THE REFORMS OF BEAUFORD HALBERT JESTER'S ADMINISTRATION, 1947-1949

DISSERTATION

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By

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Beauford Halbert Jester, thirty-sixth governor of Texas, had served nearly six months of his second term when he died on July 11, 1949. He tends to be remembered as the only Texas governor to die in office, but his accomplishments deserve greater recognition. Elected as the Establishment candidate in a bitter campaign against a liberal opponent, Jester had a surprisingly progressive administration. During his tenure the state generally expanded its services, began a prison reform program, reorganized the public school system, began an ambitious farm-to-market road program, attempted a new approach to juvenile delinquency, expanded educational opportunities for blacks, created a legislative redistricting board, and established a building fund for state-supported colleges and universities.

Two major failures marked Jester's administration. The Fiftieth Legislature turned down his moderate program for labor in favor of legislation restricting unions; and
during the regular session the Fifty-first Legislature failed to appropriate funds for improvements in the state eleemosynary institutions which Jester strongly advocated. After Jester died his successor called a special session to pass a tax bill to finance the eleemosynary improvements.

The label "progressive" rests uneasily on the head of a man as cautious and fiscally conservative as Jester. Yet, believing that in order to maintain states' rights the states must fulfill their responsibilities to their citizens, Jester set a moderately progressive course that fit the conservative milieu that characterized Texas in the 1940s. Ironically, the conservative business community that bitterly opposed Jester's 1946 opponent, Homer Price Rainey, allowed one of their own to accomplish some of the same programs that Rainey advocated.

Jester's papers in the Texas State Archives, Austin, provided the main source for this study. Other important sources included Rainey's papers at the University of Missouri and the oral history collections at North Texas State University, Denton, and East Texas State University, Commerce.
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INTRODUCTION

Beauford Halbert Jester served as the thirty-sixth governor of Texas from January 21, 1947, until his death on July 11, 1949. With his brief tenure in the governor's office sandwiched between the much longer terms of Coke Stevenson and Allan Shivers, Jester tends to be remembered primarily as the only Texas governor to die in office.

Governor Jester deserves credit for far more positive accomplishments. He took office at a time of tremendous change in Texas and the nation. The Great Depression and World War II had dominated the attention and financial resources of the state for a decade and a half, leaving to the first postwar governor a number of long-neglected problems. The state prison system had degenerated into an appalling state, and the state hospitals and special schools did not fare much better. In an increasingly mobile and mechanized society school buses and residents in rural areas struggled through muddy excuses for roads. The salaries of school teachers had not kept pace with wartime and postwar inflation, and competent teachers deserted their low-paying jobs in increasing numbers for higher salaries in business and industry; between 1939 and 1945 the number of teachers dropped from 50,023 to 47,001.1

experiences, a newly aggressive Negro minority began to demand better educational opportunities, even in white schools. In the wartime disruption of society and family, crime and juvenile delinquency flourished. Veterans returned home to housing shortages, overcrowded colleges and universities, and a labor market that technological advances had changed. The state government itself had changed, as a decade and a half of an aggressive federal government steadily eroded the powers and prerogatives of the states even as the costs of state government doubled with increased demands for new and expanded services.\(^2\)

Jester grappled with these problems with varying degrees of success. His administration began reforms which, built upon by later administrations, turned the Texas prison system from one of the worst in the nation into one of the best, at least temporarily. He helped initiate a reorganization of the public school system which established a minimum foundation program for all public schools in the state and changed the method of state financing for the schools. He actively supported a constitutional amendment to finance a building program for state-supported colleges and universities. He promoted establishment of a first-class university for Negroes, albeit designed to circumvent a threatened drive to desegregate the state colleges. He endorsed a different

approach to juvenile delinquency that showed promise, but subsequent legislatures did not provide adequate funding for the program. The state embarked on a building program for farm-to-market roads, though at a faster pace than Jester intended, thanks to the enthusiasm of legislators.

In some areas Jester enjoyed less success. Hostility to labor unions ran so high in the Fiftieth Legislature that his moderate program for labor drowned in a flood of restrictive labor bills. He visited every state eleemosynary institution to observe and publicize the conditions and needs, but proposals for financing the improvements and building program died in the closing days of the Fifty-first Legislature. Jester's own reluctance to espouse new taxes contributed to the postponement of eleemosynary improvements.

Despite the failures, Jester achieved a creditable record of reforms, and he did it during a period of intense political acrimony. He defeated liberal idealist Homer Price Rainey, the ousted president of the University of Texas, after a bitter campaign in 1946; and Texas liberals thereafter mistrusted even his good intentions. He had political ties with the Texas Regulars, the group who in the 1944 presidential election had sought to swing Texas against Franklin Delano Roosevelt; but he deserted them in the 1948 presidential election when they sought to replace Harry S. Truman's name on the Texas ballot with that of the
states' rights candidate, J. Strom Thurmond. Having carved out the political middle of the road for himself, Jester found that the moderates who stayed with him hesitated to make even obviously needed changes, possibly because they lacked that intense drive that so often marks the extremist of the right or left.

Finally, Jester achieved his successes at a time when the whole concept of national government was changing. As a firm states' rights advocate, he did not keep in step with the national trend toward a more centralized federal government. Ironically, he used that trend to accomplish some of his reforms, for he could hold up the threat of federal intervention as the best reason for the state to act to take care of its citizens. We can only maintain our states' rights, he warned, if we take care of our states' responsibilities; otherwise, we cannot blame our citizens for looking to the federal government for help. That keen sense of states' responsibilities set Jester on a course of far-reaching reforms for Texas.

CHAPTER I

EARLY LIFE AND CAREER

Beauford Halbert Jester (1893-1949) grew up in a small Texas town in a farming area. In 1858 his father, George Taylor Jester, settled in Corsicana and prospered as a landowner, farmer, cattleman, and banker. His parents provided an example of civic, political, charitable, and church activities which Jester emulated. His father served in the Texas Senate, where he ardently supported Governor James Stephen Hogg, and later served two terms as lieutenant governor.¹

Beauford Jester entered the University of Texas in 1912 and plunged enthusiastically into campus social life, quickly rising to a role of leadership. He joined the local chapter of Kappa Sigma, one of the largest college fraternities, which later chose him as its national president and honored him as Man of the Year in 1947.² The university yearbook in 1916 described him as a dapper "thrush-throated Apollo" who

¹Biographical Sketch, Beauford H. Jester, and Biographical Data on Beauford Halbert Jester, in Governors' Papers--Beauford H. Jester, Texas State Archives, Austin, 4-14/114 (hereafter cited as Jester Papers). Except as otherwise indicated, these sketches provided the information on Jester's early life.

"manages almost everything he is into, which is saying a whole lot, for he is some joiner. . . . He entered Harvard Law School in 1916; but World War I intervened, and in April 1917 he returned to Texas to enter the First Officers' Training Camp at Leon Springs. As a twenty-four-year-old captain of infantry, he took command of Company D, 357th Infantry, 90th Division, which participated in the St. Mihiel and Meuse-Argonne offensives and in the occupation of Germany.

After the war Jester took a law degree at the University of Texas and opened an office in Corsicana. New oil discoveries near Corsicana brought oil men and oil companies as clients, among them Magnolia Oil Company; other clients included the Greyhound bus lines and Southern Pacific Railroad. With his tendency to rise to positions of leadership, Jester served as president of the Navarro County Bar Association for sixteen years and as a director of the State Bar Association in 1940-1941.

In 1921 Jester married Mabel Buchanan, and the couple had three children over the next seventeen years. He entered enthusiastically into the church and civic affairs

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3University of Texas, The Cactus, 1916.

4Jerry Sadler speech, August 16, 1946, in Homer Price Rainey Papers, 1919-1952, Joint Collection, University of Missouri Western Historical Manuscript Collection—Columbia & State Historical Society of Missouri Manuscripts, Columbia, Missouri, Box 43, file 1354.
of his community. He taught a Bible class at the Methodist church for many years and served on its board of trustees and on the board of trustees of the Methodist Children's Home in Waco; he maintained close contact with the Corsicana church even after he moved away. An inveterate joiner, he belonged to a number of civic and service organizations, often serving as president or chairman. An ardent horseman, hunter, fisherman, and sportsman, he also played baseball on local teams. He maintained his interest in sports, as participant and observer, throughout his life; on one occasion reporters spotted then Governor Jester perched on a fence at a University of Texas baseball game.5

Jester's early life and career showed him to be a charming, gregarious, warm-hearted man who made friends easily and engaged enthusiastically in social and civic activities, all of which would serve him well in political life. A long-time friend commented after Jester's death, "He was an all-round man . . . at ease with prince or pauper."6 He excelled at speaking extemporaneously and loved the public side of his political life.7 However, the personality that fitted him so well for a politician's role also contained a flaw that would create difficulties for him.

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5 Dallas Morning News, December 5, 1948.
6 Ibid., July 12, 1949.
7 Ibid.
One of his assistants, Weldon Hart, later recalled that Jester liked practically everyone and wanted everyone to like him; he never reconciled himself to the fact that a political leader could not have universal approval. Because he lacked personal rancor, he had many close, warm friends; because he hesitated to offend, his "no" sometimes sounded like "maybe" or even "yes" and led to misunderstandings. He had difficulty, and often avoided, taking as emphatic a stand as he should have on some issues and making hard executive decisions that would alienate some group or individuals, sometimes with the result that those on both sides of an issue charged him with vacillation and hypocrisy. After Jester became governor his propensity for accepting, in the glow of congeniality, invitations to appear or speak at various functions created mammoth scheduling problems for his staff. He never quite conquered that tendency despite admonitions from political advisors that reneging on a promise angered people more than an outright refusal.

When Jester moved into state politics, he did so as an advocate of states' rights and limited government, like his father before him. In his first speech to the Legislature

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8 Interview with Weldon Hart (a Jester aide), August 8, 1966, North Texas State University Oral History Collection, Denton, Texas, No. 9, pp. 5, 22-23, 25-26.

9 Paul Brown (Jester's campaign manager and appointee as secretary of state) to Jester, September 3, 1947, Jester Papers, 4-14/110.
as governor in 1947 Jester quoted from his father's inaugural speech as lieutenant governor in 1895, that government "should do nothing for the citizen which the citizen is able to do for himself; that the people shall support the government, not the government the people. . . ." Jester's philosophy added the tenet that the federal government should do nothing for the state which the state can do for itself, and the state should do nothing for local government which local government can do for itself. He did not hold rigidly to the philosophy of "the best government is the least government," however; he recognized that the people demanded certain services, and if the states did not provide those services the people would turn to the federal government. He chided the states for allowing the federal government to preempt some of their powers by failing to fulfill their obligations to their own citizens.

Jester's introduction into statewide politics came through appointive offices. He served six years on the Board of Regents of the University of Texas, where he aggressively pushed a building program; and his initiative

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as board chairman in the last two years resulted in a federal loan and grant for the administration building and library tower and the first dormitories.

Rejected for military service in World War II, Jester made his first political race in 1942 when Gerald (Jerry) Sadler resigned as a member of the Texas Railroad Commission to enter military service. Jester's association through his law practice with oil men and transportation companies paid handsome benefits as he garnered the support of such influential men as wealthy Houstonian Hugh Roy Cullen and Dallas businessman Eugene B. Germany; in fact, the State Democratic Executive Committee, which Germany headed, supported him. 12

In the first primary Jester placed second in a field of eleven candidates, but he won easily in the runoff.13 Governor Coke Stevenson had promised to appoint the winner to serve from the date of the primary until the elective term began on January 1, 1943, so Jester assumed his duties as of August 25, 1942. In 1944 he ran unopposed for reelection to a full six-year term, serving until he took office as governor in January 1947.

Jester joined two capable men on the Railroad Commission: Olin Culberson, elected in 1940, and Ernest Othmer

12 Robert W. Henderson, Houston, to H. R. Cullen, Houston, August 3, 1945, Jester Papers, 4-14/111; E. B. Germany, Dallas, to Jester, July 21, 1947, ibid., 4-14/114.

Thompson, appointed in 1932 and regularly reelected. Under the commission's supervision Texas oil producers supplied a large portion of the unprecedented wartime demand for crude oil. Between December 1941 and August 1945 Allied requirements totaled seven billion barrels of crude oil, of which the United States supplied 80 percent; and by 1945 Texas was supplying almost 45 percent of the nation's requirements.

Fear that the Petroleum Administration for War (PAW), which issued rules governing production, transportation, and distribution of oil, would develop into a super-regulatory federal agency marked the war years. All states' rights advocates, the three Railroad Commissioners distrusted the Petroleum Administrator, Secretary of the Interior Harold Le Claire Ickes, because of his efforts to centralize control over the petroleum industry in the federal government, first in the Interior Department and later in the PAW. The Railroad Commissioners stated their intention was not to await the PAW's permission to reassume control of the Texas oil industry when the war ended.

16Thompson statement, February 25, 1944, Railroad Commission Collection, 4-3/324; Austin American, August 11, 16, and 17, 1945; Nash, United States Oil Policy, pp. 139-45, 151, 159-67; James A. Clark, Three Stars for the Colonel (New York: Random House, 1954), pp. 185, 189.
Each month the PAW determined the oil needs and assigned production quotas to the oil-producing states. The Railroad Commission allocated the Texas quota to the state's oil fields according to their ability to produce without damage, or with the least damage, to the wells and fields, which required periodic studies to determine the maximum efficiency rate of production for individual fields and wells. Evidence gathered by the commission indicated a maximum efficiency rate of 2,245,268 barrels per day for Texas, and for the last two years of the war Texas fields produced near or beyond that rate.\footnote{Thompson press release, September 25, 1943; Thompson statement, July 19, 1944, Railroad Commission Collection, 4-3/324; Thompson statement, March 9, 1945, August 31, 1945, ibid., 4-3/322; Austin American, August 22, 1945.}

Texas met every demand of the PAW even though the Office of Price Administration (OPA) had pegged the wartime price of crude oil at a depressed level of an average $1.20 per barrel. The Railroad Commission clamored throughout the war for a price increase, not without support from others, including Ickes. The commission argued that wildcatters, motivated by profit incentive, made most of the new oil discoveries; but the steady increase in the cost of drilling and producing was forcing them out of business. Meantime, the nation consumed oil five times faster than it found new supplies, straining the maximum efficiency rate of production.
of most states. More concerned about wartime inflation, the OPA turned a deaf ear, not only for the duration of the war but also for months after the war ended.

After the war ended and the PAW asked yet another increase in Texas production, the Railroad Commission took matters into its own hands. On August 31, 1945, it announced a reduction of 395,588 barrels per day in Texas production, citing overworked fields. The statement concluded truculently:

By this aggressive action Texas is again assuming her sovereign right as a State to control the production of oil within her own borders.

During the Wars we took orders from P.A.W. as good soldiers but now the War is over so we resume our duties under Texas laws.

The Commission made a further cut in the October allowable, for a two-month total reduction of some 27 percent below the August level of production.

The PAW officially disbanded at the end of 1945; returning to the United States Bureau of Mines estimate of market demand as its guide, the Railroad Commission set

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18 Thompson statements, April 26 and June 24, 1943, Thompson to Marvin Jones, Office of Economic Stabilization, Washington, D. C., April 26, 1943, Railroad Commission Collection, 4-3/324.

19 Thompson statements, August 31, August 28, 1945, ibid., 4-3/322; Austin American, August 12, 16, 17, 22, and 30, 1945.

20 Fort Worth Star-Telegram, September 25, 1945.
Texas allowables slightly above the estimate but well below peak wartime production, citing the need to return to good conservation practices.\(^{21}\) Charged by the OPA with cutting production to create scarcity and force higher prices, the commission replied that it had authority only to prevent waste in production. It pointed out that stocks of crude oil and gasoline stood at a higher level than before the war, indicating that production exceeded consumption, and urged decontrol of oil prices to allow market demand to regulate production.\(^{22}\)

Meanwhile, a situation arose that caused disagreement within the commission and subsequent political embarrassment for two of the members. The United States Navy experienced a critical shortage of fuel oil. The commission argued that the shortage resulted not from an actual shortage of crude oil but from the fact that refiners lost money making fuel oil and used their crude oil to make gasoline instead.\(^{23}\)

When federal officials flew from Washington to present the navy's urgent request that Texas increase production of crude oil

\(^{21}\)Thompson press release, February 21, 1946, Railroad Commission Collection, 4-3/322.

\(^{22}\)Walter S. Hallanan, president of Plymouth Oil Company, Pittsburgh, Pennsylvania, wire to Thompson, March 7, 1946, Railroad Commission statement, March 12, 1946, Thompson, Culberson, and Jester wire to Harry S. Truman, April 15, 1946, ibid.

\(^{23}\)Thompson press release, March 29, 1946, Thompson, Culberson, and Jester wire to Truman, April 15, 1946, ibid.
oil to meet the shortage, Jester reportedly replied that Texas would increase production when the OPA increased the price of crude oil; he flippantly said that the Texas oil industry needed "shoesies," not "posies." The remark came back to haunt him in the 1946 campaign when opponent Jerry Sadler charged that wounded servicemen were waiting overseas because the navy lacked fuel to bring them home, and some of them did not even need "shoesies" because they had no feet.

Thompson came out forcefully for providing the necessary crude oil because the navy's need took precedence over even a deserved price increase for producers. According to the liberal Texas Spectator, Culberson and Jester outvoted Thompson and held out for a price increase until Culberson's opponent in his bid for reelection made an issue of the incident. Jester and Culberson then directed a sharp telegram, which Thompson did not sign, to the secretary of the navy stating that the commission would grant an increase in production if the navy used every barrel and did not add to the already excessive above-ground storage.

26 Thompson press release, March 29, 1946, Railroad Commission Collection, 4-3/322; Texas Spectator, March 22, April 5, and April 12, 1946.
27 To James Forrestal, April 9, 1946, Railroad Commission Collection, 4-3/322.
The demand for Texas crude oil exceeded all expectations during the spring of 1946; but the Railroad Commission concluded that it must meet the demand, despite the low price, within the limits of good conservation practices. The federal government finally decontrolled oil prices in July, resulting in a twenty-five cents per barrel price increase.28

The early part of Jester's tenure on the Railroad Commission showed his deep concern for the welfare of the Texas oil industry. Toward the end of his tenure he showed a willingness to move out ahead of at least the more conservative oil men for a cause he saw as desirable--elimination of the flaring of casinghead gas.

Casinghead gas, or oil well gas, received its name because during the oil-drilling process natural gas associated with the oil in underground reservoirs escapes through the drill casing and casinghead. At a time when natural gas from gas wells had very little monetary value, the unpredictable supply of casinghead gas from oil wells had virtually no market value and posed a fire hazard as well; and producers almost invariably burned it in flares. During the early 1940s an estimated one and a half billion cubic feet of casinghead gas burned away daily in the state's oil

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fields. In addition to the waste, loss of the gas shortened the life of an oil field. In most reservoirs gas pressure provides the propulsive force that moves the oil to the well bore—the greater the pressure and the longer it lasts, the more oil the field produces without using expensive recovery techniques. Since the early 1930s the industry had known a method of returning casinghead gas to the oil-producing formation, but those oil producers who considered short-run profits resisted undertaking the costly process.

Operating under Thompson's "rule of reason," the Railroad Commission encouraged but did not compel the oil producers to reinject casinghead gas into the oil-producing reservoir. It set a permissible gas-oil ratio at ten thousand cubic feet of gas for each barrel of oil lifted, but it gave exemptions generously. During the war concern for maintenance of reservoir pressure in order to recover as much oil as possible caused the commission to shut in some fields with excessive gas wastage.

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30 Prindle, Petroleum Politics, pp. 56-58.


32 Thompson statement, July 7, 1943, Railroad Commission Collection, 4-3/324.
During and after the war new uses for natural gas, technological advances in the process of cycling, and construction of pipelines from Texas to consumer markets on the East Coast combined to make natural gas a more valuable commodity and provided grounds for insisting that producers utilize casinghead gas.\textsuperscript{33} By the end of 1944 the Railroad Commission began making plans to hold hearings on individual fields to determine the best method of gas conservation for each field. With Jester now chairman, the commission scheduled a special hearing for the end of December to discuss, among other topics, the gas-flaring problem.\textsuperscript{34}

The commission had another reason for acting at this time. It learned that the federal government had grown concerned about the waste of natural gas, and it wanted to forestall intervention by convincing the federal government that Texas had the situation under control.\textsuperscript{35}

At the December hearing a young petroleum engineer named William J. Murray, Jr., a former employee of the Railroad Commission, rose and stated that he knew from


\textsuperscript{34}Thompson statement, December 4, 1944, Railroad Commission Collection, 4-3/324.

\textsuperscript{35}Prindle, Petroleum Politics, p. 63.
personal experience that the extent of gas-flaring far exceeded official figures. Murray's statement drew press coverage and forced the commission to speed up its cautious approach to the flaring problem. With Jester's urging, the commission appointed Murray to head a group of engineers to investigate the flaring situation.  

The Murray committee studied fields containing almost 60 percent of the oil wells in the state and found that in one month those fields flared 57 percent of the gas they produced. Applying that percentage to all the state's oil fields, the committee estimated that producers flared 1,426 million cubic feet of oil well gas daily. While the committee warned that conservation of oil well gas should not stifle oil production nor place an unsound economic burden on it, it recommended immediately starting a program aimed at eventual total prohibition of flaring, with first consideration given to reinjecting casinghead gas into the producing reservoir to maintain pressure. It recommended marketing the gas only if reinjection would not increase the ultimate recovery of oil. As a short-term program the committee recommended closing wells with a high gas ratio, appreciably reducing the currently permitted gas-oil ratio.

36 Fort Worth Star-Telegram, December 20 and 22, 1944; Dallas Morning News, January 5, 1947; Prindle, Petroleum Politics, pp. 63-64.
of ten thousand cubic feet of gas per barrel of oil, and reducing exemptions to the ratio allowed.\textsuperscript{37}

The Murray report implicated many prominent oil men, who complained that an order to stop flaring casinghead gas would ruin them. Some members of the industry, however, conceded the magnitude of the problem and backed the Murray committee.\textsuperscript{38} Moreover, the Federal Power Commission was holding a series of hearings on gas waste, with the implication that it might extend its regulations over the industry for the sake of conservation. At a February 1946 hearing in Houston Jester and Thompson joined other state officials and industry representatives in testifying that Texas was making progress in eliminating waste without federal help, a specious claim at that point.\textsuperscript{39} However, the Railroad Commission did follow through with previously announced plans to hold hearings on individual fields by setting hearings on the new Seeligson field in Nueces County and the Old Ocean field in Brazoria County, asking operators to show cause why they should not stop gas flaring. When the operators asked for

\textsuperscript{37}Murray Report, Railroad Commission Collection, 4-3/322, especially pp. 17-18, 22-28, 36-39.

\textsuperscript{38}Prindle, Petroleum Politics, p. 64.

\textsuperscript{39}Thompson testimony, January 28, 1946, Railroad Commission Collection, 4-3/322; Oil and Gas Journal 44 (February 2, 1946): 36-38; ibid., 44 (February 16, 1946): 76-77.
more time, the commission recessed the hearings for a year. 40

A combination of forces probably would have ended flaring eventually, but a political act hastened the process. Jester successfully ran for governor in 1946, and by staying on the Railroad Commission until he assumed the governor's office he could nominate his own successor. Jester showed political courage by appointing William Murray, who had affronted many of the same men who supported Jester, to serve out his unexpired term. Jester said he considered gas flaring the most important problem facing the industry and Murray the best man to handle the problem. 41

With the arrival of a colleague dedicated to conservation coinciding with rising gas prices and a nosy Federal Power Commission, Thompson and Culberson enthusiastically joined the anti-flaring campaign, while Jester applauded from the governor's office. 42 When the Seeligson field hearing resumed in March 1947 and the operators could not show an appreciable reduction in flaring, the Railroad Commission shut down over six hundred wells in the field.

