Rep. Creosoting Co.
	NATX	7896	8088	Gas Oil	Tex Utility Co.
					Indianapolis, Ind.
					Kirbyville, Tex.

Report of Refined Products Shipments from Panama Refining Co., Kilgore, Texas.

August 11, 1933					
CYCX	8813	8199	Gasoline	Nat'l O. & G. Co.	El Campo, Texas.
PTX	3039	8263	"	Panama Refg.	Dallas, Texas.
"	4221	8057	Gas Oil	Nat'l O. & G. Co.	Tulot, Ark.
"	4315	8097	"	"	Iyronza, Ark.
"	1424	10957	"	Neb. L. & Power	McCook, Neb.
PTX	1052	10661	Top Crude	Phoenix Refg.	Houston, Texas.

[fol. 98] Report of Refined Products Shipments from Panama Refining Co., Kilgore, Texas.					
8-12-33					
CYCX	2040	10134	Top Crude	Eastern States Pet.	Galveston, Texas.
LDLX	1338	8001	"	Phoenix Refg.	Houston, Texas.
GATX	26020	8035	"	"	"
PTX	5442	10119	"	"	"
"	5638	10100	"	"	"
"	3992	8052	Gasoline	Panama Refg.	Dallas, Texas.
GATX	29593	8106	Gas Oil	Cooper Keller	Hawkin, Ill.
8-14-33 (Probable error—See above)					
SATX	29593	8106	Gas Oil	Cooper Keller	Hawkinsville, Ia.
8-15-33					
GATX	29378	8016	Gas Oil	Cooper Keller	Leland, Miss.
"	29662	8105	"	Town of Plains	Plains, Ga.
8-22-33					
PTX	6087	8093	Gas Oil	Central Ill. Pub. Serv.	Hoopston, Ill.
GATX	27926	10188	Fuel Oil	Interstate Drop Forge	Milwaukee, Wis.
QTX	9343	8084	"	Wrought Washer Co.	"
GATX	25768	8097	Gas Oil	Ft. Madison Gas & L. Co.	Ft. Madison, Iowa.
8-23-33					
STCX	8036	8259	Fuel Oil	Nat'l O. & G. Co.	Wiergate, Texas.

[fol. 99]	PTX	4407	8069	Gas Oil	Cooper Keller	Columbus, Miss.
	"	4572	8042	Gasoline	G. C. Peterson	Lyons, Miss.
	ASIX	562	10097	Fuel Oil	Eastern States Pet.	Galveston, Tex.
8-24-33	DWOX	105	8082	Fuel Oil	Wrought Washer Co.	Milwaukee, Wis.
	GATX	25716	8100	Distillate	Cooper Keller Co.	Memphis, Tenn.
	PTX	4651	8081	"	Kelly Williamson	Rockford, Ill.
	"	4084	8056	Gasoline	G. C. Peterson	Anderson, Ill.
	"	4844	8063	"	Panama Refg.	Dallas, Texas.
8-25-33	PTX	4830	8063	Distillate	Eastern States Pet.	Houston, Texas.
	"	4760	8060	"	Primrose Pet.	Little Rock, Ark.
	HMTX	1020	8144	Fuel Oil	Ed Bateman	Jewett, Texas.
8-28-33	PTX	4542	8044	Distillate	Eastern States Pet.	Houston, Texas.
	"	4621	8050	"	"	Galveston, "
	"	6507	10105	Fuel Oil	"	"
	"	660	10252	"	"	"
	ASIX	735	10203	"	"	"
	PTX	4604	8052	Gasoline	Cooper Keller	Minneapolis, Minn.

