

**The Politics of State-Sanctioned Cartelization:
The Case of the National Industrial Recovery Act**

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When people are in trouble,
they don't want justice,
they need help.

INTRODUCTION

There has been a debate over the past decade focusing on the relative importance of the state versus societal actors in explaining political outcomes. Interestingly, both society-centered and state-centered approaches have used the case of the New Deal, and particularly of the National Industrial Recovery Act (NIRA), to illustrate their explanatory power.

The NIRA is interesting for two reasons. First, it was a great experiment of American-style corporatism, state-development, welfare state, and industrial policy. Second, its adoption and its failure had a significant impact upon the subsequent political economy of the United States.

Society-centered approaches explain the adoption of first New Deal policies, including the NIRA, in terms of the coalitions of societal actors behind the Roosevelt Administration. As the coalitions change, so do the policies. On the other hand, state-centered approaches attempt to explain why the NIRA failed to achieve economic recovery in terms of the the U.S. national state. It is argued that the state lacked a knowledgeable, preexisting government administrative organization, which decreased its capacity to carry out a complex industrial policy program.

When society-centered approaches are used to explain how the policy was chosen, the state is almost inconsequential. In contrast to that approach, when state-centered approaches explain how the policy was implemented, the state is almost everything. As an alternative, one could combine the two explanations: the society makes the policy and the state executes it. But a rigorous examination of the NIRA shows that this was not the case.

This study tries to provide a coherent explanation of the two questions: How was the NIRA adopted and how did it fail? The point of this study is that there is a third alternative approach, what I call the "struggle-centered approach." I contend that how the NIRA was adopted and how it failed can only be understood consistently in terms of the struggle-centered approach which focuses on the interaction between the state and societal groups.

The struggle-centered approach not only attempts to provide a coherent explanation

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of the life of the NIRA. It also tries to elaborate the two explanations. As both society-centered and state-centered approaches focus on the NIRA as a whole, they tend to neglect to see the politics within each industry. Examining these intra-industry politics reveals that the state had been a more important actor than society-centered approaches assume, but that the role of the state was not exactly what state-centered approaches expect.

The struggle-centered approach shows that, from the beginning, the NIRA was a political, rather than a technocratic solution to the problems. Accordingly, its failure was a political, rather than an administrative one. Much of its ineffectiveness was due to "internal conflict and its inability . . . to define and implement a consistent line of policy."¹ In other words, the consequences of the NIRA emerged more as a result of complex political struggles and less as a result of the state's incapacity to define and implement its policies independently.

This study uses the case of the two industries, cotton textiles and petroleum, before and during the NIRA, to assess the strengths and weaknesses of the two approaches. Hence the arguments here are meant to be suggestive for the theories rather than conclusive for the evaluation of the NIRA as a whole.

APPROACHES

I begin with how each approach explains the NIRA. I then show how each approach fails to provide a wholly satisfactory and complete explanation. The unanswered questions form the basis of my examination of the same cases.

Society-Centered Approaches

These approaches try to explain policy choices by identifying the societal actors which support the policy. Choices are regarded as a function of two factors: a) the preferences of societal actors and b) their powers. For example, in the case of economic policy, the preferences of societal actors are shaped by the actors' situations in the international and domestic economy. "What people want depends on where they sit, as theorists have argued since long before the time of Bentley and Marx."²

The next step is to conceptualize "where they sit." Accordingly the big question for students of politics and society is how to disaggregate society. Much of the literature on economic policy considers categories of societal actors — individuals, firms, sectors, interest groups, or classes.³ Rational choice theories focus on individuals; pluralists focus on interest groups; and Marxists focus on classes. A contemporary version of this

1 Ellis Hawley, *The New Deal and the Problem of Monopoly* (Princeton: Princeton University Press, 1966). p. 138

2 Peter Gourevitch, *Politics in Hard Times: Comparative Responses to International Economic Crises*, (Ithaca: Cornell University Press, 1986), p. 56.

3 The list could be much longer. Other factors of importance in conceptualizing society includes, for example, geography, climate, ethnicity, language, culture, demography, technology, ideology, and religion. See James G. March and Johan P. Olsen, "The New Institutionalism: Organizational Factors in Political Life," *American Political Science Review*, 78, 1984: 734-749.

approach stresses "sectors" in the economy.⁴ According to this version, business is disaggregated with several considerations which appear relevant in shaping attitudes toward economic policy.⁵ Both labor and agriculture are further disaggregated into sectors in the same way.

Preference becomes policy only through the mediation of power. This approach argues that power depends on the importance of the function to the economy and the resources that control of the function provides. Thus, policy choices are explained by the situation of societal actors in the economy, the actors' policy preferences, and their power.

The society-centered explanations that focus on sectors —let us call these explanations the "sectoral coalition model" — have been used to explain how the NIRA was enacted as the Great Depression hit the American economy.⁶ Thomas Ferguson and Peter Gourevitch argue that there were two coalitions behind the Roosevelt Administration. Each consisted of several sectors, thereby distinguishing the first from the second New Deal. The first New Deal was supported by nationalist business interests, labor, and agriculture. Core support for the nationalists came from the large, heavy industries of the Midwest, typically steel. The second New Deal, which is characterized by more liberal policies, was supported by internationalists in place of nationalists. Core support for the internationalist position came from trade-oriented bankers, largely from the Northeast, from shippers, from high-technology industry at the export phase of the product cycle, from commodity crop producers, and from oil.

As the economy worsened in the 1930s, many businessmen, particularly in domestic-oriented industry, began to lose faith in market mechanisms. Instead, they came to believe in the need for deliberate acts of coordination, order, stabilization, market sharing, and administration. Coming to office at the darkest moment of the Depression, Franklin D. Roosevelt brought these businessmen, agriculture, and labor into one type of coalition. Stabilization was supposed to work as follows: The NIRA called for the National Recovery Administration (NRA) to set up committees of businessmen. The committees would draft the codes of fair competition which, when accepted by the majority of the industry and the President of the United States, would allocate production shares to each producers and set standards of price and quality for every product. Labor also obtained the Section 7 of the NIRA, which guaranteed rights to organize and to bargain collectively. The Agricultural Adjustment Act, which aimed to raise prices for basic agricultural commodities, was also enacted for agriculture at about the same time.

4 Alexander Gerschenkron, *Bread and Democracy in Germany* (1943; New York: Fertig, 1966); James R. Kurth, "The Political Consequences of the Product Cycle: Industrial History and Political Outcome," *International Organization* 33 (Winter 1979): 1-34.

5 The list by Peter Gourevitch includes: 1) competitiveness in the international economy; 2) vulnerability to fluctuations of demand; 3) the role and character of labor needs; 4) the source of demand; and 5) the structure of capital market. Gourevitch, *Politics in Hard Times*, pp. 56-57.

6 Thomas Ferguson, "From Normalcy to New Deal: Industrial Structure, Party Competition, and American Public Policy," *International Organization* 38 (Winter 1984): 41-94; Gourevitch, *Politics in Hard Times*, chapter 4.

The coalition behind the first New Deal, however, was riddled with fault lines. This "emergency reflation coalition for national economic recovery" was a transition coalition which was made possible only because of the depression; therefore it was unstable. As the first New Deal coalition disintegrated under the impact of inter-industrial and class conflict, long-run trends reasserted themselves, and Roosevelt turned to the internationalists.⁷

There are pros and cons to using sector as a unit of analysis. In society-centered analyses of the New Deal, sectors are characterized as being labor-intensive or capital-intensive,⁸ and as being internationalist or nationalist.⁹ Sectoral political behavior is explained by these characteristics. Ferguson argues that these distinct lines of cleavage ultimately divided big business in this period and that these sectoral coalitions can explain the general pattern of policy within the country. Yet, this approach hardly explains the politics within industry. Knowing that one government is supported by a particular sectoral coalition does not tell us how the government responds to the factions within one sector. This suggests that smaller disaggregations (individuals or firms) may be necessary for the analysis.

More significantly, we may need something other than societal interests. Society-centered explanations look at the preferences and powers of societal actors and assume a congruence of interests between state actors and societal actors. The interests of state actors or political actors are identified with constituent demands. Accordingly, the leadership role of political actors is that of a broker; it emphasizes the creation of winning political coalitions among participants with given demands.¹⁰ Yet, we may find the autonomy of the state or, more precisely, that the political interests of the state actors cannot be reduced to societal interests. That is, the interests of state actors may be more than constituent demands. Furthermore, we may be able to identify the circumstances under which both the preferences and powers of societal actors are transformed by the state actors or state institutions.¹¹

In sum, I have obtained the following questions from the investigation of society-centered approaches: 1) Are sectors relevant units of analysis? 2) Does the state merely respond to the (coalitions of) various societal actors?

State-Centered Approaches

State-centered approaches recognize and address the importance of the state.

7 Ferguson, "From Normalcy to New Deal," pp. 61-62, 85-86.

8 This variable is operationalized by the Census of Manufacturers of wages as a percentage of values added. Ferguson, "From Normalcy to New Deal," p. 50.

9 The former has strong position vis-à-vis international competitors, which leads them to champion an open world economy with minimal government interventions. Nationalist weakness in the face of foreign rivals drives them to embrace high tariffs, quotas, and other forms of government intervention to protect themselves. Ferguson, "From Normalcy to New Deal," pp. 53-54.

10 March and Olsen, "The New Institutionalism," p. 739.

11 This is one of the most important statements of the new institutionalism. See also Peter Hall, *Governing the Economy: The Politics of State Intervention in Britain and France*, (New York: Oxford University Press, 1986), chapter 1.