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41 Austin Statesman, December 8, 1946; Dallas Morning News, January 5, 1947.

pending elimination of flaring casinghead gas.\textsuperscript{43} The Texas courts upheld the commission's authority to protect natural gas as long as it issued reasonable orders.\textsuperscript{44} After winning its test case the commission shut down more fields and set hearings for others, spurring voluntary elimination of flaring.\textsuperscript{45} By the end of 1949 the Railroad Commission had essentially won authority to require elimination of gas flaring, thanks in no small measure to Jester's appointment of a dedicated conservationist as his successor.\textsuperscript{46}

Jester's service on the Railroad Commission provided a step up the ladder to the governor's office by giving him statewide recognition and valuable contacts among some of the wealthiest and most influential men in the state. It also provided ammunition for his political foes, who called him the captive of the oil industry.\textsuperscript{47} More important, the gas flaring situation provided him

\textsuperscript{43}Dallas Morning News, March 25, 1947.


\textsuperscript{46}Prindle, Petroleum Politics, pp. 66-67.

an opportunity to take his first tentative steps in the direction of reform.
CHAPTER II

TEXAS IN THE 1940s

The election of 1946 took place in an atmosphere of postwar change, political and economic uncertainty, labor strife, and the beginning of the Cold War. The fears that would build into the excesses of McCarthyism were already stirring; too many people hastily labeled as "communist" anything they did not like or understand.

Economic uncertainty gripped the nation as acute problems of scarcity created such pressures on prices and wages that the economy spun into an inflationary spiral. Some economists expected a repetition of the "boom and bust" cycle that followed World War I. Labor union spokesmen, intent on holding onto wartime gains, claimed companies could afford to pay higher wages from their profits; employers held out in an attempt to weaken the power of the unions. In the months following the end of the war workers struck or threatened to strike in almost every major industry, including the Texas oil refineries.¹ The public, plagued by scarcities and escalating prices, readily listened to those who blamed the nation's economic troubles

¹Fort Worth Star-Telegram, September 20-22, 1945.
on organized labor, speaking darkly of communist-dominated unions. Conservative Texas particularly distrusted the Congress of Industrial Organizations, newly active and aggressive after the war.

Wartime experiences of black soldiers and defense workers added a more aggressive element among the black population, and white liberals joined them in a barrage of criticism of the South's segregation practices. In Congress a Southern filibuster barely headed off President Harry S. Truman's effort to make fair employment practices legislation part of his Fair Deal. A 1944 Supreme Court decision made the white Democratic primary a thing of the past, and blacks would vote in the Texas Democratic primary in 1946.² In February 1946 Heman Marion Sweatt, a Houston black, began his efforts to enter the law school at the University of Texas. Turned down by the university, Sweatt won an interlocutory decree in June in a Travis County district court ordering the university to admit him; but the judge suspended the writ for six months to give the state time to establish a law school for blacks, as the previous Legislature had contemplated in elevating Prairie View State Normal and Industrial College to university status.³ The Sweatt case

³Sweatt v. Painter, 210 S. W. 2d 442; 70 Sup. Ct. 848.
stayed in the courts on various appeals during Beauford Halbert Jester's administration.

Texas itself underwent tremendous changes during the 1940s, partly from normal changes associated with increased mechanization and mobility, partly from the surge in petroleum development during the war years, and partly as a result of World War II. During the decade of the 1940s the state gained 1,300,000 more people; more significantly, the population shifted from 55 percent rural to almost 60 percent urban. 4 Texas had fewer but more prosperous farmers during the decade of the 1940s. The number of farms decreased by more than 86,000, but the total number of acres cultivated decreased only slightly; and the total value of the farms and crops rose sharply. 5 The growth of industry indicates where some of the rural residents went. In 1930 manufacturing establishments employed 169,978 people with payrolls totaling $196,747,000; by the end of the decade the number of employees more than doubled and the total payrolls more than quadrupled. The most dramatic growth occurred in the petrochemical industries along the Gulf Coast, which developed into a billion-dollar industry within fifteen years after the war; over five hundred establishments employed nearly forty thousand people. 6

5Ibid., p. 370. 6Ibid., pp. 416-17.
The petrochemical industry fed on the fantastic oil and gas resources of Texas. In 1948, during peak postwar demand, Texas produced 983,498,000 barrels of crude oil valued at $2,357,400,000, representing 44.7 percent of total national production. After 1948 Texas production decreased as foreign oil imports took a large portion of the market. Natural gas production showed similar growth. By 1949, with the construction of pipelines to eastern markets and the growth of the petrochemical industry, Texas produced 2,588,921 million cubic feet, 47.8 percent of the national total, valued at $118,832,000. During the decade of the 1940s Texas also produced almost half of the nation's natural gas liquids. At the mid-century mark Texas derived greater income from its minerals than from any other branch of industry or commerce. While the state had a wide variety of minerals, including the largest sulphur deposits in the nation, petroleum and its allied products accounted for most of the mineral production.\(^7\)

Despite rapid advances in industrialization after the war, at mid-century Texas still had a colonial economy; it still got most of its income from the sale of raw products or roughly processed products and spent most of its income for goods manufactured elsewhere. In 1947 it produced 2.3 percent of the nation's manufactured goods, 8 percent of the

\(^7\)Ibid., pp. 399-401.
nation's agricultural crop and livestock value, and 17 percent of the nation's mineral production value. One of the leading gubernatorial candidates in 1946 would attribute the colonial economy to the control of the Texas resources, economy, and political machinery by out-of-state corporations.

The campaign of 1946 retained bitter feelings engendered by the split in the state Democratic party in the 1944 presidential election. A group who opposed the renomination of President Franklin Delano Roosevelt, called the Texas Regulars and including some of the wealthiest people in the state, gained control of the May state convention, selected a slate of anti-Roosevelt presidential electors for the November ballot, and sent an anti-Roosevelt delegation to the national convention. A group of Roosevelt supporters sent a rival delegation to the national convention and in the September state convention wrested control of the party machinery from the Texas Regulars. They threw out the Regulars' presidential electors, substituting their own slate of electors pledged to support Roosevelt.

Unable to combine forces with the Republicans, the Texas Regulars put their own slate of electors on the ballot in the November general election without a presidential candidate, hoping for a close contest that would throw the

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election into the House of Representatives. That did not happen, and the Texas electorate voted overwhelmingly for Roosevelt. The discredited name of Texas Regular carried the odor of party treason into the state elections of 1946, and after Truman continued the Roosevelt policies many Texas Regulars merged into the Dixiecrat movement of the 1948 presidential campaign.

Related to the Texas Regulars-loyalist Democrat split through philosophical and political outlook and some of the personnel, the controversy that developed during 1944-1945 over the University of Texas added another element of bitterness to the 1946 gubernatorial campaign. Homer Price Rainey came to the presidency of the University of Texas with a glowing reputation. A native Texan and ordained Baptist minister who turned to teaching, Rainey had served as president of two Northern colleges and as executive director of the American Youth Commission, a project funded by the Rockefeller Foundation for an intensive study of youth problems. When Rainey assumed his duties as president of the University of Texas in 1939, he set out to make it a recognized first-rate university.\(^9\) To Rainey the standards

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for a first-class university included freedom of investigation uninhibited by unusual interference from administration, trustees, or government and a tolerance for a variety of ideas and personalities. He encountered instead a board of regents which included some who believed they had the right to run the University of Texas as they wished and lacked tolerance for opposing views.

The situation worsened after Governor Wilbert Lee O'Daniel, and later Governor Coke Stevenson, appointed new members who shifted the board sharply to the right politically and philosophically as O'Daniel vowed to clean up "radicalism" at the university. Although the university's troubles involved interference by the regents in administrative matters and academic freedom, it came down to a matter of a conservative board of regents who wanted a conservative university with conservative professors versus a liberal idealist willing to tolerate a variety of ideas and personalities. When Jubal Richard Parten, an independent oil man of Houston who supported Rainey, left the board of regents in 1941 he already detected a movement by certain corporate

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10 Rainey speech notes, "The University of Texas and Academic Freedom," April 10, 1945, ibid., 43/1340.


12 Ibid.; Rainey speech notes, "The University of Texas and Academic Freedom," ibid., 43/1340.
executives to "get Rainey." Regent Fred Branson, an employee of wealthy Galveston businessman Maco Stewart, told Parten that Stewart had secured his appointment to the board specifically to get rid of Rainey and the communists (that is, Keynesian economists) in the economics department. Parten also believed that Rainey angered some regents by his admonition that Texas should stop merely giving lip service to the separate but equal doctrine and provide first-class educational opportunities for blacks.13

Two incidents in the long struggle had a far-reaching effect on the university and the election of 1946. The first concerned the firing of three young instructors in the economics department, already a sore point among conservatives who considered New Dealism and communism rampant in the department. On March 17, 1942, the Dallas Morning News carried an advertisement for a mass meeting in Dallas on March 22 to discuss important issues, including the Fair Labor Standards Act, which the advertisement implied hampered the war effort by limiting workers to a forty-hour week. Dallasite Karl Hoblitzelle, owner of a theater chain and employer of one of the University of Texas regents, organized the meeting. The three economics instructors and a visiting professor of economics asked to

address the meeting to point out that the Fair Labor Standards Act merely provided for overtime pay for those who worked in excess of forty hours. Unable to get permission to speak or get recognition from the floor at the meeting, they concluded that the organizers had planned the speeches to present only one viewpoint, antilabor and anti-Roosevelt; and they made a statement to that effect to the Dallas Morning News. The board of regents fired the young men against the recommendations of the economics department, the dean of the College of Arts and Sciences, and the vice-president and president of the university.\textsuperscript{14} The American Association of University Professors protested the action as a violation of academic freedom; Parten believed that Rainey called in the AAUP and that the regents knew it.\textsuperscript{15}

Rainey's support of the economics instructors fueled the discord that led to his dismissal as president; the other incident had a more direct relation to the 1946 gubernatorial campaign. The English department at the university had The Big Money, a volume in the U.S.A. trilogy by John Dos Passos, on the required reading list for a sophomore English course. Because of complaints from some parents and faculty members, Rainey had already

\textsuperscript{14} Interview with W. N. Peach, June 1966, ibid., No. 8, pp. 1-5; interview with J. Fagg Foster, August 28, 1967, ibid., No. 15, p. 1. Peach, Foster, and Wendell Gordon were the three instructors.

\textsuperscript{15} Parten interview, ibid., No. 286, p. 30.
arranged for removal of the book from the reading list when
the regents met. Regent Orville Bullington of Wichita Falls
declared that no teacher who asked a sophomore to read such
a filthy and obscene book should teach even in a peniten-
tiary, let alone the university. Despite the department's
prior decision to drop the novel from the reading list, the
board for several hours conducted a humiliating examination
of the members of the committee which had originally chosen
the book, trying to pin responsibility on someone they
could fire; the committee thwarted them by insisting that
the whole committee made the selection. Rainey protested
the board's witch hunt and pointed out that a poll of critics
conducted by The Saturday Review of Literature had selected
U. S. A. as one of the best American novels of the past
twenty years. That attitude, replied Bullington, rendered
Rainey unfit to serve as president of the University of
Texas. Although the regents' inquisition fizzled, the Dos
Passos book became an issue in the 1946 gubernatorial cam-
paign.16

Rainey himself brought the dissension to a climax after
one of the regents, D. Frank Strickland, called the

16 Interview with Homer P. Rainey, August 1967, North
Texas State University Oral History Collection, Denton,
Texas, No. 11, pp. 99-100; Rainey to Congressman Wright
Patman, March 2, 1946, Rainey Papers, 41/1253; Henry Nash
Smith and Horace Busby, The Controversy at the University
of Texas, 1939-1946: A Documentary History (Austin:
Student Committee for Academic Freedom, Students' Associa-
tion, University of Texas, 1946), pp. 10-12.
university vice-president to complain about Rainey's making speeches all over the country that did not concern university business. On October 12, 1944, Rainey called a general faculty meeting and read a statement listing sixteen instances of improper official behavior on the part of the board or individual regents—violations or attempted violations of freedom of thought and expression in the university and interference or attempted interference in administrative details of the university. He knew he left the board only two options: to back off or to fire him.17

The board met in late October and demanded that Rainey retract his statement. When he refused, the board voted to dismiss him, with only one "no" vote and the chairman not voting. The action caused a storm of protests from faculty, students, alumni, and other interested citizens, a legislative investigation, and investigations by the American Association of University Professors and the Southern Association of Colleges and Secondary Schools; but the board refused to rescind its action. The AAUP placed the university on its censured list, where it stayed for nearly nine years. The SACSS placed the university on probation for nearly a year; but in what Rainey called a "back-hand

slap" at him, its report concluded that the regents and Rainey shared the responsibility for the unhappy situation.\numberedref{18}

Rainey and Parten, among others, believed that an interlocking directorate of members of governing boards of state-supported colleges was actively attempting to suppress freedom of thought and expression in the schools. Rainey believed that powerful out-of-state economic interests backed them, seeking to control Texas's vast natural resources through control of the political machinery, communications system, and educational facilities of the state.\numberedref{19} Rainey began to learn the strength of the stranglehold when he could not buy radio time to present his side of the controversy to the public.\numberedref{20} He did not lack a forum, however, for during 1945 he received numerous invitations to


\numberedref{19} Meyer, "Interview with Homer P. Rainey," Rainey Papers, 43/1362; article by J. Frank Dobie, last in a series, [1946], ibid., 44/1371; Austin, Texas Spectator, January 25, 1946.

\numberedref{20} Parten interview, North Texas State University Oral History Collection, No. 286, p. 31.
speak at everything from high school graduation ceremonies to religious organizations, educational groups, political organizations, service clubs, and social groups; and many people urged him to run for governor in 1946.\footnote{Harmand Teplow, Houston, to Rainey, March 15, 1945, Roy Q. Minton, Denton, to Rainey, February 22, 1945, Rainey Papers, 41/1233. Box 41 contains numerous cards and letters urging Rainey to run for governor; box 45/1412 contains numerous invitations to speak to various groups.}
CHAPTER III

THE CAMPAIGN OF 1946

All during 1945 Homer Price Rainey had in the back of his mind the intention to run for governor in 1946 because he believed that in order to break the stranglehold on the Texas educational system someone first had to break the economic and political combine. He wanted to make sure first that he had sufficient support because he wanted the strongest liberal candidate to run in order to defeat the Texas Regulars.¹

In the summer of 1945, through the intercession of the pastor of Rainey's church in Austin, the owner of Jaques Power Saw Company of Denison offered Rainey a statewide radio hookup of some twenty stations as a forum. Under the title of "Religion in Life," over the next several months Rainey gave over two hundred radio talks on a broad range of topics—religion, current events, education, economics, and

¹Interview with Homer P. Rainey, August 1967, North Texas State University Oral History Collection, Denton, Texas, No. 11, p. 145; Rainey to John C. Granbery, San Antonio, July 12, 1945, Homer Price Rainey Papers, 1919-1952, Joint Collection, University of Missouri Western Historical Manuscript Collection—Columbia & State Historical Society of Missouri Manuscripts, Columbia, Missouri, Box 41, file 1237 (hereafter cited as Rainey Papers); Rainey to Dr. Archie J. Baum, Lubbock, September 14, 1945, ibid., 41/1233.
political theory. Clearly he used the radio talks to make subtle political speeches; he delayed announcing his candidacy in order to take advantage of the radio program without having it charged against his campaign expenses. His sponsor, J. C. Jaques, however, had trouble when banks where he had large loans put pressure on him by suddenly calling in his loans; and the San Antonio Express tried to discredit Rainey by claiming that the detested Congress of Industrial Organizations Political Action Committee financed the broadcasts.

Meanwhile, Rainey's friends, including former University of Texas regent and wealthy oilman Jubal Richard Parten, organized "Draft Rainey" clubs and lined up support for Rainey among liberals, trying to assure that only one liberal candidate entered the gubernatorial race. One of Rainey's friends sought House Speaker Sam Rayburn's endorsement, but Rayburn refused to commit himself; apparently Rainey did not

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2 Blake Smith, pastor of University Baptist Church, Austin, to Rainey, July 28, 1945, Rainey Papers, 41/1238; list of radio talks, ibid., 41/1339; Rainey to Dr. Mary Alice Jones, Chicago, Illinois, April 19, 1946, to Mrs. Lawson Cook, Graham, April 22, 1946, ibid., 45/1439.

3 Rainey interview, North Texas State University Oral History Collection, No. 11, pp. 145-47; Austin, Texas Spectator, January 18, 1946.

impress him. During the summer of 1945 Rainey personally met with the CIO field representative, Garland Butler of Houston, presumably seeking that organization's support; Butler worked with the Rainey organization during the campaign. After getting favorable results from a poll he had taken in July 1945, for all practical purposes Rainey made the decision to run and turned his attention to convincing others that he had the best chance to win of any liberal.

Beauford Halbert Jester also began planning his gubernatorial race at least a year in advance as he and his backers began lining up support. In a letter designed to lure the support of Houston oilman Hugh Roy Cullen away from ultraconservative Lieutenant Governor John Lee Smith, one of Jester's friends warned that no man who openly fought New Dealers and labor unions could expect to win the governorship in 1946. He agreed with Cullen that the state and nation had swung far to the left but believed that only a

5 Claude V. Hall to Sam Rayburn, May 15, 1945, ibid., 41/1235; Rayburn reply, May 28, 1945, ibid., 41/1236; Rayburn to William F. Neale, Dallas, July 29, 1946, Sam Rayburn Papers, Sam Rayburn Library, Bonham, Texas, "Politics--Texas--1946."


7 Rainey to Claude V. Hall, August 3, 1945, ibid., 41/1238; Public Opinion Poll, July 1945, ibid., 41/1453.
real diplomat who had the confidence of all factions could steer Texas back to the right path:

You can rest assured that Beauford thinks exactly like we do, but he was advised by many of his friends, including me, to keep out of national politics and the University of Texas fight if he expected to stay in politics.

Beauford has no vote resistance. His thinking is sound, he has personality and ability and, coupled with this, he has personal friends by the thousands who will really go out and work for him. . . .

Despite the blandishments, Cullen clung to Smith.

Jester continued to talk publicly only about Railroad Commission matters, but he quietly began setting up a statewide organization of at least one or two men in each county, either to head his campaign or select the proper county campaign manager. Jester firmly believed that the public liked someone who showed offensive strength, whether in a football or baseball game or in politics; and he had no qualms about combining campaign activities with his duties as railroad commissioner.

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8 Robert W. Henderson of Henderson Cotton Company, Houston, to Cullen, August 3, 1945, Governors' Papers—Beauford H. Jester, Texas State Archives, Austin, 4-14/111 (hereafter cited as Jester Papers).

9 Henderson to Jester, April 16, 1946, ibid.

10 Jester to Sid L. Hardin, attorney of Edinburg, January 10, 1946, ibid.

11 Jester to Robert L. Holliday, attorney of El Paso, March 18, 1946, Jester to Robert W. Henderson, January 11, 1946, ibid. Holliday was a member of the State Democratic Executive Committee.
The final field of candidates did not emerge until late in the spring as potential candidates waited to see what the others would do. Polls showed that the incumbent, Coke Stevenson, had the best chance to win, and the Texas Regulars reportedly pressured him to run again; but Stevenson made no public announcement. United States Senator Wilbert Lee O'Daniel hinted that he might run for governor again; and former Governor James V. Allred, leader of the Franklin Delano Roosevelt forces in the 1944 contest with the Texas Regulars, indicated that he might run if no other acceptable candidate announced, such as Congressman Lyndon Baines Johnson. Allred treated the probable candidacy of fellow liberal Rainey noncommittally, doubting his ability to win. Some liberals liked Robert Wilburn Calvert, a Roosevelt floor leader against the Texas Regulars at the September 1944 state convention, believing that everyone to the right of Rainey could accept him; other liberals preferred Attorney General Grover Sellers. Gerald (Jerry) Sadler, an army veteran and former railroad commissioner with a rather


13 Dallas Morning News, March 2, April 30, 1946; Texas Spectator, November 26, 1945; Claude V. Hall to Allred, July 11, 1945, Allred's reply, July 16, 1945, Rainey Papers, 41/1238.

14 Margaret B. Carter, Fort Worth, to Rainey, February 5, 1946, Rainey Papers, 41/1250; Dallas Morning News, April 5, 1946.
liberal if somewhat erratic record, indicated he planned to run. Lieutenant Governor John Lee Smith had the support and financial backing of some Texas Regulars.\textsuperscript{15}

Opponents later alluded to a conspiracy by "the interests," or the corporations or the Texas Regulars, to field a team of Jester, Smith, and Sellers to combat Rainey;\textsuperscript{16} but Jester's early advisors showed no awareness of such a plan. Indeed, one of Jester's early supporters anticipated losing the Texas Regulars' vote to Smith, or Stevenson if he ran.\textsuperscript{17} Jester did ask Stevenson early in 1946 if he intended to run for reelection, and Stevenson assured him that he did not; but some of Jester's advisors questioned Stevenson's veracity since he refused to make a public statement.\textsuperscript{18} The Jester group expected Sellers to run for reelection as attorney general; the announcement that he intended to run for governor caused Jester to reconsider his campaign strategy to counter the Sellers

\textsuperscript{15}Robert W. Henderson to Jester, April 16, 1946, Jester Papers, 4-14/111; \textit{Austin American}, August 10, 1945; \textit{Texas Spectator}, December 21, 1945, January 25, 1946.

\textsuperscript{16}For example, see Sadler speech, August 16, 1946, in Rainey Papers, 43/1354; \textit{El Paso Labor Advocate}, February 15, 1946.

\textsuperscript{17}Robert L. Holliday to Jester, February 18, 1946, Jester Papers, 4-14/111.

In the early stages the Jester people did not identify Rainey as the main competition, more or less dismissing him as the CIO candidate. One must conclude that Jester decided to run for governor in 1946 regardless of who else ran.

In retrospect, Jester's advisors gave him sound counsel in the early stages of his campaign, identifying the major problem as getting him into the runoff, where he could beat any one of the other prospective candidates except possibly Stevenson. El Paso attorney Robert Holliday, a member of the State Democratic Executive Committee and a progressive Democrat, urged Jester to take a liberal stand on economic and political issues. He advised Jester to consult Tom Tyson of Corsicana, a loyalist in 1944, and draw up a platform that Tyson would actively support; he believed Tyson could swing Roosevelt Democrats, particularly those who liked Calvert, in Jester's favor. Repeatedly he warned Jester not to put Texas Regulars into his campaign organization or take their advice on his platform. Holliday urged Jester to ask Tyson to help him seek labor support, including...

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19 Sid L. Hardin to Jester, December 27, 1945, Robert W. Henderson to Jester, January 23, 1946, Jester to Robert L. Holliday, April 8, 1946, ibid.


21 Henderson to Jester, January 23, 1946, ibid.
the CIO. He referred Jester to Congressman Luther Johnson of Corsicana as an intermediary to ask Sam Rayburn's help in securing labor support, warning that Johnson would first have to convince Rayburn that Jester had not favored the Texas Regulars in 1944. Jester did contact Johnson, who approached Rayburn without success. Rayburn seriously doubted Jester's credentials as a loyal Democrat because he had not spoken out for Roosevelt during the 1944 campaign and because he had "too much promiscuous support from the folks who tried to murder me politically in 1944." Rayburn determined to stay out of the primary, indicating he would probably vote for Sellers but doubted he would get into the runoff. Apparently Rayburn did not know or did not credit Jester's claim that he offered his services as a speaker for Roosevelt in 1944 but the party did not call on him.