## [fol. 100] Report of Refined Products Shipments from Panama Refining Co., Kilgore, Texas.

8-29-33					
ASIX	691	10200	Fuel Oil	Eastern States Pet.	Galveston, Tex.
PTX	6121	8088	Gas Oil	Nat'l O. & G. Co.	Holly Spgs., Miss.
ASIX	180	8136	Kerosene	Altitude Pet. Co.	McFarland, Kan.
8-30-33					
PTX	4628	8052	Gas Oil	Primrose Refg.	Little Rock, Ark.
PTX	4584	8047	Distillate	Siniane Bros.	Colby, Wis.
GATX	27730	10074	Fuel Oil	Ed Bateman	Jewett, Texas.
PTX	4561	8044	Gasoline	Imperial Pet. Co.	Dupo, Ill.
GATX	5562	8004	Distillate	Eastern States Pet.	Houston, Texas.
Aug. 31, 1933.					
QTX	271	8090	Fuel Oil	Eastern States Pet.	Galveston, Tex.
GATX	23532	8087	Gasoline	Liberty Oil Co.	Dallas, Texas.
"	23684	8073	"	G. C. Patterson Co.	Dupo, Ill.
Added:					
August 26, 1933.					
PTX	4683	8083	Gasoline	Allied Oil Jobbers	Minneapolis, Minn.
GATX	23695	8078	Fuel Oil	Nat'l O. & G. Co.	Wiergate, Tex.

Southport Refinery, Kilgore, Texas.

	July, 1933	49 Cars.
Tops of Crude		
[fol. 101]		
Top Crude		49 Cars.
Refined Oil		1
Distillate		91
Crude Tops		31
		<hr/>
		172 "

Report of Refined Products Shipments of Southport Refinery, Kilgore, Texas.

Aug. 1, 1933		Top Crude	Cooper Keller	
STCX	1514	10065	do	Winnipeg, Canada.
QTX	278	8219	do	
GATX	3174	8216	do	
QTX	8198	8184	do	
LDLX	1740	8035	Cooper Keller	Moose Jaw, Canada.
STCX	2271	10072	do	
August, 4, 1933				
GATX	27574	10100	Cooper Keller	Winnipeg, Can.

In addition to the above, from July 20, 1933, to August 31, 1933, inclusive, there were approximately 246 cars of Crude Tops, Distillate, and Tops of Crude, shipped under the name of the Southport Pet. Co. to Houston, Laredo, and Eagle Ford, Texas.



[fol. 102]

Canyon Refinery, Kilgore, Texas  
July, 1933

Fuel Distillate  
Gasoline  
Topped Crude  
Gas Oil  
Kerosene  
Fuel Oil

10  
8  
7  
1  
1  
2  
—  
29 Cars  
17  
15  
20  
8  
3  
4  
—  
67 Cars.

August, 1933

Top Crude  
Fuel Oil  
Gasoline  
Gas Oil  
Kerosene  
Distillate

[fol. 103]				
Crude Oil and Reduced Crude Shipped by Canyon Refinery, Kilgore, Texas, from Gladewater, Texas, During July and August, 1933				
Crude Oil		July, 1933		32 Cars.
		August, 1933		5 Cars.
Reduced Crude	Crude Oil Shipped from Overton, Texas, by Canyon Refg. Co.			
Crude Oil		July, 1933		20 Cars.
	Report of Shipments of Refined Products of Canyon Refinery, Kilgore, Texas (From Records of I. & G. N. Freight Records, Kilgore)			
July, 1, 1933				Memphis, Tenn.
ASIX	620	10110	Fuel Distillate	Memphis Refg. Co.
July 2, 1933				
GATX	72640	8226	"	do
ASIX	1595	8106	Distillate	do

July 5, 1933	8547	8016	Fuel Distillate	Memphis Refg.	Memphis, Tenn.
SHPX	1600	8116	"	do	
ASIX	1147	8059	"	do	
LDLX	259	8000	"	do	
ASIX	8076	7999	"	do	
SHPX					
July 11, 1933	8720	8203	Gasoline	Apex Oil Co.	St. Louis, Mo.
CYCX	4039	8011	"	do	
PTX					
July 12, 1933	7527	8153	Distillate	Petroleum Prod., Inc.	Kansas City.
CYCX	9104	7878	Top Crude	Deepwater Refgs.	Houston, Texas.
QTX	4030	7924	"	do	
STCX	20200	7899	"	do	
GATX	26020	7831	"	do	
"					
July 13, 1933	72	8087	Top Crude	do	
DWCX					
July 15, 1933	707	9856	Top Crude	do	
ASIX	8042	8024	Gasoline	Apex Oil Co.	St. Louis, Mo.
SHPX	8025	8144	"	do	
"					
"	8693	7952	"	Primrose Pet. Co.	Memphis, Tenn.