Explored here are the autonomy and capacity of states.¹² First, states, conceived as organizations claiming control over territories and people, may formulate and pursue goals that are not simply reflective of the demands or interests of societal actors; states may have autonomy from society. Secondly, decisions made by the state may not be carried through. The administrative organization of government intervention is crucial in order for states to have the capacity to act. "Governments that have, or can quickly assemble, their own knowledgeable administrative organizations are better able to carry through interventionist policies than are governments that must rely on extragovernmental experts and organizations."¹³

This approach is applied to the explanation of the failure of the NRA.¹⁴ Theda Skocpol and Kenneth Finegold argue that a national state with the capacity to carry out a complex program of industrial policy was not present in America during the period of the New Deal. They argue that without a knowledgeable, preexisting government administrative organization to draw upon, the NRA was forced to rely upon industrialists to regulate industry, and they proved inadequate for the task.¹⁵ From their perspective, what Hoover did and did not do in the 1920s was important for the following period. Both as the Secretary of the Commerce and as the President of the United States, Hoover simply encouraged and attempted to coordinate the trade associations, but he did not build up independent governmental apparatuses. Therefore, the U.S. state lacked the capacity for policy-oriented research and for centrally coordinated policy implementation.¹⁶ As a result, they argue, "[w]hether the NIRA implied state planning for industry, or merely state coordination and backing for business planning, it asked too much of the public intelligence and the government machinery of the time."¹⁷

This approach focuses our attention on the important issue which society-centered approaches address in only a limited way: the issue of implementation as opposed to policy choices. Yet, this approach emphasizes the role of the state too much and, as a result, the explanation is an apolitical and even technocratic approach to the state. The state-centered argument advanced by Skocpol and Finegold presupposes that, in order for the NIRA to be successful in achieving economic recovery, the state has to have autonomy, administrative resources of information, expertise, and analysis — in other words, a rationalized Weberian bureaucracy. If this is the case, then everything is

12 Theda Skocpol, "Bringing the State Back In: Strategies of Analysis in Current Research," in Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol, eds., *Bringing the State Back In*, (Cambridge: Cambridge University Press, 1985).

13 Theda Skocpol and Kenneth Finegold, "State Capacity and Economic Intervention in the Early New Deal," *Political Science Quarterly*, 97 (Summer 1982), pp. 260-261.

14 Skocpol and Finegold, "Economic Intervention and the Early New Deal"; Kenneth Finegold and Theda Skocpol, "State, Party, and Industry: From Business Recovery to the Wagner Act in America's New Deal," in Charles Bright and Susan Harding, eds., *Statemaking and Social Movement*, (Ann Arbor: The University of Michigan Press, 1984).

15 Finegold and Skocpol, "State, Party, and Industry," p. 173.

16 Skocpol and Finegold, "Economic Intervention and the Early New Deal," p. 272.

17 Skocpol and Finegold, "Economic Intervention and the Early New Deal," pp. 267-268.

possible without politics.

But we may not be able to attribute the failure of the NRA to the lack of state capacity. A systematic examination of the politics within industry shows why the NRA failed to recover the economy. This particular version of the state-centered approach to the NRA overstates the importance of state organization for the failure of the NRA. It is too constrained to recognize the interactions between state and societal actors — politics in a broader sense.

Finally, when statist arguments emphasize the importance of the state autonomy, these views generally assume that in order to maximize the other policy concerns, state actors must insulate themselves from private pressures.¹⁸ Skocpol even contends that “[u]nless such independent goal formulation (by the state) occurs, there is little need to talk about states as important actors.”¹⁹ Yet we may find it necessary to talk about states as important even when they share the interests, and work with, societal actors. In sum, the relevant questions are: 1) Is the lack of state capacity really the reason why the NRA failed? 2) Should the state be autonomous in order for it to constitute a legitimate subject of study?

The Struggle-Centered Approach

The struggle-centered approach tries to respond to the questions left unanswered by the societal and statist approaches. There are five central points to this third approach.

First of all, political outcomes cannot be understood without reference to the struggles for control among the state and societal actors, which are firms in our approach. They do not depend simply upon the coalitions formed by the sectors or upon the presence or absence of the state capacity.

Second, in this struggle the state may be an important actor more as the source of legitimate coercive power than as a knowledgeable administrative organization with the capacity to carry out a complex program. In other words, the state is important because it can issue authoritative commands for all within its jurisdiction.

Third, therefore, some societal actors seek to take advantage of this authority of the state in order to attain what they could not achieve through struggles among societal actors. That is, the societal actors may try to use the state for realizing their interests.²⁰ Consequently, other societal actors may try to block this movement, and they may form

18 Cathie Jo Martin, “Business Influence and State Power: The Case of U.S. Corporate Tax Policy,” (manuscript), p. 3. Stephen Skowronek, with all the brilliant insight about political struggles in the American statemaking, argues as follows. “Effective regulation presupposed a governmental capacity to resist the immediate interests of groups in conflict and to transform these conflicts, through mediation and authoritative direction, into a new order that would facilitate the further development of the private economy as a whole.” Stephen Lee Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877-1920*, (Cambridge: Cambridge University Press, 1982), p. 125.

19 Skocpol, “Bringing the State Back In: Current Research,” p. 9.

20 At the same time, the state, too, try to use the support of societal actors in order to realize its interests, as argued below. Martin focuses on the interaction between the state and societal actors, but her emphasis is on the initiatives of state actors, while my focus is on the initiatives of societal actors. See Martin, “Business Influence and State Power,” (manuscript).

an alliance with other parts of the state.²¹ Political outcomes, in this case, are contingent upon the struggle between the two alliances, each consisting of factions of societal groups and factions of the state.

Fourth, the state is not just the source of coercive power. It may have its own preferences which cannot be reduced to the interests of the dominant societal actors or the coalition of them. The state may form an alliance with private actors not because the actors are powerful, but because their interests happen to converge with those of the state, or because they are useful in order for the state to achieve its goals.

On this point, sophisticated versions of the state-centered approach are helpful. These argue that the state actors have their own political interests. "In addition to constituent interests, state actors are motivated by technical goals and institutional interests."²² For example, Suzanne Berger argues that the political elites in France and Italy have political interests in the protection of the small, independent property.

First, this sector protects society from unrest and explosions by the obstacles it puts in the way of a radical mobilization of the working class. Next, because the traditional middle classes themselves are important elements in the political consensus underpinning the regime in the two countries, their disaffection can have major destabilizing consequences. Finally, groups with an economic and social base in the traditional economy are pivotal in the political alliances on which the governing parties in both countries depend.²³

In this case, state preference to protect small business is not based on the economic interests of small business, but on the interests of the political elites, which are derived from their particular positions within political institutions. These insights can be generalized easily to other political systems. Thus, institutional interests are defined here as the imperatives arising out of the struggle for political power and institutional position from calculations of politicians and governmental officials worried about partisan and personal advantage.²⁴

Fifth, based on the third and the fourth points argued above, the balance of power in a society which is based upon the economic function of societal actors would be changed through struggles that included the state. Therefore, the state is important even when it works with societal actors. Furthermore, the state and its allies may attempt to enhance power by changing the institution of the state itself.

In sum, the struggle-centered approach focuses on the struggles among societal

21 A typical example is the use of the courts or the Federal Trade Commission. In this paper, though, I deal with only part of the government — the National Recovery Administration. Yet, as we will see later, there were factions within the NRA.

22 Martin, "Business Influence and State Power," p. 11.

23 Suzanne Berger, "Traditional Sector in France and Italy," in Suzanne Berger and Michael Piore eds., *Dualism and Discontinuity in Industrial Societies*, (Cambridge: Cambridge University Press, 1980) p. 109.

24 See Peter Gourevitch, *Paris and the Provinces*, (Berkeley: University of California Press, 1981), Skowronek, *Building a New American State*.

actors and state actors. Throughout these struggles, the state is important a) as the source of legitimate coercive power, b) as an entity with its own preferences, c) as an ally with societal actors and d) as it changes the balance of power within industry.

In this study I apply the struggle-centered approach to two industries, the cotton textile industry and the oil petroleum industry, before and during the NIRA. I show that firms struggled for control of the industry within each industry, causing business factions within the industry to attempt to use the coercive power of the state. The state, with its own interests, responded to the politics within each industry accordingly. Once formed, the alliances between the state and societal groups struggled against the other factions of the industry, which may have formed a coalition with other parts of the state.

Let us now represent this struggle-centered approach in the model for business-government relations.

The Politics of State-Sanctioned Cartelization

I have argued that political outcomes are contingent upon the struggles among societal actors and state actors. The point is that the struggles themselves would determine in which phase of government-business relations an industry would be.

In this model, I distinguish four different phases of business-government relations: A: market competition, B: private control, C: state-sanctioned cartel, and D: state control. Each has two poles, between which an industry is located. I am concerned here only with an intra-industry situation. Figure 1 shows the four phases of business-governmental relations.

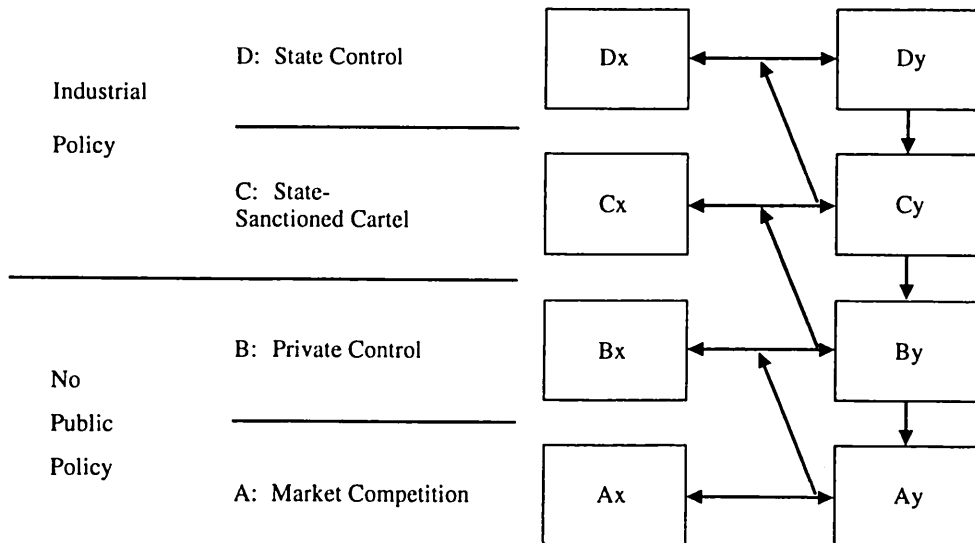


FIGURE 1
Four Phases of Business-Government Relations

- Ax: Market Competition
No firm within an industry has market power, or the ability to alter the market price of a good or service it sells. Prices are competitively determined.
- Ay: "Excessive" Competition
Most firms in the industry suffer from declining profits, owing to a decline of prices, overproduction, overcapacity, or redundant workers.
- Bx: Private Control
Competition is successfully controlled by voluntary cooperative agreements or economic power. This is private cartel of prices and/or production. (a.k.a. self-government in industry)
- By: Unsuccessful Private Control
Private control fails to achieve organized industry because of the existence of nonconformers, who do not cooperate with other firms. It is a typical "free-rider" problem.
- Cx: State-Sanctioned Cartel
Competition is successfully controlled by the use of coercive power of the state. This is public policy which requires nonconformers to adhere to majority decisions.
- Cy: Unsuccessful State-Sanctioned Cartel
Government-sponsored cartel fails to achieve its objectives. Nonconformers successfully avoid the rules which the majority makes and the state sanctions.
- Dx: State Control
Competition is successfully controlled by the state. The state formulates and pursues goals that no firm in the industry wants. This is the statist's state.
- Dy: Unsuccessful State Control
State control fails to achieve regulated industry. Firms in the industry successfully resist the state's attempts to undermine their autonomy.

