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The Politics of Oil, by Robert Engler

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BOOK REVIEWS

THE POLITICS OF OIL. By Robert Engler. New York: The MacMillan Company. 1961. Pp. 565. \$7.50.

With this book, Robert Engler, Professor of political science at Sarah Lawrence College and a member of the graduate faculty of Columbia University, adds his name to a long list of distinguished academicians who have been highly critical of various aspects of the American and world petroleum industry.¹ In his introductory chapter Engler states:

The documentation that follows shows how the petroleum industry has harnessed public law, governmental machinery, and opinion to ends that directly challenge public rule. In the name of prosperity and technology, the industry has been able to destroy competition and limit abundance. In the name of national interest it has received privileges beyond those accorded to other industries. In the name of national security, oil has influenced and profited from a foreign policy that has supported the chauvinism of a few rather than generosity to the aspirations of the many in underdeveloped areas. In the name of private enterprise, it has contributed to the attenuation of vital portions of democratic life, from education to civic morality. In the name of the right of representation, it has so entrenched itself within the political processes that it becomes impossible to distinguish public from private actions. In the name of freedom, the oil industry has received substantial immunity from public accountability.²

It is immediately obvious that broad and unqualified charges of this type cannot be "documented" in any truly objective or scientific sense of the word. Each reader has to assess the degree of validity in each of these charges on the basis of the evidence presented using his own interpretations and values.

Politics is full of detailed circumstances, names and quotations that

1. See, e.g., de Chazeau and Kahn, *Integration and Competition in the Petroleum Industry* (Petroleum Monograph Series No. 3, 1959); I. Whitney, *Anti-trust Policies* (1928); Rostow, *A National Policy for the Oil Industry* (1947); Cookenboo, *Crude Oil Pipe Lines and Competition in the Oil Industry* (1955); Watkins, *Oil: Stabilization or Conservation?* (1937).

2. P. 9.

contribute both realism and varying degrees of credibility to much of the discussion. In Chapter 2, cogently titled "Portrait in Oil," the impact of the discovery of oil in 1951 in North Dakota is colorfully narrated. The basic changes in the political, economic and social life are analyzed. The author makes a fairly convincing case that the predominately rural citizenry of that state generally were unable to understand or to cope with the purposeful organization, wealth and sophistication that came in with the big oil companies.

The principle theme of *Politics* begins in Chapter 3, "The Private Government of Oil." Engler's observations concerning the structure of the industry and the concentration of economic power in the hands of the major companies coincide with those made by many other writers.³ Engler weakens his case, however, by overstating the conclusions that can be drawn from the evidence presented.

He is clearly in error, for example, when he implies the absence of effective competition in the marketing level of the industry. While it is true that crude prices are supported by a framework of protective regulation and tend to be relatively stable, marketing prices tend to be highly competitive.⁴ In fact, it is the disparity in the degree of competition between the production level of the industry and the marketing level that creates many of the economic and political frictions in the industry.⁵

In Chapter 4 the author is on firmer ground when he discusses the international operation of "big oil." A large part of this material was borrowed from the so-called *Cartel* report of the Federal Trade Commission in 1952.⁶ No one familiar with the literature can challenge the fact that until recent years, at least, the major international companies have had a sizable degree of control over international oil markets. Whether or not this "private government" has been in the long run public interest is certainly a matter open to debate. Engler notes that A. A. Berle called it ". . . an experiment in world economic government and the corporations cannot on this record be accused of failure."⁷

3. See de Chazeau and Kahn, *op. cit. supra*, Part I and II.

4. Whitney, *op. cit. supra* at 186-87, and de Chazeau and Kahn, *op. cit. supra* at 563-64.

5. de Chazeau and Kahn, *op. cit. supra* at 512 state: "Fabricators in other industries have some assurance that pressures on the prices of their products will be transmitted back to raw material levels, so that the independent enjoys some reasonable prospect of a remunerative margin. Crude oil markets are sheltered against such pressures." See also Hewitt, *The Principle Factors Affecting Oil Marketing Now and Tomorrow*, NATIONAL PETROLEUM NEWS, Dec., 1959, p. 77; Hewitt, *The Cloudy Future for Oil Jobber*, THE NATIONAL OIL JOBBER, Feb., 1952.