[fol. 105]

Report of Refined Products and Crude from Canyon Refinery, Kilgore, Texas

7-18-32	23127	Gasoline	7974	Nat'l O. & G. Co.	Clarksdale, Miss.
GATX	118	"	7997	Primrose Pet. Co.	Little Rock, Ark.
CYCX					
7-20-33	2160	Gas Oil	8093	W. R. Taylor Co.	Barth, Fla.
PTX	8371	Fuel Dist.	8051	Natl. O. & G. Co.	Rochester, Minn.
SHPX					
7-22-33	13548	Kerosene	8075	L. O. Carter Co.	St. Louis, Mo.
GAGX					
7-28-33	13256	Crude Tops	8097	Memphis Refg. Co.	Memphis, Tenn.
GATX					
7-30-33	27926	Fuel Oil	9988	Ed Bateman	Jewett, Texas.
GATX	1003	"	9829	Oreda Corp.	Willington, Ill.
TIDX					
7-31-33	341	Gasoline	8076	Tank Cars Gas Inc.	Minneapolis, Minn.
SEAX					
8-1-33	20661	Top Crude	8083	Memphis Refg.	Memphis, Tenn.
GATX	533	"	10092	"	"
ASIX					

[fol. 106] Report of Refined Products and Crude from Canyon Refinery, Kilgore, Texas						
8-3-33	GATX	11019	" "	8225	Memphis Pet.	Memphis, Tenn.
	PTX	4233	Fuel	8049	Town of Harley	Harley, Iowa.
8-4-33	LDLX	246	Fuel Oil	7960	E. D. Bateman	Jewett, Texas.
8-5&6-33	Over-PTX	2282	Gasol	8741	Geo. C. Peterson	Detroit, Mich.
	ton PTX	3368	"	8256	Modern Refg.	Dupo, Ill.
	" PTX	4650	"	8081	"	"
	" CYCX	8681	"	8169	Tri City Ry Co.	Davenport, Ia.
	" GATX	14445	Fuel Oil	8081	Orenda Corp.	Wilmington, Ill.
	" "	828	"	8142	Interstate Corp.	Milwaukee, Wis.
	" STCX	8039	"	8097	Nat'l O. & G. Co.	Hayward, Texas.
	" GATX	13283	"	8183	"	"
8-7-33	ASIX	854	Top Crude	10191	Davis & Co.	Houston, Texas.
	GATX	25276	"	8154	"	"
	"	72682	"	8228	"	"
	GATX	23071	Gas Oil	8087	Nat'l O. & G. Co.	Tilot, Ark.
8-9-33	PTX	1147	Gasoline	8255	Auto Stations	Detroit, Mich.
	SHPX	8608?	Gasoline	8127?	G. C. Peterson	Fairdale, Ill.