This model is theoretical rather than historical. It does not intend to show that phase A is the "state of nature" in the Lockean sense. When we examine the American economy since the nineteenth century, however, this model can be used, to a considerable degree, as an historical model. The American economy in the nineteenth century was substantially a laissez-faire economy, and I argue that the government-business relationship in the U.S., at least in this study, started from phase A.

Therefore, this model is dynamic, but not teleological. The model in no way suggests that the business-government relations are moving toward any particular phase.

Ideally, in market competition, no firm within an industry has any direct influence on the market price of the goods in that industry. Prices are competitively determined and therefore no firm has market power, or the ability to alter the market price of a good or service it sells. The decision as to how much firms produce and how much they invest is made according to the signal from the market. Neo-classical economists insist that this condition brings about the most efficient resource allocation. Let us call this situation phase Ax. Yet for reasons, such as a downward business cycle or competition from abroad, a situation may evolve in which most companies within the industry suffer from problems. They may have a sharp decline in profits, owing to a decline of prices, overproduction, overcapacity, or redundant workers. Some businessmen would say, "Excessive competition is forcing prices below cost, producing excess capacity, and reducing wages to a bare subsistence level."²⁵ Through this "cutthroat competition,"

25 Hawley, *Monopoly*, p. 40.

some of them would go bankrupt. This is phase Ay.

When this problem becomes chronic, some companies try to find a way out. One way of doing this is by instituting systematic voluntary cooperative control that would ensure stable prices and profits.²⁶ Through this voluntary agreement by companies, prices, production, and investment are determined. The open-price plan and statistical exchange among companies are two of the methods that are used most often. Trade associations are critical for this cooperation.

But it is quite likely that some firms would not welcome this private agreement. These firms might want to produce as much as they want. In this case, private control could be achieved not only by a voluntary agreement by almost every firm in the industry, but also by control of the minority by the majority's economic power.

For the purposes of the general argument here, the point is that there is no use of formal power of the state in the case of "private control." When competition is successfully controlled by private agreement or economic power, let us call this phase Bx. This phase is also known as "self-government in industry." This arrangement may be inadequate for stable prices and profits, however. The most apparent reason for this is the existence of nonconformers who do not cooperate with other companies within the industry. They can take advantage of the higher prices created by the private agreement and sell as much as they want. This is a typical example of the "free rider" problem. If everyone becomes a free rider, private agreement collapses. Nonconformers are often nonmembers of the trade association, but even the members' compliance may be poor. This is phase By, the situation in which private control fails to achieve stable prices and profits. Only the struggles for control among societal actors decide whether phase Bx or phase By is obtained.

Phase C, the use of coercive power of the state, or state-sanctioned cartelization, is the logical sequel in this line of the effort of the trade association in phase By.²⁷ When private controls cannot achieve their objective because of the existence of nonconformers, the move to this phase is attempted by those who want stricter control of production and/or prices. Discontent with private control, they advocate a program which requires the minority to adhere to majority decisions about prices and production. This time, they say: "The government should help responsible and enlightened businessmen to force the "chiselers" into line."²⁸ The important point for the political analysis here is that between phase B and C there is a crucial distinction between voluntary cooperation and industrial control by government force. "Like the guild, this modern association [is] to employ government power to achieve its objectives."²⁹ Yet,

26 Another way to achieve stability is vertical integration. See Alfred D. Chandler, Jr., *The Visible Hand: The Managerial Revolution in American Business*, (Cambridge, Mass: Harvard University Press, 1977), and Michael Piore and Charles Sabel, *The Second Industrial Divide: Possibilities for Prosperity* (New York: Basic Books, 1984)

27 See also Gabriel Kolko, *The Triumph of Conservatism: A Reinterpretation of American History, 1900-1916*, (Chicago: Quadrangle Paperbacks, 1967). He calls this political capitalism.

28 Hawley, *Monopoly*, p. 14.

29 Louis Galambos, *Competition & Cooperation: The Emergence of a National Trade Association* (Baltimore, Md.: Johns Hopkins Press, 1966), p. 201. See also the argument on the corporatist body.

the state may not respond to the associations and the demand for a state-sanctioned cartel because the state has its own interests, and the trade association may not be able to change that response. Again, nonconformers would oppose the demand for coercive control. On the other hand, the struggle for control could result in success for the majority. Phase Cx is the one in which the alliance between the government and factions of the industry effectively controls the industry and thereby realizes stable prices and profits. Another alternative situation could be phase Cy, in which nonconformers successfully avoid the rules made by the majority and sanctioned by the state. This suggests that the struggles continue even after a private cartel or a state-sanctioned cartel are established. Phase Cy means that the nonconformers' struggle was successful.

In phase Cy, most businessmen do not demand more governmental regulation, which would only mean less autonomy for the company. But the state may successfully intervene beyond the demand from the majority of the industry. In the extreme case, the state makes the regulation that no one in the industry wants. In this phase of state control, phase D, the state makes and implements its own program by insulating itself from the industry. The state is autonomous from the industry: it is the "statists' state." When the state fails to achieve its goals, phase Dy is the result.

Three points as to Figure 1 deserve special attention here. First, the figure is useful in helping us to determine whether or not an industry as a whole has stable prices and profits. The phases Ax, Bx, Cx, Dx have stable prices and profits; phases Ay, By, Cy, Dy do not. Only the minority or the nonconformers are in a better situation in the phases Ay, By, Cy, Dy than in the phases Ax, Bx, Cx, Dx — a point which explains their nonconformity.

At the same time, the figure clarifies whether or not there is control and who it is that controls. Therefore, the phases Ax, Ay, By, Cy, and Dy have one common feature: no one controls prices or production in the industry. On the other hand, private actors control another faction of private actors in phase Bx, and there is an alliance between government and private actors which controls other private actors in phase Cx. In phase Dx, the state controls private actors.

Secondly, I argue that only when an industry is in trouble (phases Ay, By), do some factions of the industry hope to move to a different phase (phases Bx, Cx, respectively). As long as an industry is in phase Ax, Bx, or Cx, the majority has no motivation to proceed to phase B, C, or D respectively. Only the nonconformers would like to go to phase Ay, By, Cy (obviously, it does not matter in which phase they are).

On the other hand, when the state-sanctioned cartel fails, the industry is in phase Cy. But as soon as this cartel collapses, and if private control takes its place, the industry is in phase Bx (if the private control is effective) or By (if it is not). If nothing takes the place of state-sanctioned cartel, the industry is in phase Ax (somehow, problems

See especially Claus Offe, "Attribution of Public Status to Interest Groups: Observations on the West Germany Case," in Suzanne Berger ed., *Organizing Interests in Western Europe: Pluralism, Corporatism, and the Transformation of Politics*, (Cambridge: Cambridge University Press, 1981), pp. 123-158.

disappear) or, more likely, in phase Ay (assuming that problems continue).

Thirdly, we do not know yet which societal factions want private control or state-sanctioned cartelization or which factions become majority. These situations are determined primarily by the actors' situation in the international and domestic economy.

THE PROBLEM

According to the sectoral coalition model, the textile industry and the oil petroleum industry provide a case in contrast with regard to both cleavages. The textile industry is a labor-intensive and "nationalist" industry because of its weak competitiveness. On the other hand, the oil industry is both a capital-intensive and "internationalist" industry because of its strong position vis-à-vis international competitors. The model predicts that the textile situation would propose anti-labor and protectionist policies and that the oil industry would propose more labor-permissive and liberal foreign economic policies.

In spite of these contrasting characteristics, we find that both industries suffered from almost the same kind of problem: overproduction, overcapacity, and cutthroat competition. Furthermore, both of them issued the same demand: stability through control of price and/or production.

In view of those outcomes, I can reformulate the questions of this study according to the model of four phases of business-government relations. How the NIRA was adopted and how it failed can be reformulated as follows: How did the two industries move from phase A, try to enter phase C, but end up in phase Cy?

THE CASES

In spite of America's exceptional dedication to individualism and competition,³⁰ an institution which was dedicated primarily to achieving stability through the concerted actions of a group, the trade association, began to evolve throughout the economy during the second half of nineteenth century.³¹ Various trade associations played an important role in the process of experimentation for price- and production-control. The associations sought economic stability for their members. They stressed cooperation as a strategy to alleviate competitive pressures, and many of the associations began to create systems of precise economic controls to achieve their objectives.

The Cotton Textile Industry

Although the cotton textile industry is the industry which led the United States into the age of manufacturing, it was not without problems. As early as the 1920s, the industry was experiencing difficulty.

In the previous year (1924) the corporations in cotton textiles had recorded a net loss of over thirty-nine million dollars. As more and more southern firms attempted to cut costs by adopting two-shift operations, the problem of excess

30 See, for example, Barry D. Karl, *The Uneasy State: The United States from 1915 to 1945*, (Chicago: The University of Chicago Press, 1983)

31 Galambos, *Competition & Cooperation*, p. 10.

capacity became more severe. During 1924 and 1925, over 8 per cent of the spindles in the Northeast were inactive. Southern mills maintained a high rate of production, but prices fell and the manufacturing margin became tighter. Many southern producers had piled up large supplies of unsold goods. These stocks hung over the market and kept prices depressed long after the mills had been forced to shut down. The effects of excess capacity were felt most acutely in New England, but heavy financial losses were also experienced throughout the South.³²

The creation of a national trade association in 1926, the Cotton Textile Institute (CTI), was the outcome of this difficult situation.