Jester, Smith, Sadler, and Sellers did not wait for Stevenson to announce his intentions; they all announced early in the spring. Early in May Calvert decided not to

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22 Holliday to Jester, February 18 and 23, March 14 and 18, April 5, 1946, Jester to Holliday, March 27, 1946, ibid.

23 Rayburn to Lee Simmons, Sherman, July 6, 1946, Rayburn Papers, "Politics--Texas--1946."

24 Robert L. Holliday to Jester, February 23, 1946, Jester Papers, 4-14/111.
run, not having found sufficient support. On May 18 Allred made a radio speech announcing he would not run and attacking Stevenson's record on the issue of pardons and paroles. Thereafter Allred supported Rainey, helping with campaign strategy, drafting a speech on the system of pardons and paroles, and making speeches during the runoff. On May 23 Rainey announced he would run, but O'Daniel and Stevenson finally removed themselves from contention. A number of minor candidates scarcely made a ripple in the campaign.

On May 27 the Texas Poll, covering the field of candidates as it eventually emerged, showed Rainey leading with 20 percent of the votes, followed by Sadler, Smith, and Sellers, with Jester making a poor showing with only 8 percent. However, 29 percent of those polled had not made a choice; and with Rainey's opponents showing a combined total of 51 percent of the vote, any one of the major candidates clearly could win.


26 Copy of speech in Rainey Papers, 43/1343; Allred to D. B. Hardeman (Rainey's campaign manager), June 20, 1946, ibid., 43/1346; Marlin E. Sandlin, Houston (employee of J. R. Parten's Woodley Petroleum Company), to Hardeman, July 20, 1946, ibid., 41/1271.


John Lee Smith represented the extreme opposite of Rainey's liberal views. In the beginning he had strong support among Texas Regulars, including H. R. Cullen and Edgar E. Townes of Houston. Smith stridently opposed strong labor unions, fair employment practices legislation, foreign and subversive forces in the schools, communism, Homer Rainey, and all those infected with alien ideologies and radicalism. He had supported an open shop bill in the last legislative session, and organized labor actively returned his dislike.  

Grover Sellers had a reputation as a Roosevelt supporter and a liberal acceptable to labor but still stayed on good terms with the Texas Regulars and with Stevenson, who had appointed him attorney general. Some of Jester's friends expected Sellers to get much of the Texas Regulars' vote because Stevenson preferred him, although to Sellers's dismay Stevenson did not openly endorse anyone during the first primary. At the same time, some labor groups, especially those associated with the American Federation of Labor, liked Sellers.  

29 Radio speech by one Irwin on Smith's behalf, April 24, 1946, summary in Rainey Papers, 43/1342; El Paso Labor Advocate, February 15, 1946; Texas Spectator, February 15, 1946.  

30 Robert L. Holliday to Jester, February 23, 1946, Jester Papers, 4-14/111; Texas Spectator, July 26, August 2, 1946.  

31 Robert L. Holliday to Jester, May 15, 1946, Jester Papers, 4-14/111; El Paso Labor Advocate, July 19, 1946.
expected Sellers to take much of the moderate vote, but his campaign tactics soon placed him in the extremist category with Smith. Sellers opposed academic freedom that recognized no moral and spiritual responsibilities and avowed that Texas should never have a governor who subscribed to any "ism" except Americanism. 32

Jerry Sadler had not participated in the 1944 political squabble with the Texas Regulars, but he had consistently criticized their man, O'Daniel. Known for his country boy image and his predilection for dipping snuff, he had a colorful campaign style and a knack for catchy phrases. Sadler had some of the most radical proposals of any candidate; he called for a state insurance company to insure the down-payment and loan on homes, farms, and ranches for veterans and all Texans who needed it and a state-paid bonus for veterans. He said he had a tax plan to finance his program but would not disclose it for fear of tipping off the "honey money boys" of the corporations. 33

All of the candidates called for better pay for teachers and improvements in the public schools, old-age pension and welfare payments to the $35,000,000 constitutional limit, and a farm-to-market road program. With the


lawsuit of Heman Marion Sweatt to enter the University of Texas law school pending, most called for an adequate university for Negroes, although Smith demanded a return to the white man's primary and Sellers called for preservation of segregation laws and practices. Smith supported an open shop law, while Sellers called for higher disability benefits under the workmen's compensation law.  

When Jester announced his candidacy, the *El Paso Labor Advocate* immediately labeled him the "Crown Prince," referring to his supposed inheritance of the mantle of the Texas Regulars. Jester tried to put some distance between himself and Stevenson by noting that the governor had appointed him to the Railroad Commission in 1942 only after he had won in the Democratic primary. Jester presented his platform on Texas Independence Day, including the catch-phrase that would mark his campaign, "The People's Path":

> Two conflicting political theories at present are being thrust at the people of Texas, as well as the rest of the nation. One, extremely far to the right, would crush labor. The other, equally far to the left, would subjugate management and destroy free enterprise in conduct of Texas business. The common people of Texas are given scant consideration in either of these high pressure political programs . . . their only

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privilege being to foot the bills caused by ever-increasing tax burdens, an increase in living costs, and encroaching inflation. They are squeezed in between labor and management in the many strikes and are the victims of the delays, inconveniences, and disruptions of their living and business due to strikes.

There should be a middle path:—the people's path. The people of Texas are entitled to first consideration in all public matters.³⁶

In addition to the programs that all the candidates shared, Jester pledged to revitalize agriculture through soil conservation and research to develop new farming methods, new crops, and new uses for crops. He proposed a constitutional amendment to provide funds for adequate building programs at all state-supported colleges, and he promised to safeguard the University of Texas against "encroachments which are antagonistic to the established government of our State and nation, and to the moral and social standards of Texans."³⁷ He opposed federal price ceilings on oil or any agricultural products. He called for wise conservation of Texas oil and gas, particularly to stop the flaring of casinghead gas, and a program to attract investments to develop natural resources. He promised to continue to oppose federal control of oil and gas, including all property rights in offshore oil lands. He pledged to promote a harmonious relationship between labor and management, with a fair deal for both but placing the

³⁶Press release, March 3, 1946, Jester Papers, 4-14/64.
³⁷Ibid.
interests of the public first. Both labor and management must rid themselves of the radical fringe which caused industrial strife, he said, and he proposed a board of industrial relations to settle the labor-management differences.\textsuperscript{38}

Jester favored a housing and health campaign for every town but opposed any federal program of socialized medicine or compulsory health insurance. He favored expansion and modernization of state eleemosynary institutions and a program to curb juvenile delinquency. He called for legislative redistricting and proposed to establish a new commission to assist veterans. He opposed levying new taxes and any experiments that would put state finances in the red; he believed that, by practicing strict economy, the removal of price ceilings, full utilization of natural resources, and the present $25,000,000 in the state treasury would provide sufficient state revenue for normal state operations and development.\textsuperscript{39}

Jester secured Tom Tyson's help on his platform, and Tyson accompanied him to file for the Democratic primary.\textsuperscript{40} Robert Calvert, whom Jester had befriended when Calvert lived in the Corsicana State Home for orphans, also endorsed

\textsuperscript{38} Ibid.; Corpus Christi Caller, July 20, 1946.

\textsuperscript{39} Jester press release, March 3, 1946, Jester Papers, 4-14/64.

\textsuperscript{40} Jester press release, April 29, 1946, ibid.; Jester to Robert L. Holliday, February 25, 1946, ibid., 4-14/111.
Jester, giving him another valuable ally among the loyalist Democrats.\(^\text{41}\)

Jester opened his campaign at a rally in his hometown of Corsicana with a radio broadcast over the Texas State Network. Introducing Jester, Tom Tyson called him a constructive leader, not a factionalist. To the dismay of his friend Robert Holliday, Jester attacked the interference of the communistic labor-leader racketeers of the CIO in Texas politics while commending the more Texan type of leadership of the AFL and railway brotherhoods. He explained to Holliday that he knew Rainey would get the CIO vote anyway, and his comments pleased the AFL and railway brotherhoods because they resented the upstart CIO.\(^\text{42}\)

To launch his "crusade to unshackle Texas,"\(^\text{43}\) Rainey chose the ballpark near Sherman, where he had attended Austin College, served as an assistant pastor, and played professional baseball. He introduced his major theme for the campaign—that Texans must free their state from control by outside monopolies, operating through the Texas Regulars and their political henchmen, in order to develop something

\(^{41}\)Calvert, _Here Comes the Judge_, pp. 106-7.

\(^{42}\)Jester to Holliday, May 16, 1946, Jester Papers, 4-14/111; _Dallas Morning News_, May 5, 1946; _Texas Spectator_, May 10, 1946.

\(^{43}\)Rainey opening address, June 4, 1946, Rainey Papers, 43/1344.
more than a colonial economy providing raw materials for the
enrichment of outside interests. We must keep, in the form
of tax revenues, a fair share of the greatest storehouse of
natural resources in the world, he said; we must industri-
alize and process our raw materials here, with the profits
staying in Texas to raise the standard of living. He pro-
posed to use that tax revenue to build the finest public
school system in the nation and provide a first-class
junior college system and to give state senior colleges
enough money for expansion to take care of increased enroll-
ment by ex-servicemen. He advocated a first-class Negro
university controlled by an all-Negro board of trustees.

In the field of welfare Rainey wanted immediately to
increase appropriations to the $35,000,000 ceiling set by
constitutional amendment and then to repeal the amendment.
Further, he recommended a general welfare program to take
care of all helpless citizens regardless of age. He proposed
to increase the sum spent per citizen annually for health
care from the present eight cents to one dollar in order to
establish local health units, a program of sanitation and
preventive medicine, and a system of mobile medical and
dental clinics and to train more doctors and nurses.

For farmers he would repeal the state property tax,
give encouragement and financial aid to all agencies working
on soil conservation, encourage farm cooperatives, and
double or treble the current farm-to-market road building program. He made no promises to labor except to seek a formula for industrial peace whereby employers would provide decent wages and hours, security, and fair conditions and labor would keep its contracts and purge its own house of racketeers.

To finance his program he primarily recommended increasing taxes on natural resources; later in the campaign he set the additional sum at $25,000,000. To finance a farm-to-market road program he suggested an increase in the gasoline tax, and if necessary he would tax liquor and cigarettes to raise additional revenue.44

Rainey had trouble with Texas radio stations from the time he tried unsuccessfully to buy time to give his side of the University of Texas controversy. When he tried to buy radio time to announce his candidacy for governor, the city-owned station WRR of Dallas and the Texas Quality Network refused, citing a station policy excluding political broadcasts before June.45 Rainey filed a protest with the Federal Communications Commission against the four 50,000-watt clear channel stations comprising the Texas Quality

45 V. R. Smitham, Dallas City Manager, wire to Rainey, ibid., 44/1373; Statement of Homer P. Rainey at the Federal Communications Commission Hearing, July 12, 1946, ibid., 44/1370.
Network—WBAP, Fort Worth, WFAA, Dallas, WOAI, San Antonio, and KPRC, Houston. The four stations had agreed to deny use of their facilities to political candidates prior to June 11 and to limit candidates to one period of thirty minutes or less prior to July 13. Rainey charged that the stations by this arbitrary limitation failed to meet their obligation to the public, violated the monopoly provisions of the state constitution and antitrust laws, and failed to file their agreement with the FCC. He alleged that the network set the restrictions after learning that he planned to enter the gubernatorial race, in a deliberate attempt to prevent him from presenting his program to the people. Furthermore, he charged, the major newspapers which owned three of the stations vigorously opposed his candidacy for governor and had condemned his record as president of the University of Texas; and he asked the FCC to consider the baneful effects of dual ownership of newspapers and radio stations, in this case representing a virtual monopoly of newscasting in Texas. He contended that although he could use other stations he could not reach great numbers of people in small towns and rural areas who depended primarily upon the powerful stations of the Texas Quality Network.46

46 Statement of Homer P. Rainey at the Federal Communications Commission Hearing, July 12, 1946, ibid., 44/1370.
The FCC held a hearing on the charges on July 12 in Dallas, with Allred acting as Rainey's attorney. Rainey offered copies of hostile editorials of the newspapers owning the radio stations and testified that the network gave O'Daniel air time to announce that he was not running for governor but later refused to sell Rainey time to announce his candidacy. Only Smith, Sellers, and Caso March, a minor candidate, accepted the FCC's invitation to make statements at the hearing; and all asserted that the network treated the candidates fairly. March stated that if Rainey did not get his program before the people in the six or seven months of free air time he had before he began his campaign, he never would. The FCC did not rule on the case until the following January, when it held that the broadcast restrictions did not constitute an effort to cause Rainey's defeat; but the network agreed to set less stringent limitations in the future.

The campaign quickly developed into a mudslinging squabble, with Rainey the chief target. Smith and Sellers, at first apparently not seeing Jester as a threat, concentrated their fire on Rainey and made "ism" a byword of the


campaign, darkly suggesting radicalism, communism, atheism, and all manner of evils. They recalled the incident of the John Dos Passos book, U. S. A.; Smith charged that Rainey had defended the foul, communistic book and promised to donate $1,000 to charity for every day that Rainey would read aloud selections of Smith's choosing for thirty minutes. \(^{49}\) Sellers instituted a series of "for men only" meetings at which he donned gloves to read excerpts from the book, saying, "That is the sort of filth your daughters were required to read at Texas University when Dr. Homer P. Rainey was president." \(^{50}\) In vain Rainey and his friends protested that he had no part in placing the book on the reading list at the university, that he had it removed from the list after receiving complaints, and that Smith and Sellers were reading excerpts from the two other volumes in the trilogy which never appeared on the reading list. \(^{51}\) This showmanship of Smith and Sellers, well-publicized by the press, made a far greater impression than explanations.

\(^{49}\) Texas Spectator, June 7, 1946; Amarillo Daily News, July 10, 1946.

\(^{50}\) Corpus Christi Caller July 13 and 14, 1946; Fort Worth Star-Telegram, July 17, 1946.

\(^{51}\) Mrs. I. D. Fairchild, Lufkin (the only regent who voted not to fire Rainey as president of the University of Texas), radio address, July 15, 1946, script in Rainey Papers, 43/1358; Marlin Sandlin, Houston, to D. B. Hardeman, July 20, 1946, ibid., 41/1271; Dallas Morning News, June 28, 1946; El Paso Labor Advocate, July 26, 1946.
Smith virtually made Rainey and U. S. A. his issues in the campaign. He charged that if Rainey became governor he would turn the state and the university over to the reds, the radicals, and the labor racketeers. He demanded to know why Rainey had not denied the active support of the CIO leadership in his campaign and charged that Rainey had advocated passage of fair employment practices legislation sponsored by the CIO and Negro groups demanding social equality.\(^{52}\)

Sellers perceived Jester's threat about mid-July and criticized him harshly for using the advantage of his office as railroad commissioner to seek a higher office. He accused Jester of having the biggest fund any gubernatorial candidate ever had, money which he had wrung from the railroads, oil interests, and bus companies by holding over their heads the threat of his retaining the Railroad Commission post for four more years if he failed to win the governor's office.\(^{53}\) Like Smith, however, Sellers reserved his severest criticism for Rainey, stating that if elected he would not allow anyone in the University of Texas who condoned a book like U. S. A. He brought in the racial issue by noting that Rainey had never said he would not

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allow blacks into the University of Texas and by implying that Rainey intended to "herd white and Negro children into the same schools." Sellers also made much of the fact that a New York communist newspaper, the Daily Worker, endorsed Rainey.

Sadler did his share of mudslinging, criticizing Jester more often early in the campaign than the other candidates did. He charged that as railroad commissioner Jester had served the "honey money boys" of the special interests while he himself had served the people of Texas; as a result, he had to pass a syrup bucket for donations at his rallies while Jester spent $1,000 in every county. He said Jester and Sellers, whom he called the "Black Gold Twins," both had campaign slush funds from oil interests; and Rainey had his own slush fund from special interest groups as well as "ism" groups.

Other groups and individuals did their part to "get Rainey." Stevenson called attention to the fact that blacks favored Rainey. Unidentified persons reportedly visited

all the liquor stores in Harris County, warning that Rainey, a "dry," would close all liquor stores if elected. A young veteran supposedly printed and distributed a pamphlet claiming that Rainey evaded military service during World War I; upon investigating, Rainey's friends learned that two University of Texas regents who had voted to dismiss Rainey supplied the misinformation and paid the printing costs for the pamphlet. The *W. Lee O'Daniel News* devoted an entire page to blasting Rainey as a "pinko" socialist. Lewis Valentine Ulrey of Christian, American, Inc., a right-wing organization, put out pamphlets and letters linking Rainey with known communists, fellow travelers, and "pinks"—otherwise known as the Travis County League of Active Democrats and the Women's Committee for Educational Freedom. Ulrey's virulent letter entitled "The 'Reds' Attack the Educational Setup in Texas" referred to Rainey's support of a protest by the two groups in 1945 against the State Board of Education's employment of Ulrey as an advisor on textbook selection for the public schools.

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58 Morris Bogdanow, Houston attorney, to Rainey, June 8, 1946, Rainey Papers, 41/1263.


60 Rev. E. S. Hutcherson, Trinity Baptist Church, Houston, to Rainey, March 28, 1945, ibid., 41/1235; photostatic copy
Despite the advice of supporters not to allow his opponents to push him into defending himself, by mid-June Rainey was complaining about the smear campaign. He charged that the monopolistic combine of out-of-state corporations had such a stranglehold on the economy, politics, and educational institutions of the state that they could force hundreds of state employees to go over the state spreading poison against him. He protested that he did indeed enter military service as a private during World War I, despite exemption as an ordained minister; he served from October 28 to December 10, 1918, when he received an honorable discharge. Asserting that desperate opponents brought up communism as a smoke screen to obscure real issues, he denounced communism as atheistic, brutal, and unworkable. He charged that the University of Texas regents, all but one either Republicans or Texas Regulars, dismissed him because he had supported Roosevelt and that his opponents had huge slush funds to hire people to voice slanderous lies attacking his moral character, question his loyalty and

of Ulrey letter, July 1, 1946, in ibid., 43/1364. Texas Spectator, November 23 and December 14, 1945, gives the story of the protest.

religious beliefs, and befoul the name of the University of Texas.  

Rainey did not help his own case by letting a questioner trap him on the issue of academic freedom. Asked if a teacher had the freedom to teach atheism if he saw it as the truth, Rainey answered affirmatively in accordance with his views on academic freedom. Too late to counteract the damage, he explained that he believed in separation of church and state, that schools should teach neither religion nor atheism.

Rainey's friends tried to help, making speeches and writing letters or articles attesting to Rainey's personal integrity and Christian character, his patriotism, and his dedication to the principle of separate but equal education for blacks. University of Texas professor J. Frank Dobie described Rainey as a man who knew that government had to adjust to social, economic, and scientific change in order to preserve democracy and the capitalistic system. He argued that a man could advocate change and yet remain steady to the principles of human rights and liberties and the democratic ideal of government; but when men in a

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62 Rainey speech, July 5, 1946, Rainey Papers, 43/1347; Dallas Morning News, June 27 and 28, 1946.
republic resist change and call every new idea subversive, they betray democracy. 64

For the most part, Jester stayed relatively free of the mudslinging, concentrating on the issues, clarifying and amplifying his platform, and stressing his ability to provide harmony. He did not hesitate to link Rainey with the CIO and with former Vice-president Henry Wallace, a controversial figure to Texans. He stressed that Texas needed government with a smile and friendly handshake rather than government with malice and revenge. Regarding the FCC hearing, he referred to Rainey's protest as the gasping efforts of a man with a persecution complex. Implying that Rainey's criticism of the Texas Quality Network and its associated newspapers extended to all the state's newspapers and radio stations, he said, "Everyone knows that the entering wedge of Communism is the breaking down of the confidence in the newspapers and radio." 65

The bombast, name-calling, and showmanship of other

64 Mrs. I. D. Fairchild (the University of Texas regent who voted against firing Rainey), radio address, July 15, 1946, script in Rainey Papers, 43/1358; H. M. Ratliff, executive secretary of the Board of Education, Southwest Texas Conference, to Methodist ministers in Texas, June 5, 1946, ibid., 41/1262; Blake Smith, pastor of the University Baptist Church, Austin, to Baptist ministers of Texas, July 12, 1946, ibid., 41/1270; W. Jack Lewis (former Navy chaplain and member of Rainey's campaign staff), radio talk, July 12, 1946, script in ibid., 43/1348; Dobie, series of four articles, ibid., 44/1368, 44/1371.

candidates so overshadowed Jester's remarks that they went almost unnoticed.

Jester's strategy paid off. He said that only he, of all the candidates, could go to the governor's chair without mud and filth on his hands.\footnote{Dallas Morning News, July 27, 1946.} The \textit{Amarillo Daily News} agreed and on July 18 endorsed him as the only candidate who stayed with the issues instead of indulging in a smear campaign. Whether for this reason or others, Jester alone showed a dramatic rise in the polls, going from fifth place with 8 percent of the vote in May to second place with 31.2 percent on the eve of the election. In comparison, Rainey rose only 6.6 percent while Sadler, Sellers, and Smith lost ground.\footnote{Ibid.}

Election day on July 27 brought a greater surprise. Most observers expected Rainey to lead in the first primary; but Jester led with approximately 38 percent of the total vote compared to Rainey's 25 percent, with Sellers a respectable third. Rainey did well in Travis County and in the industrial areas of CIO strength.\footnote{Texas Almanac, 1947-1948, pp. 402, 405-7.} Lewis Nordyke of the \textit{Amarillo Daily News} on July 30 estimated that about 100,000 of Rainey's votes came from blacks.

Announcements of support for Jester in the runoff came from former governors Daniel James Moody, Ross Sterling,
Miriam Amanda Ferguson, and William Pettus Hobby. Sellers announced that he supported Jester as a middle-of-the-roader who advocated no "ism" except Americanism. 69

Sadler endorsed Rainey, stating that he had a stomach full of the kind of dirty politics that spread lies and branded a man of Rainey's background as a communist and a "nigger lover"; 70 Sadler conveniently ignored the fact that he had done his share of the branding. L. A. Woods, State Superintendent of Public Instruction, endorsed Rainey as the man who would do the most to improve the Texas educational system even though he said a high-ranking member of Stevenson's administration threatened that if he did not support the right man educational appropriations would suffer. 71 Former Governor James V. Allred came from behind the scenes to make speeches for Rainey, calling the campaign a contest between the "big 'uns and the little 'uns," with Texas Regulars taking a leading part in the campaign against Rainey. 72

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69 Dallas Morning News, August 17, 1946; Texas Spectator, August 16, 1946.

70 Speech, August 16, 1946, copy in Rainey Papers, 43/1354.

71 Address, August 19, 1946, copy in ibid., 43/1354; Roundtable Discussion, August 24, 1946, script in ibid., 43/1358.

72 Fort Worth Star-Telegram, August 15, 1946; Austin American, August 17, 1946.
The runoff campaign saw a change in tactics, as both candidates immediately launched aggressive campaigns. Rainey challenged Jester to a series of joint debates, which Jester refused, saying that less than one-fourth of the voters showed any interest in Rainey's program "with which he would replace our Texas way of doing things in a democratic manner." He said he would not embarrass his friends by asking them to attend any joint discussion of "theories which completely controvert our democracy. . . ."  