[fol. 107]						
STCX	9806	Fuel Oil	8068	Ed Bateman	Jewett, Texas.	
8-10-33						
GATX	13162	Gas Oil	8082	Three Star O. Co.	Chicago, Ill.	
PTX	1848	Gas Oil	8204	LaCrosse O. Co.	LaCrosse, Wis.	
STCX	70800	"	8212	Primrose Pet. Co.	Little Rock, Ark.	
"	9077	"	8260	North States P. Co.	LaCrosse, Wis.	
SHPX	8714	Kerosene	8086	Eastern States Pet.	Houston, Texas.	
CYCX	9872	Gasoline	8171	Primrose Pet.	Little Rock, Ark.	
8-11-33						
GATX	23684	Gasoline	8073	Primrose Pet.	Little Rock, Ark.	
8-12-33						
GATX	14495	Top Crude	8081	Eastern States Pet.	Galveston, Tex.	
"	25541	"	8053	"	"	
QTX	9893	"	8039	"	"	
GATX	70215	"	8104	"	"	
PTX	3502	"	8252	"	"	
8-16-33						
CYCX	7849	Gasoline	8034	Nat'l O. & G. Co.	Indianapolis, Ind.	
PTX	4555	Gas Oil	7937	"	Columbia, Miss.	
8-15-33						
PTX	4668	Gasoline	8078	Tank Car Gas.	Minnesota, Minn.	
GATX	14828	Kerosene	8075	Altitude Pet.	Cashen, Ind.	

## [fol. 108] Report of Refined Products and Crude from Canyon Refinery, Kilgore, Texas

8-16-33	CHIX	10117	Fuel Oil	10180	Orenda Corp.	Wilmington, Ill.
	ASIX	440	Gasoline	8187	Geo. Peterson	Watertown, Wis.
	"	1689	"	8099	Cooper Keller	Minneapolis, Minn.
	GATX	3375	Fuel Oil	8088	Ed Bateman	Jewett, Texas.
	HMTX	1048	"	8210	"	"
8-17-33	ASIX	1350	Gasoline	8188	Cooper Keller	Chariton, Iowa.
	GATX	60016	Kerosene	5055	Taswell Sen.	So. Pekin, Ill.
	"	25552	Gas Oil	8048	Nat'l O. & G. Co.	Mattson, Miss.
8-24-33	ASIX	434	Gasoline	8135	Cooper Keller	Chariton, Iowa.
8-25-33	SHPX	8714	Gasoline	8086	Cooper Keller	Minneapolis, Minn.
8-26-33	GATX	23162	Gasoline	8082	Primrose Refg.	Anchorage, La.
8-28-33	CYCX	8621	Distillate	8178	Eastern States Pet.	Houston, Texas.
	NATX	1302	"	10056	"	"
	PTX	4602	Gasoline	8050	G. C. Peterson	Dupo, Ill.
	CYCX	8604	"	8175	Cooper Keller	Minneapolis, Minn.

[illegible]



[fol. 110]

Shipments of Crude Oil from Canyon Refinery, Kilgore, Texas. (Gladewater, Texas.)

July 5, 1933					Morrelo, La.
SHPX	11624	Crude Oil	10214	W. E. Winship	
"	11543	"	10210	do	
"	11187	"	10294	"	
"	11481	"	10068	"	
"	11478	"	10070	"	
"	11278	"	10074	"	
July 4, 1933					Morrelo, La.
SHPX	11509	Crude Oil	11200	W. E. Winship	
"	10798	"	10231	do	
"	11113	"	10284	"	
"	11661	"	10208	"	
July 3, 1933					
SHPX	10258	"	10144	"	
"	11606	"	10217	"	
"	10135	"	10090	"	
"	11450	"	10081	"	
HMTX	7016	"	10054	"	
QTX	1809	"	10167	"	
"	1683	"	10163	"	
STCX	1374	"	10068	"	

[fol. 111]					
SHPX	10127	"	10127	"	
"	1980	"	10103	"	
"	11134	"	10285	"	
GATX	72589	"	8210	"	
"	27630	"	10070	"	
"	14923	"	8107	"	
QTX	1804	"	10178	"	
GATX	75527	"	10118	"	
"	13583	"	8085	"	
Locke Refinery, Gladewater, Texas					
July					
Gasoline				53 Cars	
Gas Oil				17 "	
Distillate				1 "	
Crude Oil				33 "	
				<hr/>	
				111	"

Locke Refinery, Gladewater, Texas—continued

[fol. 112]