In the 1920s, Herbert Hoover, then-Secretary of Commerce, was a leading spokesman for the trade association movement and for the "new associationalism."³³ His technical goal was economic prosperity, to be achieved by eliminating inefficiency through voluntary cooperation. He had encouraged trade associations to work through the Department of Commerce in order to prevent any public policy conflict. "He felt that the Justice Department should not discourage cooperation while his Department of Commerce was urging businessmen to use their associations to standardize products, to improve cost-accounting techniques, to promote commercial arbitration, and, in general, to eliminate inefficiency through cooperative programs."³⁴ He also gave his strong support to the effort of the cotton textile industry to have an institute of the sort that already existed in the steel and cement industries.

In June 1926, manufacturers agreed that the northern and southern mills should coordinate their efforts in stabilizing the industry. They started to design an associative structure to fit their strategy of industrial stability. The southern manufacturers apparently wanted stability, but not at any price; as yet they were unwilling to sacrifice or even endanger their advantages in low wages.³⁵ Consequently, the new institute was to be barred from lobbying for national legislation that would change sectional differences in hours and wages. The Cotton Textile Institute was formally organized on October 20, 1926, and I would like to suggest that the industry went from phase A to phase B.

Some of the work of the newly established CTI was directed at the members, but the principal target was the business executives who had refused to join, a group Galambos

32 Galambos, *Competition & Cooperation*, pp. 89-90.

33 See the works by Ellis Hawley. Ellis Hawley, "Secretary Hoover and the Bituminous Coal Problem, 1921-1928," *Business History Review* 42 (Autumn, 1968): 247-270. "Herbert Hoover, the Commerce Secretariat, and the Vision of an Associate State, 1921-1928," *Journal of American History* 61 (June 1974): 116-140. "Three Facets of Hooverian Associationalism: Lumber, Aviation, and Movies, 1921-1930," in Thomas K. McCraw, ed., *Regulation In Perspective* (Cambridge: Harvard University Press, 1981), pp. 95-123. "'Industrial Policy' in the 1920s and 1930s," in Claude Barfield et al., *The Politics of Industrial Policy* (Washington D.C.: American Enterprise Institute for Public Policy, 1986), pp.63-86.

34 Galambos, *Competition & Cooperation*, p. 93.

35 Galambos, *Competition & Cooperation*, p. 104.

calls nonconformers. The association leaders and founders were actually assisted by Herbert Hoover in their effort. One of the sources of disagreement was a program aimed at eliminating night work.³⁶ To many of the manufacturers it seemed obvious that prices could not be stabilized so long as part of the mills continued to operate two shifts. But the night-work issue brought about the threat that some of CTI's largest members in the South would drop out. In 1929 the Institute refused to attack the night work problem. Under these circumstances, the efforts to increase the membership were not very successful. By 1929, 37 per cent of the total spindleage in the nation was outside of CTI. "The non-members were a minority but a very strong minority."³⁷

Who were conformers and who were nonconformers? Galambos answers as follows.³⁸ The strongest support for CTI's programs tended to come from the older firms whose management had been in office for a relatively long time. These companies were generally larger than those in the nonconformer class. Management in the cooperator class seems to have had more to lose in the industry's competitive struggle. The opponents of cooperation, on the other hand, tended to be the managers of younger and smaller firms. To the smaller and newer producers, a competitive struggle for a larger share of the market must have seemed more reasonable than a plan to stabilize production. Thus, within the South, firm size seems to be one of the distinct lines that divided the industry. Yet the industry was also divided by geographic sections, the North and the South, because of the difference of wages. Struggles were carried out among the firms divided along these lines within this labor-intensive industry.

To make the matter worse, even the members were unwilling to adopt an industry-wide viewpoint when they were shaping their production and price policies. The producers ignored CTI's doctrines of stability, cooperation, and control when they made their vital business decisions. Thus, by the fall of 1927, CTI's plan for production control was in trouble. What the Institute could do was no more than to circularize the members, urging them to cut production in order to prevent further price declines. On October 15, 1929, when a professor at Yale University predicted that the market would go even higher in the next few months, the cotton textile industry was still "sick."³⁹ "Excess capacity was still being driven out of the industry by subnormal earnings and by a shrinking manufacturing margin that enabled only the strongest mills to earn normal profits."⁴⁰ I would argue that the industry was in phase B.

The Great Depression struck, and once it did, other industries were confronted with the same problem with which cotton textile industry had been struggling for several years. Demand for cotton products also fell. Many of the manufacturers now embraced the Institute's values. Between October, 1929, and October, 1930, CTI gathered in new members, which amounted to around 23 per cent of the capacity which had been outside

36 Galambos, *Competition & Cooperation*, pp. 116-117.

37 Galambos, *Competition & Cooperation*, p. 119.

38 Galambos, *Competition & Cooperation*, pp. 157-161. He limits his inquiry to southern mills to avoid regional differences, which is obviously not a good decision.

39 Galambos, *Competition & Cooperation*, p. 134.

40 Galambos, *Competition & Cooperation*, p. 135.

of the association in 1929.⁴¹

Still there was no agreement as to what to do within the industry. Hoover was very insistent in promoting his idea of voluntary cooperation of industry. As long as the industry was disorganized, there was nothing much that the Hoover Administration could do.⁴² Although 70 per cent of the capacity was behind the CTI's voluntary plan for the night-work program by Christmas of 1930, the association began to encounter the bedrock of nonconformers. "In the South there were a significant number of executives who still wanted nothing to do with the Institute. A surprisingly large number of northern executives also stood aloof."⁴³ The state, however, did not respond to the majority of the industry. In January, 1932, the new Secretary of Commerce told the industry that the government wanted stability, and that President Hoover wanted the voluntary night-work plan to succeed. This was just a subtle hint from the President of the United States.

Galambos concludes that the "CTI had fully explored the possibilities of voluntary cooperation and that, judged in terms of its own primary goal, the association had failed."⁴⁴ The industry was still in phase B. "But, under existing laws, neither CTI nor the Hoover Administration could force the nonconformers to cooperate. . . . This modern stabilizing institution needed political power to make its programs work."⁴⁵ Not surprisingly, some of the cooperators began to talk about a program that would require the minority to adhere to majority decisions about prices and production. The same voice was heard throughout the American industry. Hoover was sympathetic to business. But he obviously was not the man to accept the idea of coercing the nonconformers — a point which clearly shows the importance of technical goals of political or state actors in policy choice. As a result of Hoover's reluctance to coerce the nonconformers, the leaders in the CTI shifted their attention to president-elect Franklin D. Roosevelt.

CTI's leaders first approached Roosevelt's advisers, brain trusters, and they sought the views of the incoming President on this issue in order to explore more fully the possibility of winning his support for their proposal. At the same time, these leaders began to draft a bill. The proposed bill gave the emergency board, consisting of the Secretaries of Commerce, Labor, and Agriculture, the authority to force the uncooperative elements in an industry to conform to an approved trade association program. This was the first time the vital distinction between phase B and phase C was spelled out clearly.

In the meantime, they kept contact with Roosevelt's counselors and with other businessmen. Throughout this process, they found Roosevelt sympathetic to the idea of

41 Galambos, *Competition & Cooperation*, p. 140.

42 Although we categorize both voluntary cooperation and control by economic power as the phase B, what Hoover supports would only be the former.

43 Galambos, *Competition & Cooperation*, p. 151.

44 Galambos, *Competition & Cooperation*, p. 165.

45 Galambos, *Competition & Cooperation*, p. 169.

associative self-regulation under government leadership.⁴⁶

Roosevelt had his own political interests, primarily the need for immediate action. Thus, he urged quick passage of a general recovery act, no matter what the cost. In his press conference of April 14, 1933, Roosevelt described the problem that the cotton textile industry had encountered in its cooperative programs. "The fair employers would represent 85% or 90% of industry. You take the cotton mill owners of this country: Probably 90 or 95% will go along with some kind of fair wage proposition, but the fact that 5 or 10 % of them won't sign up, makes it impossible to put the agreement through."⁴⁷ These remarks show that "F.D.R. now described the non-cooperators as villains and the majority, the producers who wanted stability, as heroes."⁴⁸

An alliance between the state and the CTI was formed. The President did not respond to societal pressures only. He had his own political interests. Out of a complex process of drafting there emerged a single recovery measure that was to become the National Industrial Recovery Act.⁴⁹ The NIRA was the centerpiece of his recovery program.

The act's most widely publicized provisions were contained in Title I, the portion that dealt with the formulation of industrial codes. The President, under Section 3, might approve codes drawn up by trade or industrial groups, providing that he found such codes to be equitable, truly representative, and not designed to promote monopolies or monopolistic practices. He might also make any necessary additions or deletions; and in an industry where no agreement could be reached, he might impose a code.

Although the NIRA contained many sections upon which CTI had not exercised any influence,⁵⁰ their fundamental objective of winning governmental support for the trade association was achieved. In sum, with the passage of the NIRA, the cotton textile industry entered phase C: voluntarism was being replaced by majority control with coercion of the recalcitrant minority.

Upon the request of Hugh Johnson and other officials, the industry organized a representative committee which was to draft a code for the industry. The Code Committee's position was very strong. It was well organized and it had exceptionally good leadership, a clear concept of what their goal was, and a storehouse of information about industry. On the other hand, there were several constraints on the Committee's ability to exercise its power. First of all, the most decisive of these constraints was the need for immediate action. Secondly, the presence and the demand of the textile trade union had to be considered by the Code Committee. A third and more serious restraint

46 Roosevelt himself had once served as the president of a trade association, the American Construction Council, in the 1920s. Galambos, *Competition & Cooperation*, p. 194.

47 Quoted in Galambos, *Competition & Cooperation*, p. 195.

48 Galambos, *Competition & Cooperation*, p. 195.

49 See Ellis Hawley, *Monopoly*, chapter 1.

50 Each code, according to Section 7, had to contain an acceptable provision for maximum hours, minimum wages, and desirable working conditions. In addition, it had to include a prescribed Section 7a, which outlawed yellow dog contracts and guaranteed the right of laborers to organize and bargain collectively through representatives of their own choosing.

was imposed by the industry itself. The Committee could not exceed certain obvious limits, such as the complete elimination of North-South wage differentials.

By June 16, the industry and Hugh Johnson, the head of the NRA, had completed the first code, which included five central provisions: a minimum wage of \$10.00 per week in the South, \$11.00 in the North; a forty-hour week for the workers; Section 7a, which guaranteed the workers' right to organize unions; the two-shift limitation on production; and a provision for control of entry and expansion. The next step for this code to be effective was public hearings.