Rainey opened his campaign by asserting that the small but powerful group of selfish monopolies which had used Jester as railroad commissioner to maintain control of Texas government now intended to make him the successor of the present nonprogressive administration with a program which they dictated. He characterized the campaign as a fight of reaction against progressive democracy, entrenched wealth and greed against the interests of the people, glittering generalities and vague promises against specific proposals for a greater Texas, slime and slander against clean, sincere, forthright principles. He charged that the opposition used Hitler's tactics of concocting the biggest lie possible and telling it as often as possible to discredit him, and that Jester rode into the runoff under a smoke

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screen of mudslinging, falsification, and slander uttered by others and lacked the courage to repudiate the tactics.\textsuperscript{74}

That opening blast signaled a gloves-off campaign by Rainey. During the runoff he, Sadler, and Allred bore down heavily on Jester's wealth and his support from oil companies, corporations, and Texas Regulars. Rainey stressed that the election would determine whether the plain people in Texas would control their state government or whether control would remain with the small but financially powerful group of Texas Regulars and their spineless political henchmen. He labeled Jester the "Beau Brummel" of the special interests and accused him of "playing pigtail for the monopoly boys."\textsuperscript{75} He scored Jester for not speaking out for Roosevelt in 1944 and for saying, "That fight was none of my business." Rainey promised always to speak out when a privileged few tried to trample on the rights of a free people.\textsuperscript{76} He charged that Jester never walked down the hall from his office in the capitol to ask for removal of the ceiling on old-age pensions, but he made several trips to Washington to urge removal of the price ceiling on oil and to secure a radio station license for himself. He demanded

\textsuperscript{74} Speech, August 2, 1946, Rainey Papers, 43/1350.

\textsuperscript{75} Ibid.

\textsuperscript{76} Undated speech, "The Real Issue in the Run-Off Campaign," ibid., 43/1365.
that Jester resign as railroad commissioner because he had violated two ethical principles—running for higher office and engaging in private business by operating a radio station while still holding office as railroad commissioner.  

Rainey pressed Jester so hard on the issue of the welfare ceiling that Jester protested that he had always advocated removing the ceiling, but in fact Jester's platform called only for increasing payments to the $35,000,000 ceiling. Rainey accused Jester of promising the oil companies that he would not levy new taxes on natural resources and concluded that, since Jester's proposed program of improvements would cost far more than the $25,000,000 surplus in the state treasury, Jester must intend to push through a general sales tax. Rainey charged that, at bottom, the interests violently opposed him because he wanted to make the great oil and gas and other corporations pay a reasonable portion of their earnings in Texas for the welfare of Texas.

Rainey and Sadler charged that as railroad commissioner Jester had served the interests of the big oil and gas companies, had done nothing to stop the shameful waste of

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77 *Amarillo Daily News*, August 2, 7, and 8, 1946.

78 *Fort Worth Star-Telegram*, August 16, 1946; Jester press release, March 3, 1946, Jester Papers, 4-14/64.

79 Statement, August 9, 1946, Rainey Papers, 43/1370.

80 Speech, August 17, 1946, ibid., 43/1354.
natural gas, had opposed the United States Navy's request for additional fuel oil early in 1946 unless the Office of Price Administration allowed a price increase for crude oil, and had secured an increase in the price. In return the oil companies had given him more than $1,000,000 for his campaign, which they recouped by raising the price of gasoline for consumers.81

By the second week of the campaign Rainey was saying that Jester had not merely taken advantage of the smear campaign against him in the first primary but had originally set it in motion. Speaking of Jester's visible and invisible organizations, he called Paul Brown, Jester's campaign manager, a Texas Regular who boasted to neighbors that he had voted against the Democratic ticket in the past three presidential elections. However, Rainey charged, an invisible organization run by Phil Fox from an advertising agency in Dallas actually ran Jester's campaign. Fox, whom Rainey called a specialist in smear and hate campaigns, had acted as publicity director for the Ku Klux Klan in Georgia.

81 Rainey statement, August 6, 1946, ibid., 43/1352; Rainey statement, August 7, 1946, ibid., 44/1370; Sadler speech, August 15, 1946, ibid., 43/1354; Rainey radio address, August 21, 1946, ibid., 43/1357; Sadler radio speech, August 21, 1946, ibid., 43/1358. The Texas Spectator of June 14 stated that the independents, not the major oil companies owned by out-of-state corporations, pushed for the removal of price controls on crude oil; the majors wanted price controls removed from gasoline but benefited from a federal regulation giving special allowances for marginal wells.
and served part of a prison sentence for murder before Governor Eugene Talmadge pardoned him. After coming to Texas Fox handled publicity for O'Daniel's campaigns as well as the Texas Regulars' campaign against Roosevelt in 1944; and Rainey charged that Fox used the Klan tactics of appealing to prejudice and racial hatred to smear him. The liberal weekly Texas Spectator of August 22 described the broadside about Fox issued by Rainey—as large as a newspaper sheet, with reproductions of newspaper clippings about Fox's murder conviction and his service as publicity man for the Klan and a reproduction of an affidavit proving that Jester employed Fox's advertising firm for his campaign. The Spectator also printed Jester's response to the broadside; Jester said Fox had lived an upright life for many years, and Rainey stooped low to drag up an old tragedy in the life of a private citizen who made a mistake.

Rainey followed up his charges concerning Jester's Klan manager by stating that he had received a letter bearing Klan symbols which said, "You can have your Negro Jew and Catholic vot [sic] but lay off of our Brother Jester."


83 Copies of the clippings and affidavit in ibid., 45/1424.

84 Photostatic copy in ibid., 45/1423.
He asked Jester two questions: "Did you ever belong to the Ku Klux Klan?" and "Do you subscribe to the statement made by Senator Bilbo of Mississippi a few days ago, that 'Once a Klansman, always a Klansman'?" Rainey based his questions on a copy of a letter in his possession from one J. H. Ridlehuber of Hillsboro to former Governor Miriam Ferguson expressing regret that she, as a foe of the Klan, supported Jester. Ridlehuber claimed that as a former active member of the Klan he used to sing at Klan meetings at different places and once met Jester at a Corsicana Klan meeting, where Jester spoke; Ridlehuber stated that no one ever appeared at Klan meetings except Klan members.

Two days later Rainey said that Houston smear artists had mailed a letter to every rural boxholder in the state purporting to come from the Communist party, calling attention to Jester's Klan connections and urging them to vote against Jester as the enemy of all workingmen and Negroes. Accusing the perpetrators of using Hitler's tactics of blaming everything on the communists, Rainey branded the letter a hoax fabricated by Jester's own smear artists to imply a connection between Rainey and the Communist party and pointed out that it bore only a typewritten signature:

85Press release, August 19, 1946, ibid. (Rainey's underscoring).
86August 19, 1946, copy in ibid., 45/1424.
"It's planted evidence, planted against a man who hates Communism with all his soul." 87

Only a very tenuous and circumstantial connection links Jester with either the Klan or the purported Communist party letter. The communist-baiting Christian American, Inc., operated out of Houston; and the secretary of that organization later boasted that its chairman, Lewis V. Ulrey, caused Rainey's defeat. 88 Jester had a close enough personal relationship with Ulrey to address him in later correspondence as "My dear friend," rather than merely using his first name as he did other personal friends. 89 However, Ulrey sent out material over his own signature which he may have considered effective in defeating Rainey. As for the Klan, Jester once casually mentioned getting advice on his gubernatorial campaign from Earle Mayfield; an Earle B. Mayfield from Tyler won the United States Senate seat in 1922 with Klan backing. 90 However, a friend of Jester's, one Paul Moore, later related a conversation with Jester about the Klan. Jester said that having served with Jewish boys and others of foreign ancestry

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87 Press release, August 21, 1946, ibid., 43/1357 (Rainey's underscoring).

88 Vance Muse, Houston, to Si Casady, McAllen, December 12, 1946, Jester Papers, 4-14/60.

89 Jester to Ulrey, July 31, 1947, ibid., 4-14/53.

90 Jester to Robert L. Holliday, April 8, 1946, ibid., 4-14/111; The Handbook of Texas, A Supplement, III (Austin: Texas State Historical Association, 1976), pp. 582-83.
during World War I he could not join an organization that turned its hand against them. Then he quipped, "And Paul, you know I'm quite a joiner."  

At first Jester ignored Rainey's attacks, saying he would stick to the issues. He continued to link Rainey with the CIO, stating that he sought to impose upon Texas radical and expensive theories of government and that he was seeking revenge and hoped to conduct the affairs of the University of Texas from the governor's office. He challenged Rainey on the issue of campaign expenditures, stating that Rainey traveled all over the state in a fleet of airplanes and had a whole floor of an Austin hotel as campaign headquarters, manned by workers from all over Texas and from outside the state.

During the last week of the campaign, after Rainey made the Klan charges, Jester openly brought up the issue of communism. Speaking in heavily industrialized and unionized Jefferson County, where Rainey had heavily outpolled him in the first vote, Jester asked Rainey to tell the people why he had the support of the official newspaper of the Communist

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92Amarillo Daily News, August 2 and 8, 1946; Fort Worth Star-Telegram, August 9 and 20, 1946.
party in the United States, state whether he welcomed that support, and if not, why he had not renounced it. In East Texas he brought out the purported Communist party letter, saying he would like to know just who supported Rainey and worked in his campaign. He denied the circumstances cited in the Ridlenuber letter, stating that he had never attended any kind of Klan meeting. He admitted he could not positively identify Rainey as a communist but knew he had their support. Jester denied that he or any of his workers had published or authorized during either campaign any literature that said an unkind, untrue, or un-Christian thing about his opponents.

The runoff election on August 24 resulted in 701,018 votes for Jester and 355,654 for Rainey. Rainey carried only seven counties; except for Travis County, Jester carried all of the big-city counties, most of them by great majorities.

The Amarillo Sunday News-Globe of July 28 commented on the costliness of the first primary, where candidates used almost every medium—billboards, newspaper advertisements,

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93 Fort Worth Star-Telegram, August 21 and 27, 1946.
94 Ibid., August 23, 1946.
handouts, pamphlets, loudspeakers, and radio. The Texas Spectator of August 2 speculated that candidates in the first primary probably spent the most money ever spent in a Texas campaign, and Jester's newspaper lineage exceeded that of any other candidate. Months before the campaign began one of Jester's supporters stated he would need at least $250,000 to make the race; Robert Calvert mentioned the same figure in estimating his own financial needs to make the race. 97

Rainey estimated that his campaign cost about $137,000, and he believed that those who opposed him spent close to $2,000,000. He stated that a few men of wealth backed him, including oilman J. R. Parten and J. C. Jaques of Denison; but the great part of his backing came from a host of volunteer workers and from individuals who contributed from five to ten dollars. 98 The Fort Worth Star-Telegram of August 22 contended that Rainey could not run a campaign like his on a shoestring—airborne, both by plane and radio, lavish newspaper advertising, and a copious flow of leaflets and other printed material; he obviously had substantial backing. Rumors abounded that the CIO planned to put

97 Robert W. Henderson to Jester, January 23, 1946, Jester Papers, 4-14/111; Calvert, Here Comes the Judge, pp. 106-7.

98 Rainey interview, North Texas State University Oral History Collection, No. 11, pp. 147-50, 175-77.
$60,000 behind chosen candidates in Texas; CIO representatives said it spent only $3,000 in Texas during the summer of 1946, all for union organizational activities.\(^9\)

In an interview some twenty years later Rainey remembered that Jester simply "rode the tide," so to speak; he had all the advantages of money and support. Surprisingly, he recalled the runoff as more of an ideological campaign than the first primary, stating that he and Jester did not attack each other personally. Rainey believed that Jester played a politically clever game by posing as the white knight, above all the controversy and mudslinging: "But he let his supporters do it; they did it in great style."\(^\text{100}\)

When the campaign ended, Rainey felt that he had accomplished something even in defeat. He believed he had pushed Jester into taking a more liberal stance than he might have done otherwise, especially in the fields of education and welfare; and he believed he had brought some fundamental issues out into the open.\(^\text{101}\)

In actuality, except for the matter of the welfare ceiling, Jester stayed well within the generalities set

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\(^9\) *Austin American*, August 12, 1945; *Texas Spectator*, August 9, 1946.

\(^\text{100}\) Rainey interview, North Texas State University Oral History Collection, No. 11, pp. 170, 175-77.

\(^\text{101}\) Ibid., p. 176; Rainey to James F. McClure, Lewisburg, Pennsylvania, September 18, 1946, Rainey Papers, 45/1445.
forth in his platform during the campaign. In a campaign based on personalities and mudslinging, he coasted to victory by keeping his hands cleaner than most of the other candidates while they destroyed Rainey's reputation. One can only speculate whether he would have translated the generalities of his platform into specific reforms without the experience of the 1946 campaign.
Beauford Jester began his administration with a sincere effort to translate the generalities of his campaign platform into concrete recommendations to the Legislature. During the campaign he promised to recommend increasing welfare payments to the $35,000,000 limit permitted under the state constitution, increasing salaries for state employees, improving state eleemosynary institutions, and improving educational opportunities for blacks. In his first message to the Legislature Jester asked for emergency appropriations for the remainder of the fiscal year totaling $6,975,560. The amount included $3,663,331 for public welfare, $1,100,000 for state employees, $200,000 for eleemosynary institutions, and $750,000 for Negro education.¹ For the next biennium he asked the Legislature to increase appropriations for these purposes by $29,479,686 over the current biennial appropriations, as shown by the following table.²

¹Texas, Legislature, House, Journal, 50th Leg., reg. sess., 1947, pp. 82-97 (hereafter cited as House Journal, 50th Leg.).

²Ibid., p. 97.
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<tr>
<td>Office and courts building</td>
<td>1,000,000</td>
<td>1,000,000</td>
<td>2,000,000</td>
</tr>
<tr>
<td>Total</td>
<td>$41,007,780</td>
<td>$40,232,449</td>
<td>$81,240,229</td>
</tr>
<tr>
<td>Emergency funds</td>
<td></td>
<td></td>
<td>6,900,560</td>
</tr>
<tr>
<td>Total expenditures sought</td>
<td></td>
<td></td>
<td>$88,140,789</td>
</tr>
</tbody>
</table>
Jester also promised during the campaign to seek appropriations to increase salaries for public school teachers, expand the state-supported colleges and universities to meet enrollments swollen by returned servicemen, create a veterans' affairs commission to help smooth the readjustment of former servicemen to civilian life, expand the public health program, and expand agricultural research by the University of Texas and the Agricultural and Mechanical College of Texas for the benefit of Texas farmers. As shown in the preceding table, Jester asked for a total of $45,666,000 in additional expenditures for these purposes during the biennium ending August 31, 1949. Noting that public school teachers currently received an average salary of $1,785 annually, he recommended appropriation of an additional $20,000,000 for the coming biennium to raise the average annual salary to $2,000.3

Jester devoted much of his first message to demonstrating from revenue estimates by the state comptroller that the Legislature could make the recommended appropriations from the surplus in the state treasury and from anticipated greater revenues from present taxes without having to levy new taxes, as shown in the following table.

3Ibid., pp. 91, 97.
TABLE II
GOVERNOR JESTER'S CALCULATIONS IN HIS MESSAGE TO THE LEGISLATURE, JANUARY 28, 1947

Money available for appropriation by 50th Legislature (Comptroller's budget estimate) ................ $189,127,807

Deduct present rate of expenditure ................ 88,230,000

Available in excess of present expenditures ................ $100,897,807

Deduct recommended expenditures ................ 88,140,789

Estimated balance, September 1, 1949 ........ $ 12,757,018

Jester pointed out that during the fiscal year ended June 30, 1945, Texans paid more than $1,150,000,000 in federal taxes, with every expectation that federal taxes would increase; Texans currently paid fifteen times more federal taxes than they did in the 1930s. Moreover, local governments needed more tax revenues to meet the needs of growing urban populations. Repeating his opposition to new taxes, Jester stated that the revenue presently available to the Legislature for appropriation would provide the state with a prudent and well-rounded program of progress without the necessity of new tax burdens.4

4Ibid., pp. 94-97. Jester miscalculated in his figures by failing to include $75,000 in emergency funds for the Highway Patrol and $2,600,000 in additional funds for the Department of Public Safety for the biennium which he asked for in his message. He actually recommended a total of $90,815,789 in additional appropriations.
Jester got much of what he asked, particularly in emergency appropriations for the rest of the fiscal year. As requested, the Legislature authorized the State Board of Control to acquire and convert property and buildings of decommissioned army camps in order to relieve overcrowding in state hospitals and institutions. As requested, it passed bills to increase the pay of state employees and to raise old-age pensions and welfare payments to the $35,000,000 constitutional ceiling, both to begin immediately. Although Jester had not requested it, late in the session the House adopted a proposed constitutional amendment to remove the $35,000,000 ceiling; and Jester endorsed the proposal. Skeptical observers suggested that he was merely playing politics, knowing the Senate would kill the resolution. Senator R. A. Weinert of Seguin remarked testily that if Jester truly opposed new taxes he should stop making recommendations that cost money.

The Legislature increased biennial appropriations in most areas to keep pace with inflation but did not always

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6House Journal, 50th Leg., pp. 82-83, 224-29, 1240; Senate Journal, 50th Leg., pp. 34, 181; Texas, General and Special Laws of the State of Texas, 50th Leg., reg. sess., 1947, pp. 20-23, 134-36.

7House Journal, 50th Leg., p. 2933; Senate Journal, 50th Leg., p. 1494; Austin, Texas Spectator, June 16, 1947.
follow the recommendations Jester made in his first message. For example, it exceeded his recommended appropriations for eleemosynary institutions but appropriated far less than he asked for the State Health Department. He wanted greatly increased appropriations for the Health Department, with half earmarked for research and development of preventive measures to combat communicable diseases and disease hazards; the Legislature appropriated for the biennium only slightly more than Jester asked for a single year.  

The biggest difference between Jester's recommendation and the Legislature's appropriation involved the public schools. Jester recommended an additional $20,000,000 for the biennium to bring teachers' salaries up to an average of $2,000 annually, asserting that teachers in the lowest pay brackets should receive raises before those already receiving higher salaries. He stressed the state's responsibility to provide equalization of educational opportunities, not carry the entire financial burden for public education. He noted that the current rural aid appropriation bill set unreasonably low limits on teachers' salaries in rural aid schools, and yet the rural aid schools expected a surplus in their total funds; he recommended amending the bill to make the surplus available for a teachers' pay

8House Journal, 50th Leg., pp. 92, 97; Texas, General and Special Laws of the State of Texas, 50th Leg., pp. 608, 853.
bonus. He recommended long-range planning for improvement of the public schools, perhaps establishing a central purchasing agency for big items and studying proposals for administration of schools by county units.  

With the Texas State Teachers Association poised to lobby for a salary increase, both houses of the Legislature had numerous bills concerning the schools and teachers' salaries. One of the earliest to pass, quickly and without opposition, followed Jester's recommendation to amend the rural aid, or equalization, bill to allow a salary supplement for teachers in rural aid schools for the last four months of the 1946-1947 school year.  

The biennial rural aid, or equalization, bill took more time, however, as the House felt more generous than the Senate. The bill for the previous biennium had provided an appropriation of $28,000,000 and allowed aid to school districts with fewer than 1,250 scholastics. The House wanted to increase the appropriation substantially and loosen the requirements for eligibility. The bill reported by a conference committee, which both houses accepted, appropriated $36,000,000 for the biennium and extended

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the aid to schools with fewer than 1,500 scholastics.\textsuperscript{12} Even so, the bill made 259 more school districts eligible for equalization aid, creating financial difficulties before the Legislature met again.\textsuperscript{13}

Both houses considered several bills setting a minimum annual salary for school teachers before one finally passed because some legislators, particularly in the House, insisted on a new tax levy to finance a salary increase. El Paso Representative Woodrow Bean's bill for a salary increase financed by a tax on natural resources bounced from one House committee to another as proponents of a new tax levy periodically mustered enough votes to spring it from an unfriendly committee and opponents periodically mustered enough votes to bury it again. Eventually a committee reported the bill favorably, but Bean could not get enough votes to set it for House consideration.\textsuperscript{14} The Senate Education Committee reported out a bill by A. M. Aikin, Jr., of Paris providing a minimum annual salary of $2,000 for a beginning degreed teacher, financed out of existing state and local maintenance funds; but a similar bill by Representative Dallas Blankenship of Dallas reached


\textsuperscript{14}House Journal, 50th Leg., pp. 304, 2167.
the Senate before it acted on Aikin's bill. Within a week after the House Education Committee reported it favorably, Blankenship's House Bill 300 passed the House, despite an effort by Claud H. Gilmer of Rock Springs to slow the proceedings to discuss the merits of the bill. 15

Another Blankenship bill similarly sped through the House; House Bill 301 would transfer sufficient funds from the clearance fund of the 1941 omnibus tax to raise per capita expenditures for each scholastic in the public school districts (except the rural aid schools) from $35 to $55 annually. Again Gilmer fought the bill almost single-handedly, offering amendments requiring that none of the funds would go to any district except to pay the same teacher salary schedule contained in the rural aid bill, nor to any district that did not levy adequate local school taxes, nor for any student who did not have a 65 percent attendance record for the entire previous school year. The amendments failed, and House Bill 301 passed handily. 16 Part of the credit for the rapid progress of the two Blankenship bills went to the Texas State Teachers Association, which lobbied assiduously for them. Whenever legislators wavered, the association's lobbyist, Charles H.

15Ibid., pp. 420, 512-15; Senate Journal, 50th Leg., pp. 164, 212.
16House Journal, 50th Leg., pp. 234, 454, 489, 505-12.
Tennyson, wired TSTA representatives in their districts; and teachers from the districts bombarded the legislators with letters, telegrams, and telephone calls.\textsuperscript{17}

Later Gilmer said that Hollis A. Moore, the superintendent at Kerrville who had written his doctoral dissertation on school financing, alerted him to inequities in Blankenship's bills and interested him in a method of school financing eventually incorporated into the Gilmer-Aikin program. Gilmer, chairman of the House Appropriations Committee, relayed Moore's facts and proposals to Jester and James E. Taylor of Kerens, chairman of the Senate Finance Committee; and out of their conferences came an alternative approach proposed by Jester and embodied in Taylor's Senate Bill 299.\textsuperscript{18}

With the aid of Taylor, who held up the House bills in the Senate Finance Committee, Jester belatedly mounted a campaign against the Blankenship bills, which some predicted would put the biennial appropriation for public schools near $100,000,000.\textsuperscript{19} Aside from the threat to his financial program, Jester called per capita apportionment an inefficient method of financing public schools. Under per capita

\textsuperscript{17}Texas Spectator, March 31, 1947.

\textsuperscript{18}Interview with Claud H. Gilmer, April 6, 1968, North Texas State University Oral History Collection, Denton, Texas, No. 143, pp. 42-44.

\textsuperscript{19}Dallas Morning News, April 3, 1947.
financing the school districts received the current per capita payment on the basis of scholastic population regardless of whether the child attended public school, private school, or no school at all. Jester pointed to the inequities caused by differences in average daily attendance and the value of taxable property located in the various school districts. Some districts, particularly those with a large population of black and Latin-American scholastics who did not attend school regularly, needed fewer teachers and could pay salaries far above the $2,000 minimum; other districts with a high average daily attendance had to have a full staff of teachers and consequently had to offer salaries far below the $2,000 minimum. One study indicated that districts with the best attendance received $31.79 less per pupil in actual attendance than districts with the poorest attendance. The Jester faction pointed out that House Bill 300 did not guarantee teachers a $2,000 minimum salary; it contained a provision allowing districts which could not meet the minimum salary to pay what they could afford. Jester stated that under the per capita bill 66 counties would receive about $6,000,000 more than they needed to pay the $2,000 minimum salary while 188 counties would get $5,000,000 to $6,000,000 less than they needed to meet the minimum salary. The per capita approach benefited urban districts with a large scholastic population, but
urban districts had valuable taxable property which could provide supplementary local funds. The per capita approach encouraged school districts to keep school terms short and not enforce the compulsory attendance laws, and it encouraged districts to depend upon the state for a disproportionate part of the cost of supporting the schools. A report by the Texas Research Institute showed that during 1945 local districts contributed an average of only $26.88 per pupil, compared to the state's expenditure of $44.74 per pupil; one county contributed only $3.80 per pupil. Other studies indicated that only about one-fourth of the independent school districts levied a local school tax of more than one dollar per $100 valuation; some levied as little as ten cents per $100 valuation.

