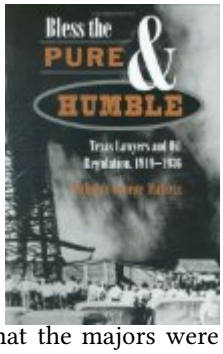
H-Net Reviews
in the Humanities & Social Sciences

Nicholas G. Malavis. *Bless the Pure and Humble: Texas Lawyers and Oil Regulation, 1919-1936.* College Station: Texas A&M University Press, 1996. xviii + 322 pp. $44.95 (cloth), ISBN 978-0-89096-714-0.



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Published on H-Law (March, 1997)

Upon the discovery of oil in the nineteenth century, American courts were ill-prepared to cope with the legal issues it raised. Since oil flowed across property lines, supposedly similar in that sense to wild animals, courts resorted to the "rule of capture" to determine ownership. A person who extracted the oil on his own property enjoyed full ownership of it. When applied to the series of oil booms that began in 1901, the rule precipitated a series of crises. Operators and royalty owners had to produce all they could regardless of current market conditions and demand, and heedless of the waste and loss incurred.

It is not clear that the author realizes that this was as huge a crisis in 1901 as it was in 1931. Beginning with the premature draining of the Spindletop field over a twenty month period, the rule of capture led to the massive and tragic waste of much of the nation's oil supply during three decades of oil booms. Controls were not established, through tangled federal and state court cases and legislation, until the 1930s.

Dr. Malavis, a legal historian, focuses on the 1930s court cases and claims that petroleum was primarily a legal problem to be solved by lawyers. The book does not establish that case with this reader, since by the end of 1934–after a half dozen years of litigation–the oil crisis was as fluid and unsettled as ever, still awaiting legislation; and the single most important event that ended it was an act of Congress. Also, even though the *Amazon* and *Panama* cases are discussed extensively, I am still not certain whether prorationing (legal limitation of oil production) was enhanced or hindered by them.

The author's sympathies are, perhaps inevitably, with the law firms whose records he has ably researched, i.e., his sympathies are with the major oil companies. He is unable to conclude, for instance, that the majors were willing to endure a two-price system–a prevailing price for East Texas crude and a much higher well-head price everywhere else. Also, in 1931 Texas Governor Ross Sterling, who favored conservation of oil resources, threatened to veto any market-demand prorationing bill (allowing the Railroad Commission to limit pumping, thus raising the price of oil as well as conserving the field) on the grounds that it would promote an oil monopoly. Dr. Malavis states that Sterling was overriding the philosophy of his former colleagues at Humble Oil and that the governor never comprehended the relationship between limiting oil production to market demand and preventing physical waste. These conclusions seem naive, since–as Dr. Malavis knows–Sterling had accepted $425,000 in bonuses and deferred royalties from Humble just before his election campaign, since the connection between prorationing and conservation was rather obvious, and since the governor soon endorsed a comprehensive prorationing bill. With his threatened veto, the governor was more likely engaging in political posturing in a futile effort to obfuscate his sympathies for the major companies.

To keep track of all the innumerable lawyers, judges, oilmen, politicians, and newspaper editors–all of whom are quoted extensively throughout the text–and to keep track of numerous court cases, legislative battles, hot oil running etc., it is probably best to read the book straight through. I laid it down after eight chapters and resumed reading a week later. I had forgotten who "Nichols" was on pp. 135 and 137 and discovered that he and his firm are not cited in the index for those pages. I had forgotten who Judge Hutcheson was on p. 138 and discovered that he is not cited for that page. If there is any men-

tion of "Holmes" before p. 139, it is not cited in the index. I at least knew who "Allred" was on p. 142, but would every reader recognize the last name of the Texas Attorney- General when he had not been mentioned for 54 pages? "Hardwicke" suddenly appears on p. 142; he had not appeared in 40 pages, and I still do not know who or what he represented. Charles Black also appears on p. 142, though he is not cited in the index for that page; he and his client had not been mentioned for 61 pages. The first mention of Charles Roeser is simply by last name, and his later appearance on p. 254 is not cited in the index. Since these are just the glitches emanating from the multitude of characters in chapter nine, I am fearful that there are more.

The extensive use of quotations are sometimes fascinating and even hilarious, and they do bring a sense of immediacy to the narrative, but a few of them cry out for a bit of interpretation or elaboration. Attorney Charles Francis believed (p. 167) that one of the *Amazon-Panama* decisions meant that the Texas Railroad Commission would use supreme over federal agents in enforcing conservation, but the narrative implies that the decision was aimed against the Commission's authority as well as federal regulations.

The book demonstrates that the Vinson and Elkins law firm in Houston was staffed with shrewd lawyers who doubtless enriched themselves, but more importantly saved their clients a considerable fortune and generally helped steer the oil industry toward the only course of action that made sense, market-demand prorationing. Dr. Malavis shows that the usual, well documented economic and political forces that influenced public policy regarding petroleum need to be supplemented by a consideration of the legal and judicial factors.

Citation: George N. Green. Review of Malavis, Nicholas G., *Bless the Pure and Humble: Texas Lawyers and Oil Regulation, 1919-1936*. H-Law, H-Net Reviews. March, 1997.

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