August

Gasoline	50 Cars
Gas Oil	16 "
Distillate	12 "
Cracking Stock	1 "
	<hr/>
	79 "

Crude Oil Loaded at Overton, Texas, Under Name of Locke Drilling Company, Inc.  
July, 1933

Crude Oil

264 Cars.

Locke Refining Company, Gladewater, Texas

(Gas Oil)

Date	Consigned to	Destination	Initl.	Car Nos.	Capy.	Shipper	Rack.
7-1	Goad Bros.	Hamburg, Ia.	CTAX	8095	8069	Locke	Trinity
	Acme Pet. Co.	Walnut, Ia.	GATX	26227	8075	"	"
7-5	Geo. O. Peterson	Dupo, Ill.	GATX	5330	8093	"	"
7-6	Acme Pet. Co.	Kansas City, Mo.	SHPX	8616	8104	"	"
7-7	Pet. Products Inc.	Perry, Ia.	PTX	3749	8060	"	"



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Date	Consigned to	Destination	Initl.	Car Nos.	Capy.	Shipper	Rack.
8-9	Stevenson Coal Co.	Nebraska City, Neb.	CTAX	8053	8064	"	
"	Cooper Keller Oil Company.		SIMX	9947	8148	"	
"	Black Hawk Oil Corporation	Flandreau, S. D.	CYCX	8961	8171	"	
8-14	Modern Refg. Corp.	Chicago, Ill.	GATX	15541	8105	"	
"	Merchant & Strahn,	Dupo, Ill.	CYCX	963	8094	"	"
8-15	Modern Refinery	Wayne, Neb.	QTX	8117	8095	"	
8-16	Clark Oil Co.	E. St. Louis, Mo.	SHPX	8305	8108	"	"
8-17	Malleable Iron	Manitowoc, Wis.	GATX	5962	10069	"	
	Ranger Co.	Beaver Dam, Wis.	QTX	8387	8087	"	"
8-18	Northland Oil Co.	Moorehead, Minn.	SHPX	8627	8092	"	"
8-21	Ft. Madison Gas Light Company.						
8-21	Central Illinois Public Service Co.	Ft. Madison, Ia.	GATX	16920	10114	"	"
8-26	City of Albany	Hoopeston, Ill.	GATX	2866	8096	"	"
8-28	City of Franklin	Albany, Mo.	GATX	5363	8084	"	"
		Franklin, Neb.	GATX	23901	8095	"	"

[fol. 115] 8-30	Wisconsin Public Service Corp.	Green Bay, Wis.	PTX	4311	8061	"	"
	" Municipal Light Plant.	Indianola, Ia.	SHPX	8890	8083	"	"
Distillate							
7-3	Frank Stevens Co.	Eagle Lake, Tex.	CTAX	8132	8173	"	"# 1
8-18	Bell Oil & Gas Co.	St. Paul, Minn.	GATX	25573	8050	"	"
8-21	"	"	GATX	13354	8080	"	"
8-22	"	"	APT	113	8095	"	"
8-23	H. S. England	Pawnee City, Neb.	GATX	5689	8131	"	"
8-26	Forrest City Mill and Electric Co.	Forrest City, Mo.	CYCX	8703	8191	"	"
"	Community Oil Co.	Villisca, Ia.	GATX	26541	8094	"	"
8-28	Petroleum Products Co.	Omaha, Neb.	GATX	2786	8170	"	"
			CYCX	8719	8205	"	"
8-28	Acme Pet. Co.	K. C., Mo.	PTX	2378	8257	Locke	Trinity
"	Petroleum Products						