6. Federal Trade Comm'n Staff Report, *The International Petroleum Cartel*, Subcommittee on Monopoly, Senate Small Business Committee, 82d Cong. 2d Sess. (1952).

7. P. 79.

In Chapter 5, "Private Planning and Public Resources," the author is highly critical of the:

(a) federal policies permitting mineral rights leases on public lands at 50c per acre without requiring competitive bidding except where there are proven oil deposits;

(b) Tidelands Act whereby the federal government renounced federal ownership of about 15% of the off-shore oil reserves;

(c) opposition of the oil companies to the experimental work necessary to the development of the tremendous shale oil reserves in Colorado;

(d) Standard of New Jersey's dealings with the Nazis at the outbreak of World War II;

(e) sale of government owned synthetic rubber plants to major oil and rubber companies following World War II; and

(f) control of natural gas resources by the major integrated companies.

A fuller and more balanced discussion of the complex issues in each of these areas would have added much to the quality of the discussion. Perhaps size limitations made the brevity of treatment somewhat more excusable.

In Chapters 6 and 7 Engler concentrates his guns on the price maintenance aspects of production controls and on the tax advantages given producers. He states: "Through taxes and related subsidies the American government supports the industry in developing its productive capacity. At the same time, through the whole complex conservation system the government backs the planned withholding of products."⁹

Here again the author is merely restating criticisms that have been made by many other writers. His contribution, if any, is in the form of names, dates and quotations.

Chapters 8 and 9 return to the international area with the discussion focusing on: the Suez crisis, the seizure of the oil properties in Iran, the way that the big international companies avoid paying federal income taxes on their foreign profits and the import quota system aimed at protecting domestic crude prices.

It is in the last six chapters that Engler begins to make a contribution of sorts. These chapters concentrate on the political maneuvering of the oil industry and make an impressive case for his argument that:

The issue is neither the worth of diversity nor the right of lobbying. Each is inherent in representative government. Nor

8. P. 132.

9. For a lucid discussion of oil tax policy see Freeman, *Percentage Depletion for Oil—A Policy Issue*, 30 *IND. L.J.* 399 (1955).

is the ultimate focus the particular sins of oilmen and oil corporations. These must be weighed against the many genuine industrial achievements of the industry. Nor is the problem simply that of the venality of weak congressmen. The spotlight here belongs more on lawmakers and respectable men with bulging brown brief cases entering the portals of government rather than on lawbreakers and furtive men with little black bags using side entrances of hotels. Government policy on oil has increasingly become indistinguishable from the private policies of oil, with this development carried to new extremes under the Eisenhower Administration which held as principle that government ought to be in the hands of the concerned business community, that is, that part of government which had not already been turned over outright to private control. The resultant corruption has not been of individual men or even of programs for oil, but of the very concept of public policy. Those who most contribute to the political corruption of our times thus foster the popular view of politics as dirty and government as evil. By so doing the people are effectively deterred from understanding and then using politics and government for the formulation of public policies. The fundamental question thus involves the nature of oil as a system of power and the impact upon American institutions and values. It concerns the requirements for responsible government and a democratic society.¹⁰

Engler concludes his book by saying:

The United States' historic fears of concentrated public power and the monolithic state are preeminently justified by the repeated experiences of men with government as coercive and irresponsible tyranny. They have been translated in America into political institutions premised on the broad diffusion of public power. The problem now is how to deal with a concentrated private international government of oil. It suggests the need for an approach to politics that develops a structure of private initiative and government power that can be both creative and responsible. It requires a recognition of the totalitarian potentials of a highly industrialized community. It calls for the search for a social framework within which the individual spirit and community values can thrive, where the culture respects and supports health, education, intellectual freedom,