Jester proposed as an alternative to the per capita method an approach modeled on the rural aid, or equalization, bill. He suggested requiring a minimum level of local tax rate and property valuation, with a set percentage of local maintenance funds devoted to teachers' salaries, and

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then determining which school districts needed state aid to reach the minimum salary schedule. He considered equalization of salaries across the state essential before allowing increases for teachers already receiving higher salaries. Not only would his plan provide a more equitable approach, it also would cost the state less than the $55 per capita bill, reducing the likelihood of a new tax levy.\(^\text{22}\)

Taylor incorporated Jester's proposals into Senate Bill 299, which made eligible any district containing more than twenty scholastics with an average daily attendance of 65 percent which needed equalization aid to meet a minimum annual salary of $2,007 for a beginning degreed teacher, provided the district levied a local school tax of at least fifty cents on the $100 valuation. The Taylor bill carried an appropriation of $47,000,000 for the biennium but would negate the need for the rural aid bill still under consideration by the Legislature. Under the Taylor bill the richer school districts, such as Houston, Dallas, and the oil-rich districts of East Texas, would not receive extra state money. Moreover, school districts would not receive payment for children not actually attending public schools.\(^\text{23}\)

\(^{22}\) Jester, "Public School Financing," n. d., Jester Papers, 4-14/105.

The Taylor bill did not impress the TSTA nor a majority of the more vocal teachers. Rae Files Still of Waxahachie, chairman of the House Education Committee and a teacher herself, snorted that if Jester wanted a better bill he should have had his "experts" working on one long ago. The Dallas school district, among others, sent a delegation to Austin to lobby for the Blankenship bills; the Dallas superintendent said that under Taylor's bill 50 percent of the teachers would not get a raise. Teachers, intent only on getting a salary increase, directed a storm of abuse at Jester, Taylor, and Claud Gilmer, and tempers flared. Taylor vented his displeasure at the TSTA at a subcommittee hearing on his bill, and Jester complained about the most active lobby he had ever witnessed. Gilmer said when his daughter attended a teachers' conference the other teachers refused even to sit near her.

The Jester-Taylor effort changed no minds. The teachers united and swept all before them. Taylor, who as


26 Ibid., April 20, 1947; *Austin American*, April 5, 1947; *Texas Spectator*, March 31, 1947. For an example of the abuse directed at Jester by teachers see Lois Brackenridge, San Antonio, to Jester, April 18, 1947, and similar letters in Jester Papers, 4-14/116.

27 Gilmer interview, North Texas State University Oral History Collection, No. 143, p. 44.
chairman of the powerful Senate Finance Committee probably could have done more than anyone to stop the Blankenship bills, did not stand in the way of the majority. He reported out of committee House Bills 300 and 301 along with his own, explained why he considered his bill better, and put no obstacles in the way of the House bills. The Senate unanimously passed the Blankenship bills. The Senate unanimously passed the Blankenship bills.  

The Texas Spectator of March 3, 1947, stated that liberals led by Representatives Woodrow Bean of El Paso and James Wright of Weatherford who wanted a new tax levy on natural resources provided the drive behind the Blankenship bills. The House Committee on Revenue and Taxation had refused to consider any new tax bills without a demonstrated need for them, and the liberals used the Blankenship bills, knowing of their inequities and loopholes, as a ploy to demonstrate that need. Other House members, under pressure from the TSTA, joined the bandwagon. Under similar pressure, the more conservative Senate also caved in.

Passage of the Blankenship bills by overwhelming majorities presented Jester with a dilemma. He strongly disapproved of the bills; yet Taylor and Gilmer warned that the Legislature would override a veto, and a veto would

\[28\] Senate Journal, 50th Leg., pp. 498-99; Austin American, April 5, 1947.
infuriate the teachers. Ultimately the governor made a radio address stating that he would allow the bills to go into effect without his signature. He conceded that teachers must have better pay, but he condemned the per capita system as a patchwork plan. Noting that only four other states exceeded Texas in the amount of money spent for public schools and still Texas ranked thirty-second in the nation in school efficiency, Jester stated his conviction of a need for something far more significant than merely spending more state funds.\(^29\)

Later in the session the Legislature approved House Concurrent Resolution 48, offered by Claud Gilmer and A. M. Aikin, to create a committee to make an exhaustive study of the public school system, ultimately designated the Gilmer-Aikin Committee. Jester warmly endorsed the resolution and promised to exert every effort to have a sound public education program ready to present to the next Legislature.\(^30\)

Jester and the Legislature also gave their attention to higher education. Jester followed through with his

\(^{29}\)Gilmer interview, North Texas State University Oral History Collection, No. 143, p. 44; Jester press release, script of radio speech, April 19, 1947, on Texas State Network, A. M. Aikin, Jr., Papers, East Texas State University Archives, Commerce, Texas, Box 38, file 7.

\(^{30}\)House Journal, 50th Leg., p. 2115; Senate Journal, 50th Leg., p. 827; Dallas Morning News, April 20, 1947.
campaign promise to seek better educational opportunities for blacks by recommending emergency appropriations to initiate expansion of professional training for blacks, particularly medical training. He further requested increased appropriations for the biennium, in addition to building funds previously appropriated, for expansion of Prairie View University. With the lawsuit of Heman Marion Sweatt to enter the University of Texas law school pending, the Legislature wasted no time; but instead of expanding Prairie View it passed a bill to establish a first-class university for blacks in Houston and to designate Prairie View an agricultural and mechanical college. The new university, called the Texas State University for Negroes, would upon demand by any qualified applicant offer any course taught at the University of Texas. The bill provided $3,000,000 for land, buildings, and operating expenses during the biennium plus $250,000 in emergency funds for temporary arrangements for any courses currently offered at the University of Texas except law; with a $100,000 appropriation the University of Texas would establish a separate law school for Negroes in Austin until the new university could offer law courses.\footnote{House Journal, 50th Leg., pp. 84, 567-71; Senate Journal, 50th Leg., p. 308.}
Jester had also promised to expand the state-supported colleges and universities to accommodate the rapidly growing postwar enrollment; and in the biennial appropriation bill for higher education the Legislature granted Jester's request for a $20,000,000 increase in appropriations, which meant it almost doubled the previous biennial appropriation for higher education. As Jester requested, Prairie View University received increased appropriations, and the extension service and experiment station system of the Agricultural and Mechanical College of Texas received funds to expand agricultural research to aid Texas farmers. On its own, the Legislature appropriated $1,850,000 to supplement local funds for public junior colleges.

In addition to increased appropriations for operating expenses the state-supported colleges and universities needed funds for permanent buildings, and Jester endorsed a proposed constitutional amendment to dedicate five cents of the state ad valorem tax to a college building fund, which the Senate adopted early in the session. The plan

32 House Journal, 50th Leg., pp. 83-84, 90; Texas, General and Special Laws of the State of Texas, 49th Leg., p. 809; Texas, General and Special Laws of the State of Texas, 50th Leg., pp. 674-75.

33 House Journal, 50th Leg., pp. 1838-39; Senate Journal, 50th Leg., p. 1130.

met two obstacles—a movement to abolish the ad valorem tax for state general revenue purposes and the desire of West Texans for other state-supported colleges to share in the University of Texas permanent fund. The West Texas proposal never really had a chance, but the House substituted for the Senate resolution a proposed constitutional amendment to use five cents of the seven-cent property tax dedicated to a pension fund for Confederate veterans and their widows; for the last several years the state had levied only two cents of the tax, with the prospect of needing even less in the future.  

The colleges would share in the fund according to a prescribed formula and could issue bonds or secure loans against the fund for permanent improvements. The amendment further authorized the University of Texas and the Agricultural and Mechanical College of Texas to issue bonds in the amount of $10,000,000 and $5,000,000, respectively, against the permanent university fund for buildings and improvements. At one point Jester had to call in several legislators on behalf of the resolution, but ultimately both houses adopted it and submitted it to the voters in a special election on August 23.


36 McGill to Jester, March 12, 1947, Jester Papers, 4-14/67; House Journal, 50th Leg., p. 1820; Senate Journal, 50th Leg., p. 657.
The battle did not end with legislative action; some West Texans worked assiduously to defeat the amendment in the election. The administration and a majority of the governing board of Texas Technological College of Lubbock favored the amendment, which gave it the largest share of the fund; but a group of alumni, the West Texas Chamber of Commerce, and several West Texas legislators put up a heated fight, contending that the amendment would restrict the Lubbock college's growth. The chamber of commerce put out a pamphlet demonstrating that under the West Texas plan of sharing the permanent university fund the colleges could float more bonds and take care of more of their urgent building needs.37

Others went to the defense of the proposed constitutional amendment. The Dallas Morning News of August 10, 1947, carried a full-page endorsement by Jester of the amendment; and during the week before the election Jester, Lieutenant Governor Allan Shivers, Attorney General Price Daniel, and Senator Keith Kelly of Fort Worth, a sponsor of the amendment, spoke on radio urging its approval.38

37"Prospectus on Financing Urgent Building Needs of State Supported Higher Education," in Jester Papers, 4-14/116; see also pamphlet by Sterling Parrish and Preston Smith, "The $64 Question," in ibid., 4-14/115.

38Jester script, ibid., 4-14/67; Dallas Morning News, August 17, 1947.
On August 23 the voters approved the amendment by a small margin. 39

During the campaign of 1946 candidates had sought the votes of veterans with promises to help ease their readjustment to civilian life; but the Fiftieth Legislature did little for veterans despite a number of proposals, including a state-paid bonus ranging from $200,000,000 to $400,000,000. 40 In the end the Legislature did not even follow Jester's recommendation to implement a constitutional amendment already approved by the voters to create a veterans' land board to acquire land for resale to veterans. 41 As promised during the campaign, Jester recommended creation of a veterans' affairs commission to coordinate the handling of veterans' affairs and promote their welfare; but he had only slightly more success with that recommendation. He envisioned a commission to disseminate information and serve all needs of veterans through existing state agencies, from assistance in processing claims for government benefits to aid in finding housing and purchasing surplus war property. 42 Although Representative George O.

39 Texas Almanac, 1949-1950, p. 476. The voters approved the amendment by a vote of 102,531 to 97,318.

40 Dallas Morning News, January 17, June 1, 1947.

41 Texas, Constitution, Art. III, Sec. 49(b); House Journal, 50th Leg., p. 83.

Nokes of Corsicana and Senator James Phillips of Angleton introduced bills incorporating Jester's ideas early in the session, neither bill moved. Toward the end of April, Jester contacted Nokes and Phillips and proposed a scaled-down version of the bills; he did not believe that either bill could pass in the present form, and with heavy appropriations already approved the state could not afford to spend the money originally contemplated for the veterans' commission. He suggested creation of a commission which would merely absorb the functions and appropriations of the existing but inadequate Veterans State Service Office, with the hope of getting the commission enlarged and strengthened in the next Legislature. Jester submitted Nokes's bill, amended to follow his suggestions, to the Legislature as an emergency measure; but three times the House refused to move the bill beyond the second reading. Only by "calling the boys in" and asking them to go down the line with the Nokes bill did Jester succeed in getting the stalled bill passed in the last days of the session.

43 House Journal, 50th Leg., p. 136; Senate Journal, 50th Leg., p. 86.

44 Jester to Phillips and Nokes, April 28, 1947, Jester Papers, 4-14/89; Jester to Gus Livengood, Corsicana, December 17, 1948, ibid., 4-14/77.

45 House Journal, 50th Leg., pp. 2125-26, 2169-74, 2502, 3160, 3308-9; Senate Journal, 50th Leg., pp. 1498-99; McGill to Jester, May 16, 1947, Jester Papers, 4-14/89.
Legislature did nothing to expand or strengthen the commission.

In accordance with his campaign platform, in his first message to the Legislature Jester asked for action on legislative redistricting.\(^46\) The Legislature had not redistricted since 1921; and population had shifted from rural to urban areas and from the eastern half of the state to industrial areas along the Gulf Coast, to the fruit-growing areas of South Texas, and to the grain-growing and oil- and gas-producing areas of West Texas and the Panhandle.\(^47\)

Opposition to redistricting came from legislators whose districts would lose representation and from those who argued that redistricting should await the 1950 census.\(^48\) Legislators presented several redistricting measures, but only a bill by Representative Harley Sadler of Sweetwater made any progress. The bill twice went through committee referral and the amending process before the House finally killed it in late April on the same day that Jester sent another message asking for action on redistricting.\(^49\)

\(^{46}\) *House Journal*, 50th Leg., p. 90.


\(^{48}\) *Dallas Morning News*, February 13, March 27, 1947.

Both houses also considered proposed constitutional amendments to create a board to redistrict after each decennial census if the Legislature failed to act. The House worked on one such proposal throughout the session but failed to adopt it.\textsuperscript{50} In the Senate George Moffett of Chillicothe offered the resolution, and the Senate passed it to the third reading but then tabled it subject to call. After the House killed Sadler's redistricting bill, Moffett called up his resolution; and the Senate adopted it.\textsuperscript{51} Jester mounted an intensive campaign on behalf of the resolution, calling in a number of legislators whom Sadler marked for possible conversion.\textsuperscript{52} In the last days of the session the House finally adopted the Moffett resolution; and in November 1948 the voters approved the amendment to create a redistricting board, to take effect in 1951.\textsuperscript{53}

\textsuperscript{50}Ibid., pp. 191, 1840, 2193, 2521-23, 2814, 2935.

\textsuperscript{51}Senate Journal, 50th Leg., pp. 32, 530, 1246. Oddly enough, in 1935 Moffett worked to secure adoption of a proposed constitutional amendment, later approved by the voters, to place a limit on representation in the House of the big city counties. Having protected rural representation to that extent, Moffett apparently was willing to champion automatic reapportionment; James R. Jensen, Legislative Apportionment in Texas, Social Studies Vol. 2, Public Affairs Research Center (Houston: University of Houston, 1964), pp. 46-47, 54.

\textsuperscript{52}McGill to Jester, interoffice memo, June 2, 1947, Jester Papers, 4-14/105.

\textsuperscript{53}House Journal, 50th Leg., pp. 3141-43, 3152-56; Texas Almanac, 1949-1950, p. 476. The voters approved the amendment by a vote of 528,158 to 153,704.
The Fiftieth Legislature also acted on two other matters of great importance, labor unions and farm-to-market roads; chapters five and six of this study cover that legislation.

In the gubernatorial campaign of 1946 Jester and his principal opponent, Homer Price Rainey, had differed sharply on the issue of taxes. Rainey insisted that corporations feeding on Texas's rich natural resources should bear a larger share of the tax burden in order to improve the lives and welfare of the people of Texas; he set that increased tax burden at $25,000,000. Jester believed that with a comfortable $25,000,000 surplus in the state treasury, anticipated higher revenues from all taxes in the postwar prosperity, and strict economy and caution in spending the state could conservatively expand its services without new taxes. He considered his victory at the polls an endorsement by the voters of his promise of no new taxes.

The tax issue also provided a major bone of contention between Jester and some legislators, particularly in the

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54 Rainey address, June 4, 1946, Homer Price Rainey Papers, 1919-1952, Joint Collection, University of Missouri Western Historical Manuscript Collection--Columbia & State Historical Society of Missouri Manuscripts, Columbia, Missouri, Box 43, file 1344; Rainey statement, August 2, 1946, ibid., 43/1352.

55 Jester statement, July 22, 1946, Jester Papers, 4-14/64; Jester message to the Legislature, January 28, 1947, House Journal, 50th Leg., pp. 94-97.
Not only did they agree with Rainey philosophically, they also objected to draining the treasury of its surplus and seriously doubted that Jester could carry out his proposed program without additional taxes. Furthermore, they considered Jester's recommended expenditures inadequate, especially on teachers' salaries and farm-to-market roads; and Jester's recommendations left little money available for local projects. A small group of young veterans led by Representative James Wright of Weatherford formed the core of the group pushing an increased tax levy on natural resources. They devised bills which they claimed would place the tax burden on big corporations and derive revenue from natural gas piped out of the state without appreciably increasing the tax burden on Texas consumers. In order to gain the broadest possible support for the bills they allocated the funds for farm-to-market roads, teachers' salaries, old age assistance, and buildings for state colleges.

The tax proponents did not have a clear field even in the House; a strong anti-tax sentiment existed in the Legislature, especially in the Senate. The House Committee on Revenue and Taxation, headed by conservative Frank

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Svadlenak of Thrall, handed the tax proponents their first set-back by appointing a subcommittee to study the need, if any, for new taxes before considering any tax bills. At this point, according to the Texas Spectator of March 3, the tax proponents determined to push through the Blankenship school bills to try to force action by Svadlenak's committee. Svadlenak, the subcommittee, and Claud Gilmer, chairman of the Appropriations Committee, met with Jester and the state comptroller to discuss whether Jester's recommended program required new taxes; but Jester put the full weight of his office against the proposed tax bills.58

The tax proponents then shifted their tactics to trying to get their bills re-referred to friendlier committees. Woodrow Bean, who served on the Appropriations Committee, took advantage of the absence of Gilmer on February 27 to move to re-refer his oil, gas, and sulphur tax bill to the Appropriations Committee, where he had enough influence to get it out on a minority report at least. Upon Bean's success, Wright and Charles S. McLellan of Eagle Lake tried the same tactics. McLellan got his natural gas bill re-referred to the Appropriations Committee, but Wright could not dislodge his oil, gas, and sulphur tax bill from Svadlenak's committee, which eventually killed it.59

Spurred by Bean, the Appropriations Committee reported the McLellan bill favorably; and Bean attached to it a portion of his own bill allocating up to half of the revenue to teachers' salaries and farm-to-market roads. The McLellan bill would levy on natural gas gatherers an occupation tax of 1.85¢ per thousand cubic feet of gas sent into pipelines in an attempt to pass the tax on to the pipeline companies and out-of-state consumers. Despite arguments that the Legislature could not successfully pass a tax on to out-of-state consumers and that in many instances natural gas sold for less than 1.85¢ per thousand cubic feet at the well, the McLellan bill survived parliamentary snags and the amending process and passed the House after a prolonged battle.

Several other House members proposed a variety of tax measures, ranging from levies on gasoline to cigars and billiard parlors. With several bills pending and the McLellan bill already passed by the House, Jester stiffened his no-tax stand by implying that he would veto tax bills and appropriations exceeding the state's expected income for the next two years. His action gave the Legislature

60 House Journal, 50th Leg., pp. 660, 952-56.

61 Ibid., pp. 1254-56; El Paso Herald-Post, March 6, 1947; Dallas Morning News, March 19, 25, and 26, April 4, 1947.

the alternative of trimming appropriations or passing a tax bill in time to override a veto. His stand drew condemnation on the House floor from Wright and Bean, who complained that without new taxes legislators could not carry out even Jester's recommendations, much less their own campaign promises. By mid-April the total of appropriations already approved and the four major appropriation bills (eleemosynary, judiciary, state departments, and higher education) passed by one house indicated a prospective deficit of $57,949,000 at the end of the biennium. Bean challenged the House to decide the tax issue by taking up his tax bill; to his dismay, the House by a decisive vote refused to take up the bill. When Jester emphasized his determination by vetoing a bill to raise the salaries of district attorneys, the Legislature backed down without attempting to override the veto. The McLellan bill remained lodged in the Senate Finance Committee under the thumb of Jester's ally, James Taylor; Taylor kept the lid on the major appropriations bills and refused to report out of

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63 Dallas Morning News, April 22 and 25, 1947.
64 East Texas Chamber of Commerce, Tax Letter, April 28, 1947, Jester Papers, 4-14/63.
65 House Journal, 50th Leg., p. 2167; Dallas Morning News, May 1, 1947.
committee anything but essential appropriations until too late in the session to pass a tax bill. 67

In the last days of the session a statement by the state comptroller revising upward his estimate of expected revenues for the next biennium took any remaining impetus from the drive to pass a tax bill. He stated that in January he had underestimated revenues for the general revenue fund for the rest of the fiscal year by $7,159,793 and for the biennium by $21,216,000. Increases in crude oil production and prices and in natural gas consumption and prices accounted for most of the extra revenue. 68 The Texas Spectator of May 26 ridiculed the announcement as an obvious ploy to prevent a tax bill, but the comptroller was reporting the beginning of a genuine phenomenon. Throughout 1947 and 1948 business boomed, prices climbed, demand for Texas oil increased at inflated prices, and state revenues soared to unexpected heights. In June 1947 the state's total revenue receipts ran $61,747,602 above the June 1946 totals; by May 1948 the total revenue receipts were running $103,475,757 above the May 1947 totals. 69 Not only did the

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67 Senate Journal, 50th Leg., p. 762; Austin, Texas Spectator, May 5, June 16, 1947.
68 George H. Sheppard to Jester, May 24, 1947, Jester Papers, 4-14/67.
69 State Comptroller, Comparative Statement of Cash Receipts, June 1947 and May 1948, ibid.
state have funds to cover the increased expenditures by the Fiftieth Legislature, by the time the next Legislature convened the general revenue fund contained $80,131,144.\textsuperscript{70} The Fifty-first Legislature would painfully learn that inflation provided much of the unexpected largesse—59 percent, according to the state comptroller\textsuperscript{71}—and that it would melt away under increased financial demands on state government, also hit by inflation; but in the meantime inflated tax revenues kept the state treasury in the black and seemingly justified Jester's stand against new taxes.

In the end, the Fiftieth Legislature took only one action regarding taxes; it adopted a proposed constitutional amendment to abolish the ad valorem tax for state general revenue purposes and allow counties to levy up to thirty cents on the one hundred dollar valuation for farm roads and flood control projects. The voters approved the amendment in November 1948.\textsuperscript{72}

Jester's opposition to levying new taxes may well have influenced some legislators to vote against tax bills; on the other hand, a strong anti-tax sentiment existed

\textsuperscript{70}Dallas Morning News, January 7, 1949.

\textsuperscript{71}"Inflation Most Powerful Factor in State Fiscal Prosperity," copy stamped August 11, 1948, in Jester Papers, 4-14/67.

\textsuperscript{72}House Journal, 50th Leg., pp. 2482-83; Senate Journal, 50th Leg., p. 983; Texas Almanac, 1949-1950, p. 476. The voters approved the amendment by a vote of 475,255 to 201,572.
independently in the Legislature, especially the Senate. Out of numerous tax bills presented, the House passed only one after a long battle; and the Senate passed none. The Legislature showed a much greater inclination to finance programs out of existing funds, even knowing that the funds might not have sufficient revenue to cover the cost, than to pass new taxes. Further, while the Fiftieth Legislature cooperated with Jester amicably on some matters, in no sense did it grant his every wish; nor did Jester appear to exert undue pressure on the Legislature. In fact, he tended to let the Legislature take the initiative, as in the case of the Blankenship school bills, far more than he did with the Fifty-first Legislature. The Fiftieth Legislature went against Jester's recommendations on legislation concerning the public schools, the veterans' commission, and, as chapter five shows, labor; and enough anti-tax sentiment existed to suggest that the legislators might not have listened had he recommended a new tax levy.