[fol. 116]		Distillate--continued				
Date	Consigned to	Destination	Initl. Car Nos.	Capy.	Shipper	Rack.
8-29	Co.	Omaha, Neb.	GATX 29531	8104	"	"
8-30	Western Pet. Co.	Omaha, Neb.	GATX 5505	8084	"	"
	Acme Pet. Co.	K. C. Mo.	CTAX 8095	8069	"	"
8-29	Metropolitan Utilities Gas Plant.	Omaha, Neb.	PTX 8074	8093	"	"
7-1	Acme Pet. Co.	K. C., Mo.	GATX 25667	8097	"	Trinity
"	Bethany Oil Co.	Bethany, Mo.	GATX 6805	8082	"	
7-3	W. H. Barber & Co.	Starbuck, Minn.	PTX 1967	8259	"	
"	"	Milnar, N. D.	SHPX 9128	8137	"	
"	"	Lidgewood, N. D.	GATX 15111	8704	"	"
7-4	"	Windmer, N. D.	GATX 22347	8122	"	"
"	"	Brandon, Minn.†	GATX 29683	8102	"	"
"	"	Casselton, N. D.	CTAX 8086	8067	"	"
7-6	Cooper Keller Oil Co.	Minneapolis, Minn.	GATX 29334	8104	"	"
"	Home Oil Co.	Mt. Vernon, Mo.	GATX 5207	8096	"	"
			GATX 5201	8096	"	"

Cracking Stock

(Gasoline)

[fol. 117]

7-7	Cooper Keller Oil Co.	Minneapolis, Minn.	GATX	6098	8125	"	"
	"	"	GATX	20540	8145	"	"
7-8	"	"	GATX	5687	8128	"	"
	"	"	GATX	6348	8117	"	"
7-10	J. W. Norris & Son.	Grinnell, Ia.	GATX	5404	8086	"	" # 1
	Home Oil Co.	Ridgeway, Mo.	GATX	5689	8131	"	" # 1
7-11	Transportation Oil Co.	Milwaukee, Wis.	GATX	6614	8088	"	"
	Ozee and Hayes	Mattoon, Ill.	GATX	6031	8091	"	"
7-12	Ida Grove Oil Co.	Ida Grove, Ia.	CTAX	6899	8097	"	" # 1
	Muff Grain & Coal Company.	Liberty, Ind.	SIMX	9948	8159	"	" # 1
	O. A. Cooper Co.	Humboldt, Neb.	GATX	22333	8120	"	"
	Farmers Corp. Oil Co.	Shelton, Ia.	APT	109	8082	"	"
	Harry See	Waterloo, Ia.	GATX	5299	8098	"	"
	Acme Pet. Co.	Winterset, Ia.	STCX	9155	8056	"	"
	Notify Winterset Oil Co.						
7-15	W. H. Barber & Co.	Minneapolis, Minn.	SIMX	9957	8152	"	"
	Simmer Oil Co.	Ottumwa, Ia.	CTAX	8098	8067	"	"
7-16	M. St. L. Railway Co., Care Store- keeper Grisley.	Morning Sun, Ia.	SHPX	8740	8130	"	"
			CTAX	8108	8167	"	"



[fol. 118]		(Gasoline)—continued				
7-17	Cooper-Keller Oil Co. Minneapolis, Minn.	PTX	1647	8248	"	"
"	Locke Refinery, Inc. K. C., Mo.	SHPX	8614	8138	"	"
	Changed before movement to Cooper Keller Oil Co.					
"	Locke Refinery K. C., Mo.	SHPX	8579	8080	"	"
	Keller Oil Co. Minneapolis, Minn.					
7-17	Locke Refinery, Inc. K. C., Mo.	PTX	2343	8258	Locke	Trinity
	Changed to Cooper Keller Oil Co.					
"	Cooper Keller Oil Co. Minneapolis.	SHPX	8604	8153	"	
8-9	Big Heart Oil Co. Minneapolis, Minn.	SHPX	9172	8149	"	
"	McCarthy Oil, Care Kewanee, Ill.					
"	Viking Oil Co. Milwaukee, Wis.	QTX	8983	8133	"	
	Emory Clark, Care					
	Rhode Duster Oil Company.					
	"	CYCX	4118	8166	"	
	"	PTX	2202	8093	"	
8-11	West Central Gas Co. Louisburg, Minn.	PTX	1647	8248	"	Trinity