10. P. 419.

meaningful work, and high creative levels as primary human needs. A new theory of positive, responsible government needs to be worked out by those who wish to preserve what is the best in the liberal tradition and are still ready to believe that the condition of man is not hopeless, however difficult the immediate tasks ahead may be.¹¹

On the favorable side, *Politics* is fairly well organized, copiously footnoted and well written. The author utilizes a strong, and at times, colorful journalistic style that adds to the readability of the book. On the negative side, the author tends to weaken his case by a style that all too often verges on muckraking, and by overstating what his evidence really proves. Engler is unduly repetitious concerning some of the skeletons in the industry's closet.¹²

The principle weakness of *Politics* is a main strength of the American Petroleum Institute sponsored de Chazeau and Kahn book, *Integration and Competition in the Petroleum Industry*.¹³ Engler generally fails to discuss in depth the extremely complex economic issues involved in most of his criticisms. Few, if any, desirable alternatives are analyzed or even offered.

In addition, his overall assessment of the political power of oil is open to challenge. Oil interests exert powerful political influences at both the state and national level; but there are many diverse interest groups within the industry and these groups rarely agree on critical issues.¹⁴ Various bills to eliminate federal regulation of natural gas failed to become law in spite of vigorous support by virtually all segments of the industry. Nor does the fact that the oil industry receives the major attention of the antitrust agencies bespeak overwhelming political power.

The late Sumner Slichter of Harvard and others have concluded that the political power of "big business" has declined rather steadily since 1929. Abroad, new and old nations are in political ferment. It will be increasingly difficult for any consortium of private companies to exercise unreasonable controls over essential world resources.

On the domestic scene there are competitive threats from electricity, atomic power, fuel cells and other innovations. Although the long

11. P. 497.

12. The ancient Teapot Dome scandal is re-hashed in at least nine different parts of the book.

13. *Supra* note 1; see Hewitt, Book Review, 35 *IND. L.J.* 259 (1960).

14. Domestic producers wage a continuing fight with the big international companies concerning import controls. Various dealer and jobber associations oppose the majors and each other on such issues as depletion allowance, divorcement and price discrimination laws.

prospects for independent refiners and marketers do not seem to be overly bright, the short run overall industry picture appears to be one of increasing competition rather than increasing monopoly power.¹⁵

The principle strength of *Politics* lies in its massive accumulation of names, dates and quotations. Engler also skilfully outlines the essential characteristics of political democracy from the viewpoint of a liberal political scientist. For this reason alone, the book merits the attention of our political and business leaders; many of whom have never been exposed to the challenging issues he raises.

CHARLES M. HEWITT†

SOCIETY AND THE LAW. By F. James Davis, Henry H. Foster, Jr., C. Ray Jeffery, and E. Eugene Davis. New York: The Free Press of Glencoe. 1962. Pp. vi, 488. \$6.95.

Two sociologists, a law professor, and a practicing attorney¹ have collaborated to write a book "to persuade the student of sociology that law is relevant to an understanding of society and the student of law that it is always pertinent to look at the social purposes and consequences of a legal rule."² The authors hoped that their work would be adopted as a text in a pre-legal course, or as a law school course, along with being useful to social scientists.

The book is divided into three sections: law and social organization, law and social change, and lawyers as a professional group. Each author has written a chapter in each section either alone, in collaboration with, or assisted by, one or two of the others.

In the first section, law and social organization, Professor Davis gives a survey of the history of the sociological approach to the study of law and notes the contributions made by American and European legal scholars. He is impressed with the legal realists, especially Llewellyn, and is careful to point out that legal realism is not a "school of thought."

15. See Hewitt, *The Principle Factors Affecting Oil Marketing, Now and Tomorrow*, NATIONAL PETROLEUM NEWS, (Dec., 1959).

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2. P. 396.