The acute vision of hindsight suggests that a tax levy in 1947 might have smoothed the way for Jester's recommendations for reforms to the Fifty-first Legislature. On the other hand, having supported a new tax levy would have posed an embarrassment to those politicians running for reelection in 1948, considering the apparently healthy state of the state treasury. Having more money to
appropriate in 1949 might merely have resulted in even higher budget requests from the various state departments and institutions and more pet local projects by individual legislators.
CHAPTER V

ANTILABOR LEGISLATION OF 1947

Beauford Jester's philosophy of states' rights and states' responsibilities formed part of the basis for his labor program; he believed that the states had virtually abandoned to the federal government responsibility for seeking industrial peace, and he wanted Texas to reassume that responsibility.\textsuperscript{1} Compared to many of his colleagues, Jester took a somewhat middle-of-the-road position on labor, although leaning in the direction of management; he insisted that the welfare of the public should receive first consideration, before either management or labor. Of the repressive labor bills passed by the Fiftieth Legislature, he asked for only one in his first message: prohibition of strikes against the state government or its political subdivisions.\textsuperscript{2} Yet he signed every antilabor bill that the Legislature sent to him, even though he cautioned against extremes in labor legislation.\textsuperscript{3}

\textsuperscript{1}Amarillo Daily News, August 6, 1946.

\textsuperscript{2}Texas, Legislature, House, Journal, 50th Leg., reg. sess., 1947, pp. 93-94 (hereafter cited as House Journal, 50th Leg.).

\textsuperscript{3}Dallas Morning News, April 2, 1947.
Jester said the state must prepare to assist in mediating differences between management and labor: "An impartial fact-finding agency, backed by the moral suasion of informed public opinion, could effect settlements in a large number of labor-management disputes." He recommended replacing the Bureau of Labor Statistics with a department of commerce and labor operated by a commission with equal representation for labor and employers and larger representation by the public. As he envisioned it, the department would have a division of commerce to promote development of industry, natural resources, farm and ranch products, and the like. A division of inspection would absorb the functions of the Bureau of Labor Statistics, handling such matters as enforcement of laws relating to working conditions and compilation of statistics. A division of mediation would mediate and arbitrate labor disputes, absorbing the functions of the long-dormant State Industrial Commission. Jester advocated voluntary arbitration in most cases but called for compulsory arbitration or referral to the courts in cases involving jurisdictional strikes and interpretation of existing contracts and agreements.

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4 House Journal, 50th Leg., pp. 93-94.

5 Executive Department to Attorney General's Department, n. d., Governors' Papers--Beauford H. Jester, Texas State Archives, Austin, 4-14/63 (hereafter cited as Jester Papers).

To facilitate the role of the division of mediation
Jester called for a labor conciliation act similar to
Minnesota and Wisconsin laws. The Minnesota law set out
unfair labor practices by both workers and management and
called for filing written notice of intention of lockout or
strike with the state labor conciliator ten days in advance.
The governor and conciliator could try to mediate, or if
they found that a work stoppage would seriously affect the
public interest they could delay the stoppage another thirty
days by calling for a fact-finding commission to hold public
hearings on the dispute. The commission had the power of
subpoena; failure to obey the commission's directives pro-
vided grounds for contempt. 7

Early in the session Representative George O. Nokes
of Corsicana and Senator James E. Taylor of Kerens introduced
labor conciliation bills, but neither bill progressed for
several reasons. Taylor, closely associated with the Texas
Manufacturers Association which opposed a conciliation bill,
did not genuinely support the measure and allowed his bill
to languish. 8 Second, Jester did not give the Nokes bill
unqualified endorsement because it did not contain a

7House Journal, 50th Leg., p. 94; unsigned draft,
Papers, 4-14/59.

8William McGill (Jester's executive assistant) to
Jester, interoffice memo, May 12, 1947, Jester Papers,
4-14/72; Austin, Texas Spectator, July 21, 1947.
provision to create a department of commerce and labor and it called only for voluntary arbitration of disputes.\(^9\) Jester kept promising a bill incorporating his ideas and in fact had the attorney general's office working on a proposed bill, but the bill which he finally received in mid-May conformed even less to his ideas than the Nokes bill.\(^10\)

Furthermore, any moderate labor bill ran counter to the desires of a majority of the legislators and much of the public. Many Texans shared the anti-union sentiment that swept the nation after the war and resulted in passage of the Taft-Hartley Act and similar restrictive legislation in many states. The belief that strikes during and after the war had hampered the war effort and postwar readjustment fueled the anti-union sentiment.\(^11\) Individuals, organizations, and the press called for "corrective" labor legislation such as passing a right-to-work law; prohibiting secondary strikes, boycotts, and picketing; banning mass picketing, automatic salary deductions for union dues, sympathetic or jurisdictional strikes, and strikes against public utilities;

\(^9\) Jester to Representative George O. Nokes of Corsicana, May 2, 1947, Jester Papers, 4-14/72.


requiring financial reports by unions; amending antitrust laws to include unions; and authorizing the state to take over and operate struck utility plants.\textsuperscript{12} Some union members favored a right-to-work law; a Gallup Poll indicated that 66 percent of Americans favored the open shop, including 41 percent of the union members polled.\textsuperscript{13} A Texas Poll showed that public opinion in Texas overwhelmingly supported curbs on labor's right to strike. Seventy percent wanted strikes against any government unit outlawed; one-third wanted all strikes prohibited. Only 14 percent of those polled believed labor had a right to strike against any employer.\textsuperscript{14} Epithets for labor union leaders such as "agitators," "young Hitlers," "Communist racket," and "gang of cut-throats" liberally sprinkled Jester's incoming mail.\textsuperscript{15} Not only did the majority of those who wrote to Jester favor repressive

\textsuperscript{12}Resolutions of the Fort Worth and Plano chambers of commerce, n. d., Jester Papers, 4-14/72; James W. Wayman, Galveston attorney, to Jester, December 17, 1946, ibid., 4-14/59; Galveston Daily News, September 25, 1946, clipping in ibid., 4-14/72; Dallas Morning News, January 26, 1947.

\textsuperscript{13}Dallas Morning News, January 19, 1947; see also Mrs. Jerry Gamble, Hotel and Restaurant Employees Local Union 441, Amarillo, March 7, 1947, Jester Papers, 4-14/59.

\textsuperscript{14}Dallas Morning News, February 23, 1947.

legislation on unions, but many also specifically objected to any kind of conciliation board such as Jester proposed.  

Ironically, by the publicity given to strikes the press created much of the public outcry for repressive labor legislation. The final report of the Eighth Regional War Labor Board contradicted some of the misconceptions about wartime strikes that interfered with the war effort. The report showed that labor disputes caused the loss of just .0088 of 1 percent of the man-hours worked in Texas, Oklahoma, and Louisiana during the thirty-one months of the War Labor Board's existence. No doubt the strong influence of the oil industry in the economy and government of Texas accounted for some of the misconceptions of Texans about wartime strikes; of the 539 cases handled by the regional board, 120 involved oil companies.  

Although several major postwar strikes occurred in Texas, notably in the oil refineries and against the General Tire and Rubber Company plant in Waco, the United States Department of Labor reported that strikes idled fewer than 45,000 workers nationwide in December 1946, just before the anti-union Fiftieth Legislature met. Labor representatives

\[^16\] For example, see W. P. Bomar, president of Bewley Mills, Fort Worth, to Jester, March 28, 1947, ibid., 4-14/72; J. C. Peyton, Peyton Packing Company, El Paso, to Representative S. J. Isaacks of El Paso, May 22, 1947, ibid., 4-14/53.  

\[^17\] El Paso Labor Advocate, January 4, 1946.
argued that the unusual conditions of postwar economic
readjustment and removal of wartime restraints caused the
high incidence of strikes in the early part of 1946.\textsuperscript{18}

Harry Acreman, executive secretary of the Texas
State Federation of Labor, warned of a favorite trick of
management—to keep organized labor so busy fighting anti-
labor legislation that it has no time or funds to promote
beneficial legislation.\textsuperscript{19} The Fiftieth Legislature kept
Texas unions busy indeed. Legislators presented at least
two dozen bills concerning labor, many duplicating or over-
lapping each other, at least half of them restricting union
activities. Most of the restrictive bills passed in some
form. Acreman later conceded that organized labor had only
forty-five friends in the House of Representatives and eight
in the Senate. He blamed Herman Brown of Brown and Root
Construction Company and Homer Price Rainey’s friend, J. C.
Jaques of Jaques Power Saw Company, for financing and
orchestrating the antilabor activity, abetted by the Texas
 Manufacturers Association and Christian American, Inc.
Brown attended every labor committee hearing in both houses,

\textsuperscript{18}Ibid., December 27, 1946; Report on Conference with
the Governor, December 21, 1948, Brotherhood of Railroad
Trainmen Correspondence (June 1, 1945-May 2, 1955), North
Texas State University Archives, Denton, R. A. 11, Box 948.

\textsuperscript{19}\textbf{El Paso Labor Advocate}, May 17, 1946.
and Jaques testified on behalf of a bill to outlaw boycotts under state antitrust laws.\textsuperscript{20}

When the Legislature convened, Representative Marshall O. Bell of San Antonio, a corporation lawyer with ties to the Texas Manufacturers Association, had ready an open shop bill similar to one that failed in the preceding session; and because many legislators doubted that the bill could withstand a court challenge of its constitutionality, he also presented a right-to-work amendment to the state constitution.\textsuperscript{21} Bell represented the open-shop bill as a deterrent to the Congress of Industrial Organizations; opponents argued that CIO unions had few, if any, closed shop contracts in Texas and that the bill would actually hurt American Federation of Labor unions, which Texans considered more acceptable, and open the door for the CIO in Texas.\textsuperscript{22}

At the hearing by the House Labor Committee spokesmen for the CIO and AFL appeared to oppose the open shop bill; so did Ruth Koenig, a representative of the Texas Communist party, thereby removing any slight doubt that the committee would not report the bill favorably despite disclaimers by

\textsuperscript{20}Texas State Federation of Labor, Proceedings--1947, p. 119; Fort Worth Star-Telegram, March 6, 1947.

\textsuperscript{21}House Journal, 50th Leg., pp. 190, 200.

\textsuperscript{22}Harry Acreman, executive secretary, Texas State Federation of Labor, to Jester, April 3, 1947, Jester Papers, 4-14/72; Dallas Morning News, February 14, 1947.
union spokesmen that they neither solicited nor appreciated her appearance.\(^23\) When the bill came before the House, several amendments failed which would have exempted the railway brotherhoods and unions which the National Labor Relations Board had certified as exclusive bargaining agents in certain plants. The House passed the bill by a vote of 96 to 38.\(^24\)

The vote bode ill for Bell's proposed right-to-work constitutional amendment, for he could never get the one hundred votes required to adopt it.\(^25\) The week after the open shop bill passed House members received a circular put out by Christian American, Inc., accusing the members who voted against the open shop bill of following Ruth Koenig's lead. Considered an effort to pressure House members to adopt Bell's proposed constitutional amendment, the tactic backfired; the circular outraged even those who voted for the open shop bill.\(^26\)

The Senate passed the open shop bill; but Grover C. Morris of Greenville succeeded in attaching an amendment exempting the railway brotherhoods, which would have rendered


\(^{24}\) _House Journal_, 50th Leg., pp. 586-90, 610-12.

\(^{25}\) Ibid., p. 1147.

the bill unconstitutional by making it class legislation. 
A conference committee removed the Morris amendment, and the 
Senate adopted the committee report.27

Jester delayed signing the open shop bill, partly 
because of concern about its constitutionality.28 After 
conferring with leaders of both labor and industry, Jester 
announced in a radio speech that he had signed the bill, 
believing it would not destroy the unions or take away the 
right of collective bargaining. He expressed the belief 
that people had the right to work regardless of membership 
or nonmembership in any society or organization, including 
labor unions.29 The El Paso Labor Advocate of April 11 
warned, "Labor will not forget or forgive the governor for 
his action."

A telephone operators' strike that started in Odessa and 
threatened to spread to all the major cities in Texas did 
much to assure the passage of further restrictive labor 
legislation. According to the telephone workers' union, the 
strike began because Southwestern Bell refused to investi- 
gate complaints by workers in the Odessa office about a

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27Texas, Legislature, Senate, Journal, 50th Leg., reg. 
 sess., 1947, pp. 429-30 (hereafter cited as Senate Journal, 
50th Leg.).

28Kirk R. Mallory, secretary of state's office, to 
Governor, April 8, 1947, McGill Papers, 2-23/159.

29Dallas Morning News, April 9, 1947; El Paso Labor 
Advocate, May 9, 1947.
chief operator's inefficiency and physical and verbal abuse of employees under her supervision. Within a week telephone operators in all major cities joined the Odessa walk-out or voted to go into a "continuous meeting," the equivalent of a walk-out. Representative George W. Elliott of Odessa made a speech in the House in which he labeled the Odessa strike "the candy bar strike," claiming that it started over the failure of the non-union supervisor to distribute Christmas candy equitably; and the press picked up the catchy designation. On the morning before the Austin telephone operators planned to begin their continuous meeting, legislative leaders met with Jester and offered to hold the Legislature in session throughout the day until restrictive legislation passed, including a bill prohibiting strikes by workers in public utilities. Instead, Jester reactivated the long-dormant State Industrial Commission, an investigative and mediating agency, and secured the consent of the workers and the employer to abide by the findings of the commission. The employees agreed to go back to work during the investigation, thus averting the Austin walk-out.

Jester got the commission organized in one day, and the members arrived in Odessa to begin the investigation so

quickly that they caught both sides unprepared to present testimony; nevertheless, the commission completed its investigation in a few weeks. It found the evidence regarding the harshness, discourtesy, and physical violence of the chief operator insufficient to justify her removal; but it concluded the union brought the charges in good faith and scolded the company for failing to investigate the complaints.

Jester used the narrowly-averted strike to make a plea for passage of adequate labor-management laws, including a conciliation act, and noted the fortuity that both sides agreed to abide by the findings of the Industrial Commission; otherwise, the state government could not have acted. He asked the Industrial Commission to recommend to the Legislature ways of strengthening state labor laws to meet such crises in the future. The commission recommended passage of a conciliation act such as the Nokes bill, requiring compulsory arbitration in disputes involving public utilities

\[32\] McGill to D. L. McCowen, Southwestern Telephone Workers Union, St. Louis, March 13, 1947, Jester Papers, 4-14/48; Dallas Morning News, March 15, 1947.

\[33\] Report of Industrial Commission of Texas to the Governor and Legislature, n. d., Jester Papers, 4-14/48.

\[34\] Dallas Times-Herald, March 15, 1947, clipping in ibid., 4-14/88.
because of the paramount right of the public to uninterrupted service.  

The Legislature had other ideas. Without even waiting for the conclusion of the commission's investigation the Senate passed a bill prohibiting strikes, picketing, intimidation, or violence against public utilities with the intent to disrupt service; and the House quickly approved the bill. Jester signed the bill, commenting that the interests and general welfare of the public must have priority. 

The Legislature followed with bills barring employees or officials of the state or its political subdivisions from entering into a collective bargaining agreement with any labor organization or public employees from striking; limiting picketing and outlawing mass picketing; making unions financially responsible for damages resulting from unlawful strikes; prohibiting withholding union dues from employees' paychecks without written consent from the employee; amending the antitrust laws by including, as acts constituting conspiracy in restraint of trade, labor union boycotts or refusal to handle the products of any individual


\[36\] Senate Journal, 50th Leg., p. 398; House Journal, 50th Leg., p. 1238. 

\[37\] Dallas Morning News, April 15, 1947.
or firm; and outlawing secondary strikes, secondary picketing, and secondary boycotts.\(^{38}\)

Meanwhile, the Nokes bill went nowhere; in fact, on March 4 the House sent it back to the Labor Committee, which had already reported it favorably once.\(^{39}\) As it turned out, Jester probably erred irretrievably at that point by condoning the House move because he wanted the bill amended to provide for a department of commerce and labor and for compulsory arbitration in certain cases.\(^{40}\) By mid-May the House still had not acted on the Nokes bill or on Jester's repeated call for a labor conciliation act conforming to his wishes.\(^{41}\) He asked Representative Durwood Manford of Smiley to present a bill to establish a department of commerce and labor,\(^{42}\) but neither Manford nor anyone else ever presented such a bill. He sent out letters to a number of legislators seeking their support for his labor proposals and indicating that if necessary he would accept the Nokes bill without a provision for compulsory arbitration in certain cases in

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\(^{39}\) *House Journal, 50th Leg.*, p. 613.

\(^{40}\) *Dallas Morning News*, March 5, 1947.

\(^{41}\) *House Journal, 50th Leg.*, pp. 2510-15.

\(^{42}\) Jester to Manford, May 19, 1947, Jester Papers, 4-14/72.
order to get some kind of arbitration machinery established. Jester believed that the bills already passed legislated against manifestation of discontent and did not seek to alleviate the cause of complaint; they tended to favor surgery instead of preventive medicine. Jester's executive assistant, William Lawrence McGill, hinted that Jester might not sign some of the repressive bills awaiting his action unless the Legislature took some step toward development of a well-rounded program. Jester conceded that a number of industry representatives opposed the mediation proposals but considered them short-sighted in doing so; apparently he referred to the Texas Manufacturers Association, in which the opposition centered.

On May 20 the House refused to place Nokes's bill on the third reading and took no further action on it. Two other bills containing in some form the concept of state mediation of labor disputes also failed to receive serious consideration. Opponents considered the Nokes bill a "little Wagner

43 See Jester Papers, 4-14/72, for letters to House members dated May 18 and 19, 1947, and 4-14/53 for letters dated May 20.

44 McGill to Representative Marshall Bell of San Antonio, May 19, 1947, ibid., 4-14/72.


"Act" and wanted no part of it; they doubted the possibility of establishing any kind of fair and effective conciliation machinery. Many also feared the Nokes bill would dilute the effectiveness of the "corrective" labor bills passed during the session.  

Organized labor also failed to support the concept of a labor conciliation board at that point, even though one labor journal conceded that the Nokes bill might give unions a better chance to present their side to the public during labor disputes. The unions could not subdue their suspicions of Jester's intentions and feared he might stack the board against organized labor. The fact that Jester signed the open shop bill and other anti-union bills did nothing to allay their suspicions. Although the unions did not strongly oppose the Nokes bill, neither did they give it any support.  

Jester continued to sign the anti-union bills passed by the Legislature, although he stated that he did so in the confidence that the Legislature would not allow the session to end without adding to the corrective measures other legislation which would attempt, constructively and cooperatively, to prevent labor-management conflicts.  


the bills Jester incurred the opposition of organized labor in the 1948 gubernatorial election, with the railroad brotherhoods, friendly to him in 1946, leading the opposition.50

Considering the hostility toward labor unions in the Fiftieth Legislature, the unions surprisingly did get some desired legislation. They failed to get the complete revision of the workmen's compensation laws they wanted, but the Legislature increased weekly disability benefits, extended workmen's compensation to employees who incurred certain occupational diseases, and created a second injury fund.51 However, the Legislature ignored proposals to improve safety for workers and to outlaw the use of force or violence to cross a picket line. The Senate refused to allow Senator W. R. Cousins of Beaumont even to introduce a labor bill because of his known labor sympathies.52

Jester held off replacing the commissioner of the Bureau of Labor Statistics until the Legislature adjourned, vainly hoping it would create a department of commerce and labor. In June he appointed as labor commissioner Monta B. Morgan of Denison, a former legislator whom Christian

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50Paul Brown, Secretary of State, to Governor, inter-office memo, April 17, 1948, Jester Papers, 4-14/110.
American, Inc., had targeted for defeat in 1946 because of his pro-labor record. Morgan soon proved a bit too friendly to labor to suit Jester and some conservatives.

Between sessions of the Legislature the governor's staff and the Bureau of Labor Statistics began work on an industrial safety code. In calling for such a code Jester cited the fact that in 1947 Texas led the nation in industrial accident fatalities. The Industrial Accident Board reported a total of 201,838 industrial accidents during the fiscal year ending August 31, 1948, with losses in the millions of dollars. Industry representatives objected to the proposed code, however, partly because it placed too much authority in the Bureau of Labor Statistics and they doubted Morgan's impartiality; but Jester's staff could see no other logical state agency in which to lodge the authority. The Fifty-first Legislature reflected the attitude of industry. On March 1, 1949, Jester sent a message to the Legislature asking for legislation to encourage industrial safety measures; Representative James T. Sparks of Sherman presented

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53 Jester to Maureen Moore, Commissioner, Bureau of Labor Statistics, February 1, June 10, 1947, Jester Papers, 4-14/72; Texas Spectator, July 12, 1946.

54 Report of the Industrial Accident Board of Texas for the fiscal year ending August 31, 1948, Jester Papers, 4-14/48; Jester press memo, September 11, 1948, ibid., 4-14/88.

55 McGill to Jester, interoffice memo, September 16, 1948, ibid., 4-14/48.
a bill to create within the Bureau of Labor Statistics
an industrial safety board. He could never get the bill
out of committee.\(^\text{56}\)

Morgan worked on another labor conciliation bill for
the Fifty-first Legislature which would create a mediation
board within the Bureau of Labor Statistics. William McGill,
Jester's assistant, considered industry representatives
unduly alarmed about the bill, which did little more than
reenact the current State Industrial Commission law providing
for voluntary arbitration, except that it made the labor
commissioner the executive officer. McGill suggested three
possible courses for Jester to take: tell Morgan to forget
the bill, which would make him unhappy; let him run with the
bill without the governor's blessing; or endorse the bill as
part of his legislative program. McGill recommended the
second course of action, and Jester took his advice.\(^\text{57}\)

In a letter to members of the Legislature Jester repeated his
recommendation for a labor conciliation act, perhaps built
around the State Industrial Commission; but he did not men-
tion Morgan's bill. Apparently he had given up on the idea
of compulsory arbitration in certain cases; in his letter

\(^{56}\)Texas, Legislature, House, Journal, 51st Leg., reg.
sess., 1949, pp. 531-32, 863, 998 (hereafter cited as House
Journal, 51st Leg., reg. sess.).

\(^{57}\)McGill to Jester, interoffice memo, October 28, 1948,
Jester Papers, 4-14/88.
and later in his first message to the Fifty-first Legislature he asked for nothing more than provision for voluntary arbitration of labor disputes.\footnote{Jester to Members of the Fifty-first Legislature, n.d., ibid.; Texas, Legislature, Senate, \textit{Journal}, 51st Leg., reg. sess., 1949, p. 30 (hereafter cited as \textit{Senate Journal}, 51st Leg., reg. sess.).}

In December 1948 the Joint Labor Committee, representing the AFL, CIO, Railroad Brotherhoods, and Communications Workers of America, met with Jester to ask him to call on the Legislature to repeal the anti-union legislation passed in the previous session. Further, Jester had nominated Secretary of State Paul Brown to the better-paying post of state fire insurance commissioner, and reports circulated that he would nominate former Senator Ben Ramsey of San Augustine to replace Brown. Organized labor strongly objected to Ramsey because of his key role in the passage of the anti-union legislation in the previous session and, in their words, because he "has not missed an opportunity to gouge organized labor."\footnote{Report on Conference with the Governor, December 21, 1948, Brotherhood of Railroad Trainmen Correspondence, B. A. 11, Box 948.} Jester gave the group a courteous reception and asked them to supply him with further factual material supporting their request for repeal of the labor laws. The committee complied with an extended argument that the unfair and unnecessary laws resulted from hysteria created by 1946 strikes which occurred in unusual
circumstances. They asked Jester to give his whole-hearted support to recommending that the Legislature repeal the restrictive legislation and make a new start with constructive laws, including establishing machinery for mediation of labor disputes.60

Instead of a formal message, Jester sent a letter to the members of the Fifty-first Legislature calling their attention to the request of the Joint Labor Committee and forwarding a copy of their statement to him. He did not, however, give the wholehearted support which the labor group asked. He stated that he had signed the labor bills passed by the Fiftieth Legislature believing them in the public interest; but when a large segment of the public such as that represented by labor unions disagreed, he believed that he and the Legislature should consider their views. He noted the costliness to labor, management, and the general public of labor strife and called again for some kind of machinery for mediation of disputes.61

In any event, the Legislature had no intention of repealing the anti-union legislation. Representative Blake Timmons of Amarillo presented a bill prepared in cooperation with union representatives to recodify state labor laws,

60 Ibid.

61 Jester to Members of the Fifty-first Legislature, n. d., Jester Papers, 4-14/88.
removing overlapping and conflicting provisions and portions struck down by the courts, and to create a new state agency to mediate labor disputes. The conciliation feature closely followed Jester's proposals to the Fiftieth Legislature which labor had not supported, except that the Timmons bill provided only for voluntary arbitration. Opponents of the bill charged that it would virtually destroy the existing labor laws by watering them down and cleverly narrowing them to benefit the unions. The House killed the bill.