[fol. 119]

8-11	Beaver Dam Oil Co.,	Beaver Dam, Wis.	PTX	2343	8258	"
8-12	Johnson & Hill	Wisconsin Rapids, Wisconsin	GATX	29480	8106	"
"	McCarthy Oil Co.					"
	Care Viking Oil Co.,	Milwaukee, Wis.	PTX	4539	8047	"
8-13	Central Pet. Co.	Peru, Ind.	GATX	29483	8102	"
"	Home Oil Co.	Ridgeway, Mo.	CYCX	9231	8170	"
8-14	Geo. C. Peterson Co.,	Dupo, Ill.	SIMX	1613	10217	"
"	G	Ellsworth, Wis.	GATX	6509	8079	"
"	"	Casco, Wis.	GATX	29334	8104	"
8-16	West Central Gas Co.	Louisburg, Minn.	STCX	8006	8092	"
8-17	Cooper Keller Oil Company	Minneapolis, Minn.	GATX	6580	8088	"
			CTAX	7003	8101	"
			GATX	29396	8104	"
			SHPX	8580	8085	"
8-18	Sanes Pet. Co.	Kirksville, Mo.	GATX	2848	8094	"
			GATX	2852	8097	"
8-19	Peoples Oil Co.	Ft. Dodge, Ia.	STCX	8794	8094	"* 1
"	Cooper Keller Oil Company,	Minneapolis, Minn.	GATX	29769	8121	"

## (Gasoline)—continued

[fol. 120]

[fol. 120]

Date	Consigned to	Destination	Initl.	Car Nos.	Capy.	Shipper	Rack
8-19	Geo. O. Peterson and Company,	Dupo, Ill.	GATX	13998	8084	"	"* 1
8-21	American Pet. Co.	Chicago, Ill.	GATX	5885	10065	"	"
			GATX	14605	8051	"	"
			GATX	5712	8125	"	"
"	Monarch Service Station,	Bay City, Mich.	GATX	5916	10069	"	"
8-22	Emory Clark Co. Care Rhode Deuster Oil Company,	Milwaukee, Wis.	SIMX PTX	1605 4125	10212 8064	"	"
8-24	Cooper Keller Oil Co.	Minneapolis, Minn.	GATX	29399	8108	"	"
8-25	"	"	GATX	29496	8107	"	"
			IMRX	1117	8086	"	"
			IMRX	1183	8083	"	"
8-26	Apex Oil Co.	Afton, Okla.	CYCX	8738	8202	Locke	Trinity
"	"	St. Louis, Mo.	SHPX	9157	8144	"	"
			SHPX	9151	8140	"	"
"	"	"	GATX	23972	8133	"	"

[fol. 121] (Gasoline) —continued

7—135	8-26	Destination changed to Afton, Okla.	Waterloo, Ia.	GATX	25446	8064	"	"
	8-28	Freeze Bros. Oil Co.	Little Rock, Ark.	PTX	1863	8093	"	"
		Apex Oil Co.		CYCX	7901	8107	"	"
	"	West Central Gas Co.	Louisburg, Minn.	CYCX	902	8055	"	"
	"	Geo. C. Peterson Co.	Dupo, Ill.	GATX	11821	8137	"	"
				GATX	29582	8105	"	"
8-29		Globe and Refg. Company, Care National Pet. Co.	Central Park and Grand Ave., Chicago.	STCX	8684	8095	"	"
				GATX	29462	8108	"	"
8-30		Fulton Coal Co.	Chicago, Ill.	CYCX	8699	8168	"	"
"		Globe Oil & Ref. Co. Care National Pet. Co.	Englewood, Ill.	QTX	8722	8119	"	"
"		West Central Gas Co.	Louisburg, Minn.	GATX	29517	8107	"	"
8-31		Monarch Service Station	Saginaw, Mich.	GATX	6135	8085	"	"