Hearings on the code, which was the first NRA code, were opened on June 27. Through this process, the child labor clause and higher minimum wage was added.⁵¹ An attempt to get rid of the machine-hour stipulation by Johnson & Johnson, one of the largest producers of cotton surgical supplies and bandages and one of the few vertically integrated firms in the industry, was not successful.⁵² On July 16, the Cotton Textile Code was signed by the F.D.R. and the new order proclaimed. Galambos concludes that, while forced to make concessions, the CTI had "successfully turned the vague promises of the National Industry Recovery Act into a specific code embodying their basic values of stability, cooperation, and control. Their strategy had succeeded. . . . The future looked good for the industry and the Institute."⁵³ Was the industry in phase Cx?

As the code was in operation, the Cotton Textile Code Authority was soon able to put its own house in order.⁵⁴ Many of the administrators came to depend upon the Code Authority for its reliable personnel, experience, and settled administrative procedure. Government officials had to ask the Authority for information upon which to judge the Authority's decisions and recommendations. In the vital area of prices and production, the Authority's suzerainty was almost absolute. In addition to its control of the statistical data essential to decision-making, the Authority immediately took over the job of processing all requests for exemptions from the machine-hour limitations.

A dangerous threat to the Code Authority's position of power came from within the NRA itself, which had begun to function more effectively. A wave of discontent spread from liberal and consumer-minded economists in the Research and Planning Division and the Consumer's Advisory Board.⁵⁵ As they began to seek support from outside the NRA during the winter and the early spring of 1934, the anti-guild alliance grew stronger.

51 Another amendment that was introduced during the hearing was a provision that would transformed the Code Committee into a cotton textile industrial committee (or Code Authority). "It was specifically empowered to make recommendations to the NRA about statistical reports that might be needed, about the vital matter of entry and expansion, about changes in or exemptions from the code's regulations and about any general problems facing the industry." Galambos, *Competition & Cooperation*, p. 223.

52 This indicates that the struggle was not exactly between big business and small business. Larger firms may prefer "excessive" competition and oppose production control, upon which their business does not depend.

53 Galambos, *Competition & Cooperation*, p. 226.

54 Galambos, *Competition & Cooperation*, pp. 228-233.

55 Galambos, *Competition & Cooperation*, p. 236. Hawley, *Monopoly*, pp. 75-79.

At the same time, a major struggle arose with the tire manufacturers over jurisdiction and over the processing taxes. Galambos argues that any attempt to impose rational controls upon an economic system had to meet and overcome the problems of defining, delineating, and imposing authority. The result was a confusing jumble of codes and rulings which left the cotton manufacturers sweating and swearing over endless reports and the association leaders struggling to shield their industry from the adverse effects of rationalization.⁵⁶ Steadily guild government became a more time-consuming and expensive business. In addition to that, as management and labor were engaged in a savage battle over unionization in the South, a wave of wildcat strikes occurred. Labor's discontent grew, creating a potentially explosive situation.

Finally, a serious challenge against the association's efforts to extend and perfect the control of production, prices, and profits came from within the industry itself. Refusing to give up its fight against the machine-hour limitation, the Johnson & Johnson continued to press the case for efficiency as opposed to stabilization. It was granted a hearing on its request for a code amendment. In this battle between Johnson & Johnson and the Code Authority, the various divisions of the NRA defined their positions. But only the Consumers' Advisory Board came down unequivocally on the side of Johnson & Johnson. The Research and Planning Division equivocated, the Industrial Advisory Board and even the Labor Advisory Board lined up with the Authority. On May 10, 1934, General Johnson issued a final order which rejected Johnson & Johnson's request. "It was a clear-cut decision in favor of the associative philosophy."⁵⁷

In 1933, the industry had shown a net profit for the first time in four years. During 1934, however, profits dropped again, and 481 of the 918 companies in the industry operated at a net deficit.⁵⁸ Only the following struggles within the industry would determine whether the industry would end up being in phase Cx or phase Cy.

Hugh Johnson was becoming sensitive to congressional pressures and to the growing resentment against production control within the NRA. Yet on May 22, under pressure from the Code Authority, he signed an order calling for temporary curtailment during June and August of 1934. Startled by Johnson's order, the United Textile Workers (UTW) fought back with a threat of a general textile strike. The UTW, joined by a rival union, the Textile Workers Union of America (TWUA), went to war in September.

Throughout the nation, particularly in the South, textile workers, employers, union organizers, police, and state militias fought bloody battles for most of the month. While the NRA was able to reach a final settlement of the strike in late September, the UTW received little satisfaction. The Authority also was able to regain its powerful administrative position on labor matters. Despite that, Galambos argues, the Authority suffered other, less obvious, but serious losses as a result of the strike. Regardless of Section 7a, the industry would not accept and deal with organized labor in a forthright manner. By exposing inter-class conflict to general public, the general textile strike

56 Galambos, *Competition & Cooperation*, p. 242.

57 Galambos, *Competition & Cooperation*, p. 255.

58 Galambos, *Competition & Cooperation*, pp. 255-256.

seriously weakened the alliance between CTI and the government.⁵⁹

On the other hand, the Roosevelt Administration had moved to placate Congressional leaders who were concerned about the monopolistic powers that had been granted to the code authorities. F.D.R. needed the support of those progressive Republicans in order to build the New Deal coalition and to ensure his own institutional position and political power. This time, however, the political interest of Roosevelt worked against the CTI. On March 7, 1934, the President issued an executive order which created a National Recovery Review Board, charged with the task of investigating the effect of the code on small business and recommending any changes that might be necessary.⁶⁰ As a result, even many businessmen who had been cooperative began to see that self-regulation was in danger of becoming state control.

A bitter and decisive struggle was waged over production control. The Consumers' Advisory Board began to engage in flanking maneuvers by voting approval of almost all requests for exemption from the machine-hour limitations. Mercer Johnson, chairman of the Board, made it clear that he was using his vote to express opposition to the basic principle of production control.⁶¹ Economists had their own technical goals, which happened to converge with the interests of nonconformers. The CAB kept the Code Authority on the defensive and nonconformers found an alliance with the Board.

Was the industry in phase D of state control? The answer is no, since phase D means, by definition, that the state is autonomous from societal pressures. The state, in this case the CAB within the NRA, was now responding to the different parts of the industry and making a binding decision toward the industry. Now it was the nonconformers who were getting what the CTI had been getting: authoritative commands. As a consequence of the inconsistency of the NRA's policy, resulting from the struggles between CTI-NRA alliance and CAB-nonconformers alliance, the state-sanctioned cartel was not achieving its objectives. I would like to suggest that the industry was in phase Cy.

In May, 1935, the National Industrial Recovery Act was declared unconstitutional by the Supreme Court in the Schechter Case. After the Roosevelt Administration decided not to revive the NIRA, CTI suddenly and swiftly fell from the position of power. In other words, with the demise of the NRA, the alliance between the trade associations and the government reverted to its earlier, pre-New Deal form.⁶²

At the end of the summer of 1935 over 90 per cent of the companies were still adhering to the NRA standards. Then slowly CTI's cooperative programs began to crumble. By November, 1935, rumors were spreading throughout the industry: mill x had gone to the third shift; mill y was said to be running machinery during the noontime break; mill z had cut wages, again.⁶³ CTI had reverted to an earlier form, what

59 Galambos, *Competition & Cooperation*, p. 266.

60 Hawley, *Monopoly*, pp. 84-85. In order to build the New Deal Coalition, it was necessary to placate these Congressional leaders, progressive Republicans.

61 Galambos, *Competition & Cooperation*, pp. 272-273.

62 Galambos, *Competition & Cooperation*, p. 283.

63 Galambos, *Competition & Cooperation*, pp. 288-289.

Galambos calls the "service association" and what I call the trade association in phase B, or more accurately, phase By.

So far, we have seen the case of cotton textile industry. Starting from phase A, the industry entered phase C in the NRA period. It was not successful in coercing the minority, a failure which led to phase Cy, and then to phase By. Galambos concludes:

CTI was originally founded upon the single premise that a powerful association could stabilize the cotton textile market. By 1933, after extensive experimentation with relatively non-coercive programs, the central premise had been amended; in its new form it stated that an association armed with government authority could stabilize the market. After the NRA collapsed, however, this proposition was no longer tenable.⁶⁴

Throughout these struggles, the state, under Hoover, had not responded to the majority, while, under FDR, the state aided the majority. Two different political interests of two presidents, technical goals of Hoover and institutional interests of Roosevelt, appear to explain these policy changes better than the explanation based upon a changing economic situation does.

I also argued above that a faction of the state (the CAB) sided with the nonconformers. The state was not autonomous, yet it was important. The NRA failed not so much because the state lacked capacity as because it was inconsistent and responded to other interests. From this perspective, fragmentation of the American state structure had more to do with the failure of the NRA rather than with the lack of state capacity. The NIRA would have been more successful if the strong alliance between the CTI and the NRA could insulate itself from other interests. But this was not the statist's state, which tries to achieve its objective by insulating itself from societal pressures.

The Oil Industry

Although the Standard Oil trust had virtually controlled American refining before 1900, the companies formerly affiliated with Standard Oil manufactured only 40 per cent of the most important petroleum product, gasoline, by the late 1920s. What is called the "majors" or "major oil companies" included the Standard Oil group, The Texas Company, Sinclair, Gulf, Shell-Union, and Tidewater-Associated. This group of giant oil corporations refined approximately two-thirds of domestic crude petroleum.⁶⁵ The remainder was processed by some three hundred-fifty small firms, "independents" of the refining sector.

As with the cotton textile industry, the debate on the relation between government and the oil industry began in 1920s. Similarly in this case, we find the influence of the experience of World War I and of the trade association movement. As the end of wartime mobilization approached, major oil company officials spoke out for continued

⁶⁴ Galambos, *Competition & Cooperation*, p. 290.

⁶⁵ Norman E. Nordhauser, *The Quest for Stability: Domestic Oil Regulation 1917-1935*, (New York: Garland Publishing, Inc., 1979), p. ii.

cooperation.

On March 14, 1919, representatives of the foremost oil companies met to create a national trade association, the American Petroleum Institute (API), which resulted in the oil industry's entering phase B. But in 1919 to 1920, the move toward industrial cooperation proved to be premature. "As in other industries, market conditions deflated the spirit of cooperation."⁶⁶ Under profitable market conditions (\$3.50 a barrel for Oklahoma crude oil petroleum in March 1920), the interest in conservation and industrial self-regulation through cooperative efforts, the concept which the war experience had advanced, rapidly faded.