Jester and the Legislature gave similarly short shrift to the labor unions' opposition to Ben Ramsey's nomination as secretary of state. Reportedly as part of a political bargain to secure Senate approval of the nomination of his friend and former campaign manager, Paul Brown, as state fire insurance commissioner, Jester nominated Ramsey to replace Brown; and the Senate set a speed record in approving him. A two-minute meeting of the Nominations Committee gave union representatives no chance even to air their protests, and the Senate confirmed Ramsey within an hour after Jester submitted the nomination.

The Legislature showed an inclination to abandon further labor squabbles, however. Representative Marshall O. Bell of San Antonio, irate over reports that President Harry S. Truman was urging Congress to pass a new labor law to replace the Taft-Hartley Act and override state government restraints on labor unions, introduced a resolution calling such legislation an "unwarranted and unconstitutional invasion of state's rights" and asking Congress not pass it. Fearing that Bell's antilabor zeal would endanger a bill to establish a new medical school in San Antonio, Bell's own delegation insisted that he drop the resolution.

Some twenty years later a study of the Texas antilabor legislation that reached a crescendo during Jester's administration described the battle as more symbolic than substantive, an assessment with which Allan Shivers, then the lieutenant governor, agreed. Business interests wanted to prove they could pass the legislation, and labor unions wanted to prove they could block it. Unions found ways to circumvent some of the laws, court decisions ameliorated some of the harshness, and no one enforced the laws.

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stringently. As a result, the legislation did not seriously retard the growth of unions in Texas.\(^{67}\)

In comparison to a majority of the legislators, his own political constituency, and much of the public, Jester took a relatively moderate stand in regard to labor. He sought to get to the cause of industrial strife and protect the public interest rather than oppress the working man, although he construed "the public interest" more loosely than the unions did. Of the restrictive bills passed, he sought only prohibition of strikes by government employees and did not go so far as to prohibit their joining a collective bargaining agency. Office memoranda suggest that Jester's office considered the Legislature's antilabor zeal ill-advised; and he publicly stated that he considered opposition to his labor conciliation proposal short-sighted,\(^ {68}\) even though the opponents included some of his personal friends and political

\(^{67}\)Brewer, "State Anti-Labor Legislation," pp. 75-76; Interview with Allan Shivers, October 2, 1965, North Texas State University Oral History Collection, Denton, Texas, No. 6, pp. 20-22. Shivers described the right-to-work law particularly as more of a sedative than anything else. See also interview with Shivers, April 8, 1966, ibid., pp. 1-2. For some court cases loosening the legislative restrictions on unions see International Union of Operating Engineers v. Cox, 219 S. W. 2d 787, and American Federation of Grain Processors, AFL v. Greenville Cotton Oil Co., 217 S. W. 2d 861.

\(^{68}\)Kirk R. Mallory, secretary of state's office, to Governor, April 8, 1947, McGill to Governor, interoffice memo, May 10, 1947, McGill to Secretary of State Paul Brown, May 27, 1947, McGill Papers, 2-23/159; Jester press memo, May 20, 1947, ibid., 2-23/164; Secretary of State Paul Brown to Governor, June 12, 1947, Jester Papers, 4-14/110.
supporters. However, he either did not consider any of the restrictive bills oppressive enough to merit a veto or he lacked the courage or will to act against the sentiment of a majority of the legislators, his political supporters, and probably the public by vetoing them. Significantly, Jester had a close personal relationship with Herman Brown, who strongly backed the repressive legislation. In any case, most of the bills passed by substantial majorities, and the Legislature would likely have overridden a veto. The House's abrupt dismissal in 1949 of the Timmons bill which would have ameliorated the restrictions on unions indicates that the anti-union sentiment did not abate with passage of the restrictive bills.

Jester's lack of aggressiveness on behalf of a labor conciliation bill and an industrial safety code during the Fifty-first Legislature indicates that he either considered any further plea useless or, more likely, he was choosing his fights carefully. By the time the Fifty-first Legislature met Jester had already set his hopes on reorganization of the public school system and the prison system, an expansion program for eleemosynary institutions, and a program to curb juvenile delinquency; and he would not have wanted to

69 For Jester's ties with the Browns of Brown and Root Construction Company, Houston, see Margaret Root (Mrs. Herman) Brown to Jester, n. d. (stamped May 13, 1947), and L. D. Ransom, secretary to the governor, to Messrs. Brown and Root, Houston, April 14, 1947, Jester Papers, 4-14/63.
endanger these programs by a hopeless battle over labor legislation.

In assessing the accomplishments of his first term, Jester freely took credit for legislative accomplishments which he did not recommend or in some cases even opposed, such as the increased appropriations for the public schools. In perhaps the best indication of his attitude toward the antilabor legislation, he never took credit for the repressive labor bills.

CHAPTER VI

FARM-TO-MARKET ROADS

Despite all the talk during the 1946 campaign about farm-to-market roads by the candidates, including Beauford Jester, the Fiftieth Legislature did little about rural roads.

In his first message Jester in effect said that the Legislature did not need at that time to appropriate more money for farm-to-market roads. He noted that the Texas Highway Department already had a splendid program underway, with more mileage of road improvements than any other state during 1946. The total of 4,650 miles included 2,073 miles of farm-to-market roads, with more investment in construction work underway than at any other time in history. The highway department had a $30,000,000 surplus from the war years when it could not build roads; in addition, at the present rate of increase in revenues from the motor fuel tax and automobile license fees, it expected an average income for the next five years of over $50,000,000 annually. Furthermore, under the Federal Highway Act of 1944 Texas would receive $87,000,000 during the next three years, which the state must match on a fifty-fifty basis. Of the total $174,000,000 thus allocated to road-building in cooperation with the
federal government over the next three years, $60,000,000 would go to farm-to-market roads; at an estimated cost of $8,000 per mile, the highway department could build 7,500 miles of farm-to-market roads. Jester recommended leaving farm-to-market road construction to the state highway department in order to get an integrated system of top-quality roads built on sound engineering principles; he had little faith in the ability of county governments to handle the job. Therefore, he recommended legislation allowing road districts and counties to pool their funds with highway department funds for farm-to-market roads. He also recommended that a surplus of approximately $5,500,000 in the County and Road District Highway Fund, which the present law required splitting between the highway department and the various counties, go entirely to the highway department for the exclusive purpose of building and maintaining farm-to-market roads.¹

Jester's glowing report and the disinclination of a majority of legislators to levy new taxes deflated a movement for an ambitious program of farm-to-market road construction. Bills to raise the tax on gasoline to finance such a program got nowhere, nor did bills to transfer money

from existing funds to a farm-to-market road fund. Even a resolution authorizing the highway department to build temporary gravel or caliche-surfaced roads failed.\(^2\) Finally a bill by Charles S. McLellan of Eagle Lake levying an occupation tax on the gathering of gas and allocating part of the revenues to the public schools, in order to get the support of the school people, garnered enough support to begin moving through the House. Despite efforts by opponents to keep the bill bottled up in an unfriendly committee and parliamentary maneuvers to delay its consideration, the bill passed the House without crippling amendments. It went to James Taylor's Senate Finance Committee, from which it never emerged.\(^3\)

In the end only three bills of importance concerning rural roads passed both houses of the Fiftieth Legislature. One provided an optional system, upon approval by a majority of voters in the county, for the construction and maintenance of county roads by creating a county road department and an office of county engineer.\(^4\) Another bill followed Jester's

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\(^3\)House Journal, 50th Leg., pp. 142, 425, 559-60, 635, 660, 755-56, 819, 831-32, 948-57, 997-1015, 1254-56; Senate Journal, 50th Leg., p. 762.

\(^4\)Texas, General and Special Laws of the State of Texas, 50th Leg., reg. sess., 1947, pp. 288-91. Five years later fewer than 10 percent of the counties operated under a county unit system. Texas, Legislature, Texas Legislative Council, 52nd Leg., Texas Roads and Highways, p. 133.
recommendation by authorizing counties or their subdivisions to pool funds with the Texas Highway Department for development of their public roads. The third amended the Road Bond Assumption Act of 1943 as Jester recommended to provide that each year the Board of County and Road District Indebtedness, after discharging the obligations maturing during the preceding fiscal year, would transfer half of any surplus above $2,000,000 to the state highway fund for the sole purpose of constructing farm-to-market roads by the highway department; the remaining half, however, would go to the Lateral Road Account for distribution to the various counties for construction of lateral roads.

The limited action on farm-to-market roads did not satisfy legislators from rural areas who wanted to get rural Texans out of the mud. Senator Grover C. Morris of Greenville lambasted the Texas Good Roads Association for opposing an additional gasoline tax to build rural roads and for presenting what he considered an unduly rosy picture of the state's progress in road-building. What does it matter, he asked, if the current building program brings 62 percent of rural dwellers within half a mile of a hard-surfaced road if they cannot traverse that half-mile in inclement weather?

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5 General and Special Laws of the State of Texas, 50th Leg., pp. 25-26; House Journal, 50th Leg., p. 89.

6 General and Special Laws of the State of Texas, 50th Leg., pp. 539-42; House Journal, 50th Leg., p. 89.
Morris charged that the oil industry and the bus and truck lines sabotaged the rural road improvement program in the Fiftieth Legislature. Equally unhappy, the Texas Farm Bureau threatened that farmers would show up in force in Austin if the Legislature did not give more heed to their needs. Not unsympathetic to the needs of rural residents, Jester wanted what he considered a reasonable bill that would allow for adequate planning and avoid new taxes. But the fact that the farm-to-market road program at the end of the legislative session provided for only 7,500 miles of rural roads over the next three years under the federal-state building program, plus another possible 2,500 miles per year if every county participated in the joint state-county program authorized by the Legislature, made Jester's position weak; in the vast reaches of Texas, 15,000 miles of rural roads in three years would not go far.


8 Undated clipping from unidentified newspaper in Jester Papers, 4-14/126.

9 House Journal, 50th Leg., pp. 87-89; McGill to Jester, interoffice memo, January 4, 1949, Jester Papers, 4-14/88.

During the time between legislative sessions the demand for an ambitious farm-to-market road construction program continued to build. The retiring president of the County Judges and Commissioners Association vowed that the association would renew its fight in the next Legislature for a tax levy to build rural roads; the group did not care what kind of tax, so long as they got the money. The association would insist that the counties participate heavily in spending the additional funds, contending that the highway department could not handle the large number of small roads needed. Representative Grady Moore of Clarksville urged rural road advocates to rally behind a single revenue bill for farm-to-market roads in the next session. Spreading support among seven bills in the last session permitted pressure groups to play each group against the other and defeat them all, he said; the bills that did pass provided inadequate stop-gap measures, and the proposed constitutional amendment that would permit counties to levy thirty cents of the ad valorem tax for road purposes would not help small, poor counties.

Early in 1948 representatives of eleven statewide groups formed the Texas Rural Roads Association to push for a comprehensive farm road program and a tax bill to finance

11 Ibid., December 20, 1947.
it in the next session of the Legislature. The association had the potential for formidable lobbying, as it included the County Judges and Commissioners Association, Texas State Teachers Association, State Medical Association of Texas, Texas Farmers' Union, American Federation of Labor, Texas Rural Letter Carriers Association, and Texas Farm Bureau Federation. It secured Robert Wilburn Calvert, chairman of the State Democratic Executive Committee, as an unpaid lobbyist; and one member, Charles S. McLellan of Eagle Lake, had sponsored a tax on natural gas that passed the house in the Fiftieth Legislature. The group had a bill ready for the Fifty-first Legislature to finance a road program by a tax on gas produced in Texas for out-of-state use.\textsuperscript{13}

The struggle over the farm-to-market road program occurred essentially between two groups. One group, including Jester and the Texas Highway Department, wanted to proceed at a cautious pace and integrate top-quality roads into the state road system; DeWitt Greer, the state highway engineer, said that gravel roads would not suffice because the gravel blew or washed away at the rate of an inch or more a year. This group wanted the highway department to control the farm road program and keep substantial funds out of the hands of the county judges and commissioners.

\textsuperscript{13} Ibid., March 28, 1948; Robert W. Calvert, \textit{Here Comes the Judge: From State Home to State House} (Waco: Texian Press, 1977), pp. 116-17.
because of waste and suspected graft in the purchase of road-building equipment. Furthermore, Greer argued that the form of county government militated against efficiency in road-building; with independently-elected commissioners all trying to satisfy their constituents, the commissioners' courts could not concentrate funds on a single road at a time but must disperse them throughout the county, to a point that they made little actual progress.  

The other group, representing those who had to travel on dirt roads, had no patience for prolonged planning and cautious spending. Even low-quality gravel roads represented an improvement over muddy roads, and the lower cost would permit construction of more mileage. With only one-third of the secondary roads hard-surfaced, statements that Texas led the nation in construction of rural roads did not impress them.  

In mid-1948 Jester announced he would ask the next Legislature to appropriate $20,000,000 from the general revenue fund for farm-to-market road construction but would oppose additional taxes for the purpose. He pointed out that a recent study showed that with approximately 25,000 miles

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of farm-to-market roads added to the present system the state road system would carry 85 percent of the total traffic. At the present rate of construction and with currently available funding, the highway department could complete approximately 12,300 miles of local service roads by 1951 and 25,000 miles by 1955. If the Legislature appropriated the recommended $20,000,000 the highway department could build still another 2,500 miles by 1951, for a total of 14,800 miles. In addition, the counties received approximately $26,000,000 annually for road building and maintenance and after 1951 could raise up to $15,000,000 more through the ad valorem tax.16

When Jester carried his $20,000,000 proposal to a meeting of the Texas Rural Roads Association, he came under sharp attack. The president of the association said that solving the state's number one political problem would take more than $20,000,000. When the association proposed increasing natural resources taxes for building rural roads, Jester warned that the state's appetite for farm-to-market roads "... may go beyond its digestive capacity," beyond

16Ibid., June 6, 1948; Jester to the Members and Members-Elect of the 51st Legislature, November 12, 1948, Jester Papers, 4-14/88. DeWitt Greer doubted that the $26,000,000 spent by the county commissioners added much to the total mileage of rural roads; Greer to McGill, October 15, 1948, McGill Papers, 2-23/165.
the equipment available for construction, and beyond the practical limits of maintenance. 17

A December meeting of the governor with representatives of the Texas Rural Roads Association disclosed that the group wanted construction of all-weather roads for every school bus route in the state, or about 30,000 miles more than the highway department's program contemplated. The group agreed that the highway department could do a better job of construction but did not want to preclude the counties' building some of the roads. 18

Determined to hold the line on farm-to-market road construction and hoping to bolster his own plan for having the highway department build the roads, Jester asked the highway department and the County Judges and Commissioners Association to supply data concerning the number of miles of rural roads they constructed during the past year and how much they expected to build with the funds available during the coming year. He did not expect a response from the County Judges and Commissioners Association because he believed they could show little to justify their expenditures

17 Dallas Morning News, June 5, September 21, October 15 and 20, 1948.

18 Weldon Hart (Jester aide) to Jester and McGill, interoffice memo, December 3, 1948, Jester Papers, 4-14/88.
of $26,000,000; but he hoped to use to his own advantage their refusal to respond.\(^{19}\)

On January 12 Senator George Moffett of Chillicothe presented a bill to allocate $20,000,000 from the general revenue fund for farm-to-market road construction, but the Senate Finance Committee never reported the bill. Two similar bills with a $40,000,000 price tag suffered a similar fate.\(^{20}\) In the House Charles S. McLellan of Eagle Lake proposed a large-scale program of rural road construction financed by a tax of 1¢ per 1,000 cubic feet of natural gas.\(^{21}\) On February 16 Jester sent an emergency message to the Legislature suggesting, instead of a one-time sum of $20,000,000, a continuing plan of spending $10,000,000 annually; a program of construction of all-weather school bus roads should parallel the plans for an enlarged and

\(^{19}\)McGill to DeWitt Greer, September 27, 1948, Greer reply, October 15, 1948, McGill to Jester, interoffice memo, November 15, 1948, McGill Papers, 2-23/165; McGill to Jester, interoffice memo, January 4, 1949, Jester to John S. Simmany, president, County Judges and Commissioners Association, January 4, 1949, Jester Papers, 4-14/88; anonymous memo regarding special session of the Legislature, [Jester's office, November 1948], Governors' Papers—Allan Shivers, Texas State Archives, Austin, 1977/81-232.


improved public school system, he said.\textsuperscript{22} The plan also had the advantages of spreading the cost over several years, freeing more money for Jester's special projects, and of defusing the movement to appropriate as much as twice the $20,000,000 figure which Jester originally proposed. Representative Dolph Briscoe of Uvalde had already presented a bill to allocate $1,250,000 monthly, or an annual total of $15,000,000, from the 1941 omnibus tax clearance fund for farm-to-market road construction; on February 28 Neveille Colson of Navasota and others offered Senate Bill 287 with the same provisions.\textsuperscript{23} James E. Taylor of Kerns and other sponsors of the Gilmer-Aikin school bills had promised to support a farm-to-market road bill in exchange for House Speaker Durwood Manford's support of the school bills.\textsuperscript{24} Unlike other appropriation bills that languished in Taylor's Senate Finance Committee for weeks, Senate Bill 287 emerged on March 1 with a favorable report. On the same day, the Senate took up the bill; turned down amendments to double the appropriation, to require the highway department to build the roads, and to limit the appropriation to two years; and finally passed the bill with only three senators

\begin{itemize}
\item \textsuperscript{22}House Journal, 51st Leg., reg. sess., pp. 265-66.
\item \textsuperscript{23}Ibid., p. 127; Senate Journal, 51st Leg., reg. sess., p. 276; Dallas Morning News, February 16, 1949.
\end{itemize}
from large cities voting against it. Approval of the bill by the governor, lieutenant governor, and leaders of both houses smoothed its way. 25

Senate Bill 287 went to the House committee which still held Briscoe's bill; and on March 9 the committee reported it favorably. On March 21 the house suspended the regular order of business to take up the Colson-Briscoe bill and quickly passed it with only five negative votes. 26

As for the McLellan road bill, at the committee hearing on March 8 the Texas Rural Roads Association packed the House chamber with farmers and ranchers, variously estimated as numbering from 2,500 to 5,000. In a carnival-like hearing that lasted past midnight the committee by one vote reported

25Senate Journal, 51st Leg., reg. sess., pp. 286, 294-95; Dallas Morning News, March 1, 1949. Searcy Bracewell of Houston, Keith Kelly of Fort Worth, and W. R. Cousins of Beaumont voted against the bill. Dorsey B. Hardeman of San Angelo stated that he offered the amendment to double the appropriation to assure that Jester would veto the bill; Hardeman objected because the bill made no provision for road maintenance. Hardeman said the Senate approved his amendment, but a statement by James E. Taylor of Kerens that he would not go along with a $30,000,000 annual expenditure resulted in a change of votes. Hardeman recalls opposing the bill, but the Senate Journal does not show him voting against final passage. Interview with Dorsey Hardeman, February 27, 1975, p. 37, East Texas State University Oral History Program, A. M. Aikin, Jr., Special Project, Commerce, Texas.

the bill favorably.\textsuperscript{27} At the hearing Robert W. Calvert
spoke for the bill; but with what he called tremendous
pressure by the oil and gas lobbyists against the bill,
opponents in the House successfully stalled it.\textsuperscript{28} Calvert
believed the bill laid the groundwork for passage of the
Colson-Briscoe bill; perhaps it did, in the sense that
fiscal conservatives saw that some kind of farm-to-market
road bill would pass and considered the Colson-Briscoe bill
more acceptable.

On signing the Colson-Briscoe bill Jester said, "... I feel that I am taking part in one of the most significant
programs that has been launched during my term as governor."\textsuperscript{29}
The program would begin September 1, 1949, and would add an
estimated 2,000 miles annually to the road system, approxi-
mately a 75 percent increase over the current rate of con-
struction of farm-to-market roads per year. Unimproved
roads most needed as feeder roads, school bus roads, rural
mail routes, and the like would receive priority. At least
one end of the road would connect with a road already
improved or scheduled for improvement in the state system.

\textsuperscript{27}Ibid., p. 728; F. S. Makeig, Dumas, to Jester, March 11, 1949, Jester Papers, 4-14/104; Calvert, \textit{Here Comes the Judge}, pp. 116-17; \textit{Dallas Morning News}, March 8 and 9, 1949.

\textsuperscript{28}House Journal, 51st Leg., reg. sess., p. 4282, gives the history of the bill; Calvert, \textit{Here Comes the Judge}, pp. 116-17.

\textsuperscript{29}Press memo, March 4, 1949, Jester Papers, 4-14/88.
of roads. Jester said, "This plan fits perfectly into my conception of the State's proper part in expanding and improving our Rural Road system." 30

30 Ibid.
CHAPTER VII

PRISON REORGANIZATION AND REFORM

The Texas prison situation received some attention in the 1946 gubernatorial campaign, although the more sensational aspects of the campaign overshadowed it. Both former Governor James V. Allred and candidate Homer Price Rainey attacked outgoing Governor Coke Stevenson's record on pardons and paroles. Allred charged that more than half of the clemencies granted during the first half of 1945 went to convicts with previous prison records and laid the blame squarely on Stevenson; under the state constitution a board of pardons and paroles recommended clemencies, but the final decision rested with the governor.¹ According to figures gathered by Lyndon Baines Johnson for the 1948 senatorial campaign against Stevenson, in 1945 Stevenson released 48.2 percent of the prison population through clemencies.²

¹ Allred radio address, May 18, 1946, Homer Price Rainey Papers, 1919-1952, Joint Collection, University of Missouri Western Historical Manuscript Collection--Columbia & State Historical Society of Missouri Manuscripts, Columbia, Missouri, Box 43, file 1343 (hereafter cited as Rainey Papers).

Beauford Halbert Jester took notice of the issue in a press release on June 3 but, not wanting to attack the friendly Stevenson administration, blamed a parole law which did not provide for adequate supervision of parolees. He promised to recommend a modern and enforceable parole and probation law that would include a provision denying a second parole to anyone who committed a felony while on parole.³

Rainey devoted an entire speech, drafted by Allred, to law enforcement and pardons and paroles. He noted that the Department of Public Safety recently reported that major crime in Texas increased 45 percent in the first quarter of 1946 over the same period in 1945. He recommended measures which Jester later followed surprisingly closely, including increased appropriations for the Department of Public Safety for more men and equipment, careful review of every recommendation of clemency to stop the release of hardened criminals, an effective classification system to stop the practice of placing first offenders in units with incorrigibles, legislative implementation of a 1935 constitutional amendment to allow judges to suspend sentences or put first offenders on probation, and a state commission to

³Governors' Papers--Beauford H. Jester, Texas State Archives, Austin, 4-14/64 (hereafter cited as Jester Papers).
aid local communities in planning youth programs to break the cycle of juvenile delinquency.⁴

Early in 1947 the chairman of the Texas Prison Board charged that the belief among prisoners that for $1,000 they could get a pardon, parole, or reprieve created massive discipline problems in the prisons, and the Fiftieth Legislature launched an investigation of the pardons and paroles system.⁵ The investigating committee’s report cited gross abuses in the administration of clemencies and called for the immediate resignation of the chairman of the Board of Pardons and Paroles, Abner Lewis, who promptly refused and challenged the soundness of the report. The committee found gross abuse of discretion by the board in recommending clemencies, gross failure to discriminate among types of crimes, gross failure to consider properly the current prison record of convicts, total disregard of previous criminal records and prior convictions, lack of uniformity in determining a basis for recommending clemencies, gross failure to consider cases in the order in which convicts became eligible for clemency, close relations between Lewis and professional clemency seekers, and a practice in the governor’s office of delegating authority over clemencies

⁴Allred to D. B. Hardeman (Rainey’s campaign manager), June 20, 1946, Rainey Papers, 43/1346; Address on Law Enforcement, July 2, 1946, ibid.