Henry Doherty, who controlled over two hundred oil, gas and electric companies and was widely acclaimed as "one of the powers on Wall Street," became a pioneer in the drive for conservation and industrial self-regulation after suffering a 50 per cent decline in profits between 1920 and 1923.⁶⁷ Failure to obtain support for his program from his fellow oilmen drove Doherty to seek allies within the federal government. In December 1924, Coolidge responded to Doherty's overtures by establishing a cabinet-level committee of inquiry, the Federal Oil Conservation Board (FOCB).

In a time of favorable prices for crude petroleum, conservation did not seem to be a pressing issue. Officials from the major oil companies used the FOCB inquiry as another forum from which to attack Doherty's scheme for conservation. The first report of the FOCB tended to support the sentiment of the majority of the industry's leadership, which could see nothing but danger in government interference.⁶⁸

Late in 1926, the industry was shaken by a series of spectacular field discoveries at Seminole, Oklahoma. Once again, the fundamental perils of price and production instability reappeared. The majority of oil executives now cried that there was an urgent need to check overproduction. They began to clamor for federal assistance and action. Prior to going before the federal government, however, the API's committee hastily produced a tentative draft for a state law to prevent the wasting of gas. But Seminole well owners opposed the measure of curtailing production there. Smaller operators, who might be gambling their whole fortunes on one or two oil leases, were not easily persuaded to take the long view and wait for petroleum prices to rise.⁶⁹ They kept their eyes on immediate returns. The migratory character of underground oil compelled each joint owner of a pool to maximize individual production to prevent rival owners from capturing potential production.⁷⁰

In August 1927, the Oklahoma Corporation Commission, the existing state regulatory agency for oil and gas, sanctioned a private accord by which Seminole operators finally agreed to limit daily output to 450,000 barrels. During the following

66 Nordhauser, *The Quest for Stability*, p. 5.

67 The full effect of the California oil discoveries in late 1920 was not felt in the eastern and midcontinental regions until 1923, when tank steamers began carrying considerable quantities through the Panama Canal.

68 Nordhauser, *The Quest for Stability*, p. 27.

69 Nordhauser, *The Quest for Stability*, p. 30.

70 Donald R. Brand, "Corporatism, the NRA, and the Oil Industry," *Political Science Quarterly* 98 (Spring 1983): 106.

year, Seminole operators entered into a series of production control agreements, and the state agency ratified each of these. Thus, private production control and public regulation were integrated.⁷¹

In what phase was the industry at this time? Considering that production control was based on a private agreement, the industry was in phase B. But, judging by the way in which the public power of the state (of Oklahoma) was used, the industry was already in phase C. Yet, I argue that majority control with coercion of the minority backed up by the state, as opposed to voluntarism, is at the heart of phase C. Thus, I suggest that the industry was in phase B on the state level. Although neither federal nor state antitrust statutes were invoked to stop intercompany agreement at Seminole, the oilmen wanted a more definite expression of their right to control production. Meanwhile, during 1928, major company executives, inspired by the fear of impending overproduction in the next year, entered into a number of voluntary, local agreements to restrain output.

As we have already seen in the case of the cotton textile industry, the Hoover Administration was not a captive of businessmen in spite of its sympathy with, and eagerness to aid, trade association efforts for self-regulation of industry. When the American Petroleum Institute proposed a conservation scheme to the FOCB that would have established a national quota for oil production, the administration refused to sanction the agreement.⁷² The state again failed to be responsive. Instead, the Hoover Administration advised the industry that an interstate, rather than an intercompany, agreement was the clearest path to production control. Then, President Hoover called a conference of governors in the leading oil-producing states to develop a common oil policy in June 1929.

At the conference Ray Lyman Wilbur, Hoover's Secretary of the Interior, introduced a proposal for an interstate commission, and predicted that it would contribute to the advancement of the individual state conservation programs by providing uniformity and coordination without federal control. Oilmen, however, were not able to agree on a cure. The most divisive and immediate issue at the conference was the notion of production control with regard to crude oil imports. Nordhauser argues that this issue divided the petroleum industry for several years and slowed down the efforts to construct a complete stabilization program.⁷³

As American major refiners developed Latin American oil empires in the late twenties, "independent" producers, well owners not affiliated with major petroleum companies, were alarmed by the increasing competition from American-owned wells in Latin America. At this point in the conference in June 1929, the independent well owners viewed themselves as the victims of a conservationist conspiracy and refused to support any proposal for production control through an agreement between the states. As a substitute, they offered a resolution calling for an oil tariff. Then, Wirt Franklin, the independents' representative, and his supporters formed the Independent Petroleum

71 Nordhauser, *The Quest for Stability*, p. 30.

72 Nordhauser, *The Quest for Stability*, pp. 33-34. p. 40.

73 Nordhauser, *The Quest for Stability*, pp. 45-46.

Association of America (IPA) in the belief that the API was dominated by major integrated corporations opposed to a tariff.

Despite the efforts of the tariff advocates, the Hoover Administration provided no assistance to them and sided with Standard Oil (New Jersey), Gulf, and the other importers for free trade in foreign oil and controlled production at home.⁷⁴ Up to that point, the Hoover Administration and the FOCB had conferred only with the major companies on oil policy while largely ignoring the independents who controlled perhaps 30 to 40 per cent of American reserves.⁷⁵

By the end of 1930, the stabilization of oil production had reached an advanced stage.⁷⁶ At the federal level, the FOCB periodically issued its Committee on Petroleum Economists' estimates on national and state market demand. In the important midcontinental oil states, state regulatory agencies translated estimates of state market demand into quotas for various fields. The power of the oil and gas commissions to control local production varied from state to state. Oklahoma had a relatively strong commission. After the discoveries at Seminole in 1926, Oklahoma Corporation Commission had sanctioned and extended local production control agreements between oilmen into a system of state-wide proration of output. The legal status of the Railroad Commission of Texas was different. Despite the effort by the majors to increase the Commission's power, the Texas conservation law was not amended before the Depression. Officials of Standard Oil (New Jersey) continued to ask the Railroad Commission to do what it was not empowered to do, that is, to reduce production to prevent "economic" as opposed to "physical" waste, which the Commission did try several times, defending its policy on the grounds of the prevention of physical waste. Therefore, I could argue that the oil industry was in phase B in terms of the federal policy and in phase C in various ways in terms of state policy.⁷⁷ Once again, however, the discovery of the greatest oil field in American history, East Texas, upset the stability of the industry by 1931 and led oilmen to seek even stronger controls.

The East Texas situation was the same as that of Seminole. A significant minority of local operators wanted quick returns to pay off their heavy debts and wanted to get rich quickly. They opposed the application of proration orders to the new field. At the end of April 1931, the Railroad Commission issued the third order within a month for East Texas, which was based on an understanding between the East Texans, the Railroad Commission, and the Standard Oil (New Jersey) affiliate, Humble Oil. By June, it was apparent that this new plan was bankrupt. Many East Texas operators cheated. Crude oil prices soon dipped to 15 cents per barrel, and there were even some

74 The Hawley-Smoot Tariff was enacted with no protection for oil. Nordhauser, *The Quest for Stability*, p. 55.

75 Nordhauser, *The Quest for Stability*, p. 56.

76 Nordhauser, *The Quest for Stability*, p. 68.

77 Again, it is difficult to tell the difference between private agreement sanctioned by government and government-sanctioned cartel in which the minority is coerced to stick to the rule decided by the majority.

sales at 2 to 6 cents per barrel.⁷⁸

As a result of the Great Depression and the threat of East Texas, many of the American domestic well owners became supporters of production control. By 1931, the international oil companies, responding to the new conditions and the increasing pressure from the independents, were ready to reduce imports drastically. Consequently, most oilmen, including the independents from the IPA, could unite in calling for domestic production control. Changing economic situations and the policy change on imports by the majors made possible the new alliance between the majors and IPA as a nationalist industry.

But local oilmen from East Texas stubbornly resisted efforts by the majority of the industry to expand the powers of the Texas Railroad Commission and to reduce East Texas production. In March 1933, they achieved a significant victory: the federal district court in Houston again overturned the commission's proration order. In April, the Commission issued new proration order which doubled the allowable production in East Texas and which satisfied the federal court.⁷⁹

Many oil companies were disturbed not only by this last order but also by the inability of the Railroad Commission to stop the production of "hot" oil produced in violation of the commission's proration orders. The oil industry was in phase C on the state level. After this setback on the state level, many oilmen urged direct federal regulation of oil production.

The federal regulation toward the petroleum industry implemented in the First New Deal period was "the logical outcome of developments in the late twenties:"⁸⁰ the development from phase B to phase C on the federal level. There are three distinctive stages of struggles within this development: the law-making process, the code-drafting process, and the code-implementing process.

As significant contributors to the Democratic Party's campaign of 1932,⁸¹ oil executives could enjoy prominent roles in the Roosevelt Administration. Compared to his predecessor, the new Secretary of the Interior, Harold Ickes, demonstrated a greater willingness to discuss the economies of conservation, that is, the effects of production control on prices. Many oilmen were pleased by Ickes' willingness to support their program, but they also feared having the Secretary of the Interior exercise the extensive powers over the industry which he eventually requested. Thus, while the major oil companies wanted the secretary's aid, they feared granting his office too much autonomy.⁸²

Leaders of the petroleum industry held a session on March 27, 1933, to devise an emergency program before another Governors' Conference on the following day. The

78 Nordhauser, *The Quest for Stability*, p. 72.

79 However, the federal courts upheld the commission's proration orders if they were based on "reasonable" market demand and were fairly allocated to each well.

80 Nordhauser, *The Quest for Stability*, p. 96.

81 See Ferguson, "From Normalcy to New Deal."

82 Nordhauser, *The Quest for Stability*, p. 99. See also, Brand, "NRA and the Oil Industry," pp. 106-111.

API's plan for production control, however, was rejected by a minority of independent oil producers, who walked out of the meeting. Later, East Texas opponents of production control joined California oilmen to form an organization, the Independent Petroleum Association Opposed to Monopoly, a group which claimed to represent independents.⁸³ These groups wanted a program of antitrust reform. They agreed with Wirt Franklin's association of domestic well owners, IPA, that imports of petroleum should be restricted; but, unlike Franklin, who now called for stabilization and cooperation, the Association Opposed to Monopoly insisted that the ills of the industry stemmed not from overproduction but from monopolistic control, agreements in restraint of trade, price-fixing agreements, burdensome taxation, false propaganda and excessive government regulation.⁸⁴

Therefore, the industry was divided into three different camps: those who sought a narrowly constrained federal role, those who wanted a broad federal role, and those who were against federal and even state control. Most oilmen, with the exception of the anti-monopolist group, generally favored federal legislation to ban "hot" oil from interstate commerce. Many major oil companies took this position. Some oilmen who were disgusted by the breakdown of production control in East Texas went further and urged direct federal control of production and even an "oil dictator."⁸⁵ Among the supporters of centralized control were Wirt Franklin of the IPA, Amos Beaty of Phillips Petroleum, James Moffett, the vice-president of the Standard Oil, and M. L. Benedum, a millionaire oil investor.⁸⁶ Ickes, by March 1933, also supported direct federal control of oil and this approach to stabilization was incorporated in the Marland-Capper Bill.

Under this bill federal production quotas would be assigned to the oil states, not as recommendations as under Hoover but as binding quotas and the Secretary of the Interior would be granted power to establish both minimum and maximum prices for petroleum. Major oil company officials were divided over the measure and the API's board of directors failed to endorse it.

Ickes, too, was unsuccessful in securing the circumspect Roosevelt's firm support for the bill. Roosevelt simply asked Congress to consider the oil problem without endorsing any specific approach. But his real political interests lay behind his request to Congress, as I have argued above. Roosevelt needed quick passage of a general recovery act to show that he was fighting against the Great Depression. As Nordhauser speculates:

This strategy was probably dictated by the expectation of congressional opposition to the Marland-Capper Bill and by the fear that such resistance could

83 It represented the interests of the small oil refiners of the South-west and Southern California and the well owners who had property mainly in the flush fields, such as East Texas. Nordhauser, *The Quest for Stability*, p. 120.

84 Nordhauser, *The Quest for Stability*, p. 104.

85 Nordhauser, *The Quest for Stability*, p. 106.

86 Oklahoma and Kansas well owners also supported them. Brand argues that the independents were far more likely to trade their autonomy for the relative security of a regulated solution after having gone into debt to finance their capital investment for production. Brand, "NRA and the Oil Industry," p. 107.

turn into a major fight, thereby delaying the passage of Senator Robert Wagner's measure for general recovery and public works, the measure which eventually became the National Industrial Recovery Act (NIRA). The President, perhaps more concerned about the economy in general than about the powerful oil industry, decided to give higher priority to NIRA than to the oil recovery bill.⁸⁷

Further efforts by Ickes, the IPA, Benedum, and Moffett were in vain. Finally, Section 9c of the NIRA authorized the President to ban from interstate commerce petroleum and its by-products. This was exactly what the majority of oilmen wanted — the exercise of Presidential power to impose a ban, but no shift in power over oil production from the states. The President received no authority to force the states to accept federal estimates of market demand; he had only the power to support state production quotas. The major oil companies preferred to establish controls through an industrial code under the main sections of NIRA. They also feared being singled out as a problem industry, a designation which could become a prelude to public utility status.⁸⁸

Upon the request of the Texas Railroad Commission, Roosevelt issued an executive order invoking Section 9c and designating Secretary Ickes as his agent to enforce the Presidential order. This order had a significant and immediate effect upon hot oil movement out of East Texas. It was an important step toward effective production control through federal-state cooperation.⁸⁹

In sum, the Marland-Capper Bill was dead. The National Industrial Recovery Act permitted trade associations to meet and establish codes of fair competition which, when accepted by the majority of the industry and the President, became legally binding for all. Using our terms, the Marland-Capper Bill is closer to phase D of state control, in the sense that the Secretary of the Interior could make autonomous decisions about production quotas and prices. The NIRA, on the other hand, was at the heart of the phase C state-sanctioned cartel: majority control with coercion of the minority. The oil industry was completely in phase C with the passage of the NIRA. At this stage of law-making, proponents of federal oil control lost the battle.

Now the arena had changed from the law-enactment process to the code-drafting process. But the struggle over the drafting of the code was a continuation of the fracas which had developed over the Marland-Capper measure. One group of executives asked that the code include direct federal production control and price-fixing; another group favored a code which merely would support existing state conservation programs through trade associations and the federal government. Finally, the Association Opposed to Monopoly persevered in its opposition to federal production control and demanded that antitrust reforms be included in the code.

With the Association Opposed to Monopoly in self-imposed absence, the oil

87 Nordhauser, *The Quest for Stability*, pp. 108-109.

88 Brand, "NRA and the Oil Industry," p. 112.

89 Railroad tank car shipments from East Texas dropped from 98,000 barrels to 36,000 barrels within a few days after the Presidential executive order. Nordhauser, *The Quest for Stability*, p. 115.

executives met in Chicago on June 16, 1933, and agreed upon a code of fair competition. This code provided for direct production control by the industry, represented by an emergency national committee of fifty-four oilmen. Once the President of the United States approved the quotas allocated to each of the wells, it would be binding for all. This was the production control that many of the oil executives had sought since the discovery at Seminole. On the other hand, they engaged in considerable discussion before adopting a price-fixing clause. Wirt Franklin of the IPA spoke for it and some of the executives of major oil companies vehemently disagreed with him in the fear of state control (phase D). Then, Chicago meeting voted, by a narrow margin, in favor of Presidential price-fixing.⁹⁰

From July 24 to August 2, oilmen gathered again for the public hearings. Two sets of proposals were presented to the NRA. One was the Chicago code, with some reservation in opposition to the price-fixing clause by the major firms, and the other was a code prepared by the leaders of the Association Opposed to Monopoly, which requested the preservation of competition. On July 31, at the Washington hearings, Hugh Johnson presented his draft of code of competition to reconcile the elements of the industry. Johnson's compromise proposal provided for federal production control, not through a committee of fifty-four oilmen, but by a federal agency. "Johnson obviously had been influenced by the arguments of the well owners in the IPA and the major oil companies who had called for tight control."⁹¹ On the issue of price-fixing, Johnson sided with the major oil company executives (Standard Oil (New Jersey), Sun Oil and so on) of the API who had objected to the price-fixing clause. Wirt Franklin of the IPA and Standard Oil (California) were disappointed with this point and protested that they could not accept it. The hearings ended without any settlement of the controversial issues.

Then, Johnson revised his code again and presented it to the industry on August 17. The revised code included a modified form of price-fixing. None of the oil factions was entirely satisfied with his solution and, in the end, they postponed the resolution of the issue. The differences over price-fixing would continue to disturb the industry leadership for the next two years.

As to production control, the code again had called for the creation of a federal agency to determine the allowable production for each state. This arrangement meant the transfer of power over domestic production from the state commissions to the federal government, which was exactly what the Marland-Capper Bill had sought. As we saw before, under Section 9c, the President had received no authority to force the states to accept federal estimates of market demand. Now the same kind of centralization of production control was proposed through the provisions of the NRA code. The alliance of Wirt Franklin, representatives of some of the major companies, and the Interior Department wanted the federal government to make the binding allocations to the states.

But the Association Opposed to Monopoly resisted federal control and it

⁹⁰ Nordhauser, *The Quest for Stability*, p. 119.

⁹¹ Nordhauser, *The Quest for Stability*, p. 122.

successfully established an alliance with powerful officials of the Texas Railroad Commission who did not want their power to be taken away. "This tug-of-war was easily decided, however, since it was a known fact that open opposition by the Railroad Commission would render almost any code ineffective."⁹²

In these struggles, government officials seek to gain or maintain political power and institutional position, and through this process, they have an impact upon the political outcome by changing the power relation. Roosevelt decided to accept the revision which changed federal estimates of state market demand from quotas to recommendations. On August 19, the President finally approved a code of fair competition for the petroleum industry. The Association Opposed to Monopoly refused to sign the code. In sum, those who wanted extensive federal production control fought back in this code-drafting process. Their efforts met with only limited success.

The political arena again had changed from the code-drafting process into the code-implementing process. The same struggle for control continued within this process. The administrative decisions retained the capacity to change the balance of power within the industry. First, on August 29, 1933, Roosevelt named Harold Ickes, the Secretary of the Interior, to administer the oil code. In other words, the code would be implemented through the Interior Department rather than the NRA. According to Brand's interpretation, this decision upset the majors who were trying to align the oil industry with other manufacturing industries under a general recovery measure.⁹³ Ickes was less moderate than General Johnson, and the majors thought that administrative isolation made the industry more vulnerable to more extensive government controls.

Secondly, under Ickes' supervision, the rules of fair competition were to be administered by a bipartite organization consisting of the Planning and Coordination Committee (P & C), which represented the industry, and a federal agency to be designated by the President. The former included twelve petroleum company executives and three impartial non-voting government members. As the government members, Roosevelt chose Michael Benedum, James Moffett, and Donald Richberg.⁹⁴ Benedum and Moffett were supporters of the Marland-Capper Bill. In selecting the P & C staff, the President received three lists of nominees: one from the proponents of price-fixing, another from the opponents of direct federal control of prices, and a third from the Association Opposed to Monopoly. Ickes conferred with Moffett, who chose mostly from the list of oilmen favoring price-fixing. Thus, the industry was represented in national planning sessions by a committee dominated by the faction of oilmen who favored not only production control but also federal price-fixing. The majority of the very largest petroleum companies was under-represented on the code authority, while Wirt Franklin was nominated as Chairman of the P & C.

⁹² Nordhauser, *The Quest for Stability*, p. 127.

⁹³ Brand, "NRA and the Oil Industry," p. 115.

⁹⁴ Moffett resigned his position of Vice-president of Standard Oil (New Jersey) when he accepted the government post. Richberg was the only member who had no oil connections and considered a friend of labor. The P & C generally ignored him and did not even inform him of their meetings or activities. Nordhauser, *The Quest for Stability*, p. 130.

Based on his evaluation of these administrative decisions, Brand argues that once the political battle shifted to the administrative arena, power shifted dramatically in favor of the independents and the bureaucracy.⁹⁵ He explains the reason for this case as follows:

The capacity of economically disadvantaged groups to resist the power of economic elites is more securely grounded in the tension between the unequal distribution of "informal" power - especially economic power - and the equal distribution of "formal" political power than upon a presumed rough balance of "informal" power among various groups.⁹⁶

The replacement of informal coordination of interests by a more formal organized mode of coordination was not a disinterested manifestation of a systemic organizational revolution but instead had a direct impact on the interests which gained access to political decision-makers.⁹⁷

Then, was it possible for proponents of strong federal control to achieve their goals by maximizing their institutional advantage? In August and September 1933, a majority of the P & C, led by Wirt Franklin and Amos Beaty, favored going beyond production control and invoking the price-fixing clause of the code. Regardless of the considerable opposition by the majority of the largest oil companies, the P & C proceeded with its plan for price-fixing. But the committee finally dropped the scheme at the end of 1933. Nordhauser argues that they did so, not only because they finally realized, firstly, that it would be hopeless to proceed with their plans if several majors opposed it and, secondly, that it was difficult to justify the proposed price schedule, but also because the P & C was frightened by the possibility that governmental assistance would become governmental control.

Thus, production control remained the primary means of supporting prices. In the issue of production control, consider the case of East Texas refiners who had challenged federal regulation in the courts while they ran illegal oil in the fields.⁹⁸ In January 1935, their legal attack reached the Supreme Court, which declared Section 9c of NIRA an unconstitutional delegation of authority because Congress had failed to state specifically when the President could invoke the ban on hot oil.⁹⁹

The Roosevelt Administration and the Congress soon demonstrated their sympathy for the needs of the oilmen. On January 18, 1935, the Connally Bill was introduced and by February 22, it had received the President's signature. This law simply prohibited all interstate shipments of petroleum and petroleum products produced in excess of state production quotas. It provided no guidelines or procedure for an independent

95 Brand, "NRA and the Oil Industry," p. 114.

96 Brand, "NRA and the Oil Industry," p. 101.

97 Brand, "NRA and the Oil Industry," p. 114-115.

98 Nordhauser, *The Quest for Stability*, p. 153.

99 Nordhauser, *The Quest for Stability*, p. 153. As seen before, the Schechter case of May 1935 overthrew the whole NIRA.

determination by the federal government. Hot oil was simply whatever the producing state define as excessive production.¹⁰⁰

Secretary Ickes and his advisors, Wirt Franklin, Amos Beaty, James Moffett, and Michael Benedum, had tried hard for the control of production and prices and for the centralization of authority in the federal bureaucracy. They had fought for this during three distinctive stages: the law-making process, the code-drafting process, and the code-implementing process. Each time they made their efforts despite the earlier failure. But all of their successive efforts came to nought. They could not secure direct control over oil production from Washington.

Opposition to strong federal control came from at least three sources: 1) East Texas oilmen who wanted to produce more petroleum, 2) Texas officials who wanted to retain authority in the state agencies, and 3) some major oil company officials who feared federal control might ultimately reduce the industry to a public utility.¹⁰¹ Although the centralization of production control was not realized, the oil industry, in contrast to the cotton textile industry, was still in phase C on the state level. Production control was, and continued to be for some time, implemented through the cooperation of the federal and the state government.

Struggles were carried out by three factions within the industry and state actors. Whereas Hoover was not very responsive to the API and IPA, Roosevelt was more so. Ickes clearly formed the alliance with IPA rather than with most of the majors. Texas officials were also important in changing the balance of power among societal actors. All political outcomes were dependent upon these struggles. Again, the relative success of the state-sanctioned cartel in the industry seems to be due to the strong alliance between the state and factions of the industry rather than to state capacity.

THE STRUGGLE-CENTERED APPROACH AND STATE/SOCIETY RELATIONS

The two case studies demonstrate that struggles were carried out among societal actors and state actors and produced an outcome, which we analyzed by using our model of four phases of business-government relations. We were particularly interested in how the NRA was adopted and how it failed to achieve its objectives, or how the actors fought for phase Cx and how they ended up in phase Cy. The state was more important for policy choices than the society-centered approach suggests. Sector as a unit of analysis was not so useful for our purpose. Firms or even individuals seem to be the most critical unit.¹⁰² I stress the importance of intra-industry politics behind the

¹⁰⁰ Nordhauser, *The Quest for Stability*, p. 155. Although the Connaly Act was supposedly an emergency measure, it became permanent legislation after the Schechter case. See Nordhauser, *The Quest for Stability*, p. 156.

¹⁰¹ Nordhauser, *The Quest for Stability*, p.156.

¹⁰² Even if sectoral coalitional model could explain the policy by the difference of orientation of internationalism of the "companies within the industry," it still cannot explain the difference of James Moffett, who supported the centralized control of production and Walter Teagle, who opposed it. After all, both of them were executives of the same company, Standard Oil (New Jersey).

sectoral coalitions, and I also emphasize the importance of struggles rather than state capacity in explaining the failure of the NRA.

The struggle-centered approach has four implications for state/society relations.

First of all, throughout these struggles, the issue had been a use of legitimate coercive power of the state. The state was important as the source of legitimate coercive power, as opposed to the rational bureaucracy with the capacity to define and implement its policies. As we have seen, one of the objectives of the National Industrial Recovery Act was economic recovery through state-sanctioned cartels. In this case, the state emerged as the source of legitimate coercive power. When both vertical integration and private coordination failed to achieve stable prices and profits, one part of the industry, the majority in the CTI in the case of cotton, and the API and the IPA in the case of oil, tried to take advantage of the power of the state — authoritative commands — in order to achieve what it wanted. Opponents, nonconformers in the South, and Johnson and Johnson in the cotton textile industry, and East Texas oilmen and some major oil company officials in the oil industry, tried to resist their movement. They did so because they knew that the American national state could also issue authoritative commands. Otherwise, they would not have had to fight.

In sum, I would like to stress the general importance of the state as the source of legitimate coercive power. This aspect of the coercive power is central to the NRA rather than the aspect of a knowledgeable administrative organization with the capacity to carry out a complex program. From this perspective, the fact that the NRA had neither information nor expertise is not very relevant as long as the trade association had them. The struggle is between an alliance between the state and the trade association, on the one hand, and the nonconformers, on the other, not between the state and industry.

This notion of the state is not an unfamiliar one. Max Weber argues that “a state is a human community that (successfully) claims the monopoly of *the legitimate use of physical force* within a given territory.”¹⁰³ But the so-called “Weberians” seem to have put emphasis on a little different aspects of the state. “At a first, crude cut at this issue, some Weberian-minded comparativists started labeling states, especially modern national states, “stronger” or “weaker” according to how closely they approximated the ideal type of centralized and fully rationalized Weberian bureaucracy, supposedly able to work its will efficiently and without effective social opposition.”¹⁰⁴ Our notion of the state stresses not so much rational bureaucratic organization, as its authority to make binding decisions for all within its jurisdiction. This might also be called Weberian notion. The cases have shown that this aspect of the state is important even in the American state which supposedly has a “weak” bureaucracy.

Secondly, statist arguments tend to emphasize the importance of the state autonomy. Yet, the cases we have seen clearly show that the importance of the state, even when it

103 Max Weber, “Politics as a vocation,” in H. H. Gerth and C. Wright Mills, ed. *From Max Weber: Essays in Sociology*, (New York: Oxford University Press, 1946), pp. 77-78. Emphasis added.

104 Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol, “On the Road toward a More Adequate Understanding of the State,” in Evans, et. al., *Bringing the State Back In*, pp. 350-351.

is neither insulated nor autonomous. In our cases, the state formed an alliance with select societal groups, CTI in the cotton textile industry, API and, more closely, IPA in the oil industry. Without having an independent goal, the state became an important actor in shaping political outcomes. I also argued that the alliance between the state and societal actors could achieve its objective when it could insulate itself from other actors. The oil industry was more successful in doing this than cotton textile industry.

Thirdly, this alliance between the state and factions of private actors is formed by sharing interests. But why does the state come to share interests of particular factions and apparently side with them?

This is the issue of the state's preference or the orientation of state policy. I argued that state actors have their own political interests, which I subcategorized into technical goals and institutional interests. In this case study, I showed that Roosevelt's institutional interest in quick passage of a general recovery measure (NIRA) was one of the conditions which blocked the passage of the Marland-Capper bill. Likewise, Hoover's decision to respond neither to the CTI nor to the API and the IPA was explained by his own view of technical goals: economic prosperity through voluntary cooperation of trade associations. I also showed that the economists within the NRA had technical goals of competitive economy. Yet we continue to lack one crucial piece for explaining and predicting the state preference from technical goals and institutional interests. State actors' interests need further elaboration.

Fourthly, the alliance between the state and factions of private actors changes the balance of power within the industry. This is because the state has both coercive power and its own preferences (if without strong bureaucratic organization). The state-sanctioned cartel itself expresses this point. Factions of the industry which are discontent with the balance of power within the industry at the time of private control try to obtain the authority of the state in order to make the control effective.

We also found the importance of the government officials who seek to gain or maintain political power and institutional position. Roosevelt decided to accept the revision which changed federal estimates of state market demand from quotas to recommendations mostly because he learned that powerful officials of the Texas Railroad Commission did not want their power to be taken away. The power relation changed not because the Association Opposed to Monopoly was concerned with the importance of the function to the economy but because "open opposition by the Railroad Commission would render almost any code ineffective."¹⁰⁵

The case of the oil industry also indicates the importance of institutions in changing the balance of power within the society. The alliance between Ickes and Wirt Franklin and others attempted to change the balance of power between proponents and opponents of the price-fixing clause by monopolizing the membership of P & C in the implementation process. They succeeded in this arrangement, though it did not bear fruit. Yet, this case still shows the possibility that the institutional mechanism itself

¹⁰⁵ Nordhauser, *The Quest for Stability*, p. 127. Of the importance of the government officials who seek to gain or maintain political power and institutional position, see Skowronek, *Building a New American State*.

changes the balance of power of groups in conflict.

CONCLUSION

The evidence of the two industries during the New Deal period reveals the basic weaknesses of both state- and society-approaches. The sectoral coalitional model has difficulty in explaining intra-industry politics and does not pay proper attention to state actors. State-centered approaches do "bring the state back in" to the center of analysis, but tend to emphasize autonomous bureaucratic organization to carry out programs, and thereby fail to explain the specific role of the state in the case of the NIRA. What is necessary is to analyze the state a) as the source of legitimate coercive power, b) with its own preferences, c) which allies itself with societal actors and d) changes the balance of power within industries, or more broadly, within society.

The struggle-centered approach does address this issue and focuses directly on the interaction between the state and societal actors. It recognizes the differences between societal actors and the state, and it argues that political outcomes depend upon the struggles among societal actors and the state, so understood.

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