⁵Dallas Morning News, January 8 and 30, 1947.
to minor employees. The report charged that the board more often recommended clemency for clients of professional clemency seekers and recommended clemency for chronic violators of prison rules, some of whom had served six or seven terms.  

As promised during the campaign, in his first message to the Legislature Jester recommended passage of an adequate clemency law after hearings to obtain as much expert advice as possible from peace officers, penologists, sociologists, and various officials who had experience in granting clemencies. He did not criticize the Board of Pardons and Paroles, saying it had difficulty carrying out its functions without a clear law and without adequate investigative and supervisory personnel. Privately Jester did not regard the board quite so generously, particularly Abner Lewis and particularly after friction developed between the governor and the board.

Jester proceeded cautiously in granting clemencies, instituting his own procedure of close personal scrutiny of

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6 Ibid., May 6, 1947; Report of the General Investigating Committee to the Lieutenant Governor, May 5, 1947, Jester Papers, 4-14/60.


8 Secretary of State Paul Brown to Jester, interoffice memo, n. d., and attached suggested press release, Jester Papers, 4-14/60.
all clemency recommendations, considering first-term offenders who had served one-third of their sentences with a clean prison record, taking into consideration any previous criminal activities, inquiring whether law enforcement officers in the county of trial objected to their release, and considering whether the convicts' release would pose a threat to society. Taking note of persistent reports that some attorneys told families of convicts they could get a pardon for a specified sum, Jester wrote the chairmen of the various grievance committees of the Texas Bar Association that he intended to investigate all such reports and turn them over to the proper grievance committees.\textsuperscript{9}

Jester's caution impelled Abner Lewis to level a blast through the newspapers charging that Jester had never conferred with him over matters of policy regarding pardons and paroles and not only turned down 90 percent of the board's recommendations but at times held up action on the recommendations so long that prisoners completed their sentences before he acted.\textsuperscript{10} Either Lewis wildly exaggerated or the board began taking a more conservative approach in its recommendations. A report of activity of the board from

\textsuperscript{9}Jester to Berl Clark, chaplain of Central No. 2, Texas Prison System, Sugarland, September 24, 1948, ibid., 4-14/113; press memo, November 12, 1948, ibid., 4-14/126; Dallas Morning News, February 18, 1947.

\textsuperscript{10}Austin Statesman, November 8, 1947, clipping in Jester Papers, 4-14/60.
September 1, 1947, to July 1, 1949, showed that Jester approved about 94 percent of the board's recommendations during that period, including all types of clemencies ranging from full and conditional pardons of convicts down to reinstatement of suspended drivers' licenses and hunters' privileges. Of 1,218 inmates released on initial clemency during the period, about 92 percent remained on good behavior.11

In the Fiftieth Legislature Representative George Parkhouse of Dallas presented a probation and parole bill to set up a statewide system of paid probation officers assigned to the district courts under the Board of Pardons and Paroles to replace the current system of volunteer parole supervisors. The bill would allow the courts to probate the sentence of anyone not sentenced to death or life imprisonment; Parkhouse said the bill represented the work of probation and welfare experts and had the endorsement of the Council of Social Agencies. The House passed the bill by a large majority, but the Senate Committee on Criminal Jurisprudence wrote a substitute bill stiffening many features of the bill and eliminating others. It tossed out the system of paid probation and parole officers and placed supervision in the hands of judges of the criminal

11Jester Papers, 4-14/113.
district courts. District judges could grant probation to first-time offenders with a sentence of five years or less, and the substitute bill allowed parole of first-termers after they served one-third of their sentences.\(^\text{12}\) The Legislature's failure to provide funds to administer the probation system, the attorney general's challenge of the constitutionality of several sections of the bill, and the inability of law enforcement officials to agree on the meaning of the bill rendered it largely inoperative.\(^\text{13}\) In the Fifty-first Legislature Parkhouse again presented a probation bill which Jester endorsed. Again the Senate gutted the bill, cutting out all appropriations and provisions for probation officers; and after Jester died Governor Allan Shivers vetoed the bill.\(^\text{14}\)


\(^\text{13}\) William McGill (Jester's executive assistant) to Paul Brown, interoffice memo, July 31, 1948, William McGill Papers, Texas State Archives, Austin, 2-23/166 (hereafter cited as McGill Papers); Dallas Morning News, October 30, December 4, 1947, July 1, 1948.

Studying conditions in the prison system, appointing new members to the Texas Prison Board, securing a new general manager, and planning for reform took up most of 1947. James E. Wheat, who had served on the prison board for four years without seeing much improvement, called the prison system a disgrace to the state; but some members of the board closed their ears to reports of intolerable conditions in the prisons.  

After conferring with Jester, Wheat arranged a meeting for him with Austin MacCormick, a leading national authority on penal problems who had surveyed the Texas prison system in 1945 at the request of the prison board. Early in March MacCormick met with Jester, members of the prison board, the general manager of the prison system, and the House and Senate Committees on Penitentiaries. He considered the most pressing problem one of replacing old buildings and providing living quarters for an expected postwar increase in the prison population. The system consisted of the walled unit at Huntsville with an optimum


capacity of 900, although it currently held 1,100, and eleven farms scattered over a 150-mile area which currently held about 3,500 inmates. The entire system had only 750 cells. Contrary to the usual practice, the Huntsville unit held the most tractable prisoners; MacCormick stated that the federal prison system would never permit the type of men Texas had on the farms to work outside the walls, especially since they lived in open dormitories, called "tanks." With an inadequate number of guards, poorly qualified and poorly trained, conditions in the tanks had reached the point of scandal, with every imaginable kind of perversion and brutality, knifings, killings, and inmates' inhumanity to each other. The moral level of each tank fell to the level of the worst inhabitant because the most vicious ruled inside the tanks. A problem peculiar to Texas, self-mutilation, had spread like a contagious disease; as many as one hundred inmates had mutilated themselves in the past year, most commonly clipping the heel tendons but sometimes cutting off fingers, toes, hands, or feet. Sometimes they did it out of pure frustration or desperation to get out of the tanks or away from the farms; sometimes other inmates forced them at knife-point; sometimes a group simply drew lots and the loser had to mutilate himself. The situation in the tanks and the excessive number of escapes led to the necessity for excessive punishment to
control the inmates; and with the low salaries for guards generally attracting the lowest class of people, punishment often meant excessive brutality.

MacCormick recommended abolition of the tanks and housing the inmates in cells at night. He noted that the board had already secured $150,000 with which inmates were building a cell block at the Ramsey unit at an economical cost, using prison-made materials. He recommended that the Legislature grant the board's request for $575,000 to complete this building and start another. He also recommended reducing the overemphasis on farming by gradually introducing more industries and allowing the sale of prison products at a small profit to pay inmate workers a small salary; under the present Texas law prisons could sell their products only for the bare cost of the materials.

Finally, MacCormick recommended revising the parole system so that inmates automatically came up for parole at a fixed time; a board should make the decision based on the inmate's whole life history and conduct in prison. State-paid parole officers, not volunteers, should supervise the parolees.  

The Fort Worth Star-Telegram of March 6 editorialized that the state had defaulted too long in its responsibility,

17 MacCormick statement, March 3, 1947, Jester Papers, 4-14/113; Galveston Tribune, March 4, 1947, clipping in ibid., 4-14/60; Dallas Morning News, September 14, 1947.
and the MacCormick report should lead to something besides raised eyebrows and pious resolutions. Jester first had to solve a problem with the prison board and the prison management, however. The general manager insisted that he dealt summarily with isolated instances of brutality and that not one-tenth as much brutality existed as alleged by those who knew nothing of the facts. The prison board split between those who favored harsh treatment and punishment for convicts and those who wanted to improve prison conditions and emphasize rehabilitation.

The report of a legislative committee appointed to investigate the prison system not only corroborated MacCormick's findings but also found filthy, unsanitary, and unhealthful conditions, with inmates treated worse than animals, and it recommended the dismissal of two farm managers. The committee also split, however, with some members refusing to sign the report. Senator Jimmie Phillips of Angleton, whose district contained two prison farms, defended the two managers, saying they had drastically reduced escapes. To alleviate prison conditions the

18 D. W. Stakes, general manager, Texas Prison System, to McGill, April 14, 1947, Jester Papers, 4-14/60.


Fiftieth Legislature granted an emergency appropriation of $349,000 for the remainder of the fiscal year and increased the biennial appropriations by $1,635,832.\textsuperscript{21}

Jester took an active role in setting the prison board on the road to reform, attending their meetings, conferring with individual members, and appointing new men who would follow his lead. He challenged them to plan for the future so they could sell improvement ideas to the Legislature by showing progress.\textsuperscript{22} Meanwhile, he lent a hand to making improvements where he could. Learning that the prison system had discontinued screening inmates and employees for tuberculosis because of the expense, Jester arranged for the State Health Department to do the screening.\textsuperscript{23}

July and August of 1947 saw a rash of discipline problems in the prison system, with twenty-two cases of mutilations, two inmate deaths at the hands of other inmates, a suicide, seventy-six cases of mutiny, thirty-nine

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\textsuperscript{21}House Journal, 50th Leg., p. 2101; Senate Journal, 50th Leg., p. 820; General and Special Laws of the State of Texas, 50th Leg., reg. sess., 1947, p. 899.

\textsuperscript{22}L. D. Ransom (governor's staff) wire to J. E. Wheat, Texas Prison Board, June 27, 1947, McGill to Jester, inter-office memo, August 26, 1947, Jester Papers, 4-14/60; Dallas Morning News, July 8, 1947.

\textsuperscript{23}McGill to George W. Cox, state health officer, September 6, 1947, Jester Papers, 4-14/113; Cox reply, September 10, 1947, Jester to W. C. Windsor, chairman, Texas Prison Board, Tyler, October 15, 1947, ibid., 4-14/60.
\end{flushleft}
escapes, and thirty-three escape attempts. Austin MacCormick took the occasion to wire Jester to urge immediate attention to the needs of the prison system. Although some board members resented MacCormick's interference, the publicity resulting from his wire apparently tipped the balance in favor of reform. At a meeting on September 1 the board elected new officers from Jester's appointees and announced a program of prison improvement. The board voted to put the general manager on sixty days' probation with instructions to effect a general improvement. In fact, the board was giving itself time to find a new general manager, and the search began immediately.

At their own expense board members surveyed penal institutions in other states, especially those having agricultural operations. W. C. Windsor, the new board chairman, visited a model penal farm in Shelby County, Tennessee, and approached its manager, O. B. Ellis, about coming to Texas. At first Ellis declined, but Windsor kept


25 August 28, 1947, ibid., 4-14/60.


up a correspondence with him, asking his advice on selecting a new general manager. Two months later Windsor again offered Ellis the position, stressing the tremendous opportunity for service; impressed by the sincerity and caliber of the Texas Prison Board and intrigued by the challenge, Ellis agreed to accept the position of general manager of the Texas prison system.  

In the meantime, the prison board continued to have problems, with old members of the board and the present general manager making decisions and announcements without concurrence of the full board. The difficulties reached a climax at the November board meeting when the general manager asked for a showdown ruling on policy, complaining that the board had failed to set a definite policy to guide him and charging that some members of the board interfered in his operation of the system. He offered his resignation, and the board promptly accepted it over the objections of two old members of the board. The board then adopted a five-point policy for operation: a sensible, vigorous program of rehabilitation, religious activities, vocational

28 Correspondence between Windsor and Ellis, September 16 and 22, October 2 and 10, November 7 and 18, 1947, Jester Papers, 4-14/60; Allan Shivers, "The Texas Prison System: A Record of Progress," State Government 27(June 1954):114.

29 W. C. Windsor to D. W. Stakes, September 17, 1947, W. A. Lee to Jester, September 19, 1947, Jester Papers, 4-14/60.
training, and readjustment of discharged prisoners to useful citizenship through legitimate employment; improvement of living conditions; segregation of young inmates and first-offenders from old inmates and repeaters and construction of additional single-cell buildings to carry out this part of the program; increased salaries and improved living conditions for guards in order to attract better personnel; mechanization of farming; and modification of the law so that prison industries might operate at a profit to pay for upkeep and replacement of machinery and wages for supervisors.\(^\text{30}\) Shortly after the meeting two old members of the board resigned, giving Jester's appointees control of the board; and resignations of several members of the prison management followed in the next few weeks.\(^\text{31}\) The chairman of the board recounted accomplishments of the new board in the first two months since its organization: it obtained the resignation of the general manager, adopted a five-point program for improvement, established a policy that the board must work as a unit and not individually interfere with the management or farm wardens, wrote and approved rules by which prison personnel must operate, established a school for guards,

\(^{30}\)Minutes, Texas Prison Board Meeting, November 3, 1947, ibid., 4-14/113; Dallas Morning News, November 4 and 5, 1947.

\(^{31}\)Dallas Morning News, November 7 and 23, December 3 and 10, 1947.
and began an intensive check of the business operations of the prison system.\(^{32}\)

The high point of the year for the prison board came with the announcement that it had secured O. B. Ellis as general manager of the prison system as of January 1948.\(^ {33}\)

For the past seven years Ellis had directed the 5,017-acre Shelby County Penal Farm, which had influenced Southern agriculture in the promotion of diversified farming, soil conservation practices, correct land usage, and a sound livestock program. The farm produced 93 percent of the necessities for maintaining prisoners, personnel, and the farm itself; but Ellis considered the agricultural accomplishments secondary. He believed that idleness caused most of the trouble with the prisoners; keep them well-fed, well-clothed, well-housed, and give them fair and individual treatment, he said, but keep them busy on productive jobs. Ellis's policy had worked well for the Tennessee farm, which had never had a mutiny or had to shoot or whip an inmate. Ellis planned to survey the Texas prison farms before making recommendations to the prison board; but already he saw the need to increase cotton production, switch to mechanization, diversify crops, begin soil

\(^{32}\)W. C. Windsor to Jester, November 18, 1947, Jester Papers, 4-14/60.

\(^{33}\)Dallas Morning News, November 26, 1947.
conservation and drainage, and improve the breed of livestock. The prison board expressed elation over hiring Ellis but warned that he would need the full support of the governor, the Legislature, other state departments, and the public. Jester had previously announced he would support the building program recommended by Austin MacCormick, and he now stated that he would make prison improvements a priority for the next session of the Legislature. Despite all the investigations and plans, however, the Dallas Morning News warned, the prison system would remain bad until the Legislature provided more money.  

In September the prison board had announced a series of conducted tours of the prison system for reporters to combat the recent unfavorable publicity; but the resulting articles worked more to build public demand for prison improvements as reporters observed overcrowding, idle industries, and shortages of basic necessities. Inmates worked the farms with mule- or ox-drawn plows and tools that dated from the turn of the century. Only the automobile license plant operated at full capacity. The printing plant operated at half capacity because by law it could only do printing for the prison system. The shoe manufacturing plant, which once made all the shoes for the inmates, could not operate.

34 Dallas Morning News, September 14, November 5, December 4, 5, and 20, 1947.
on such supplies as it received; only two men were working
at the mattress shop although inmates slept on the floor at
some of the farms. Inmates lacked winter clothes, blankets,
and soap with which to bathe and sometimes got clean clothes
once a week. Only one unit had warm barracks. Apparently,
laxity by the prison management in filling requisitions
explained part of the shortages, although lack of funds
caused most of them. Inmates complained of a lack of vari-
ety in their food, but reporters discovered a far more
serious problem. Because of soaring food prices, a rapidly
growing prison population, mismanagement, and probably
blackmarketing of meat intended for prisoners, in the first
three months of the fiscal year the prison system had spent
61 percent of the year's food allowance. The prison board
had already cut the daily meat allowance in half, but even
if it cut it in half again the money for food would not last
the rest of the fiscal year. 35

Since the summer of 1947 reports had periodically
surfaced that Jester's tight clemency policy was causing an
increase in prison population, but Jester adamantly refused
to liberalize his policy. He also refused to call a special

35 Ibid., September 2, December 12-15, 1947; Tom DeBerry,
State Board of Control, interdepartmental memorandum,
December 16, 1947, Bronson Morgan, Texas Prison Board,
Jasper, to B. A. Stufflebeme, Texas Prison Board, Grand
Prairie, December 20, 1947, Jester Papers, 4-14/60; O. B.
Ellis, general manager, Texas Prison System, to Representa-
tive James C. Spencer, Athens, June 3, 1948, ibid., 4-14/113;
session of the Legislature to appropriate emergency funds to cover the looming food shortage in the prisons. He insisted that with 73,000 acres of land the prison system could raise enough beef to feed the inmates. Told that the system had already used all the beef it could economically slaughter, Jester said, "I'll be from Missouri on that." By the end of the year the crisis had reached such a stage that Jester learned the prison board planned to ask him to parole five to six hundred prisoners, and he began to cast about for an alternative. He considered bringing some five hundred carefully picked offenders to Austin to work at menial jobs such as grounds-keeping and general handywork or having the Texas National Guard or the State Parks Department hire convict labor. However, the National Guard had no funds with which to pay labor or feed the convicts; and Ellis, now general manager of the prison system, rejected proposed short-term jobs at the various state parks as impractical because of the cost of housing, feeding, and guarding the prisoners. Nevertheless, at a meeting of the

36 Representative C. M. McFarland, Wichita Falls, to Jester, December 15, 1947, Jester Papers, 4-14/60; Dallas Morning News, July 11, December 19, 1947.

37 McGill to Jester, interoffice memo, December 31, 1947, with attached plan by Ike Ashburn (Jester's longtime friend and unofficial advisor), Jester Papers, 4-14/60; McGill to K. L. Berry, adjutant general, January 9, 1948, McGill to Paul Brown, interoffice memo, January 13, 1948, ibid., 4-14/113.

prison board early in January 1948 Jester turned aside
suggestions for a more lenient clemency policy to reduce
the prison population in favor of stop-gap measures to
postpone the problem. Interdepartmental fund-swapping
assured enough money to feed the prisoners for several
months; Jester promised to give the prison system priority
on the governor's deficiency fund and announced that he
would confer with the highway department about reimbursing
the prison system for $140,000 worth of steel purchased for
the manufacture of 1949 automobile license plates. Although
the highway department agreed to cooperate, the state
comptroller's office objected because the departmental
appropriations bill provided for reimbursement of the prison
system only after delivery of the license plates. A news-
paper report that Jester intended to pursue the financial
shortcut because of the urgent circumstances shocked at
least one legislator, who renewed the demand for a special
session of the Legislature as the only constitutional way
to avert the crisis. After reviewing the departmental
appropriation bill, the secretary of state informed Jester
that the highway department could not legally reimburse
the prison system before actual delivery of the license
plates.

39McGill to O. B. Ellis, January 9, 1948, ibid.; Dallas

40Representative C. M. McFarland, Wichita Falls, to Jester,
January 9, 1948, Jester Papers, 4-14/113.
plates. After careful studies by representatives of the state auditor's office, the State Board of Control, and the prison system to ferret out all available funds and determine the absolute needs of the prison system, the conferees devised a combination of financing methods and managerial changes to overcome the shortage of food funds. The highway department would pay $155,000 for 1948 automobile license plates immediately upon delivery without awaiting a determination of the actual cost of manufacturing and would buy $100,000 worth of steel for 1949 license plates and consign it to the prison system, allowing the system to use its industrial revolving fund for food instead of for purchasing the steel. Jester would contribute $100,000 from the governor's deficiency fund, and Ellis planned early cotton plantings to get the crop on the market early and intensified truck crop planting to produce more food for the system. However, one determined member of the State Board of Control held out against all blandishments to allow the highway department to participate in the fund-juggling. Only the $100,000 from the governor's deficiency


42 McGill to Jester, interoffice memos, January 13 and March 25, 1948, ibid.; McGill to Jester, interoffice memo, April 6, 1948, ibid., 4-14/81; D. C. Greer, state highway engineer, to Jester, April 8, 1948, ibid., 4-14/113; Dallas Morning News, February 15, 1948.
fund, a record harvest, and the prison board's authorization for Ellis to withhold from the state treasury and use funds from the sale of cotton and other prison-produced agricultural products permitted the prison system to avert financial disaster.\(^43\)

When not occupied with trying to feed the prisoners, Ellis made other changes, firing and transferring personnel to achieve greater efficiency and expanding the division of classification. He intended for the classification system not only to segregate first-termers and those capable of rehabilitation from habitual criminals but also to increase security by segregating troublemakers and potential escapees and to utilize more efficiently inmates' aptitudes, skills, and other interests for their own useful development. By the end of January Ellis presented to Jester the broad outline of his reorganization plan. He wanted the system to produce as much of what it consumed as possible and to produce articles to sell to other state agencies on a profit basis. He proposed a building program to house personnel and to reduce the number of tanks, and he strongly recommended finding other facilities to confine the criminally insane because the prison system had no place for

\(^{43}\)Minutes of the Texas Prison Board Meeting, July 5, 1948, Jester Papers, 4-14/113; Dallas Morning News, July 6, 1948.
them and could not get a psychiatrist at the salary allowed.\textsuperscript{44}

Jester played a part in publicizing the reform plan. He told the Texas Jersey Cattle Club of Ellis's plans to upgrade the prison system's cattle herds. He told reporters that several members offered to donate good registered animals to help start building the herd, in hopes of inducing other groups to do the same.\textsuperscript{45} Although not lacking information about prison conditions, he made a well-publicized tour of the prison facilities amid freezing drizzle, accompanied by reporters, and praised Ellis's improvements and endorsed his plans. He warned that the reorganization would cost a lot of money but termed it an investment rather than an expense, saying that Texas had a social duty to solve the prison problem. He expressed a keen interest in the canning plant at Central Farm and pledged to support legislation to permit the system to sell its products to other state institutions at a profit.\textsuperscript{46}

After completing his two-day tour of the system, the most intense inspection since the administration of Governor Pat

\textsuperscript{44}Dallas Morning News, January 15, 25, and 28, 1948.

\textsuperscript{45}Jester to Ellis, January 17, 1948, Jester Papers, 4-14/113.

Neff, Jester called on the prison board to estimate the cost of the new buildings and equipment needed to implement Ellis's plans. Despite the initial cost, Jester predicted that Ellis's plans would make the system self-supporting within a few years. He especially lauded Ellis's methods of handling prisoners, based on the principle of creating incentive for inmates' cooperation to improve their conditions while in prison. Jester promised to augment the policy through his handling of clemencies, giving favorable consideration to cooperative prisoners.47

On February 20 Ellis presented to the prison board an outline of his views and plans, enlarging upon the tentative program he had given Jester. He recommended building five or six cottages at each unit to house personnel and providing a minimum salary of $150 per month for guards. He recommended building more individual cells in order to have fewer tanks. Stating that 10 percent of the inmates caused 90 percent of the trouble, he proposed construction of a new ward to isolate incorrigibles; he would feed, house, and provide them necessary medical care but make no attempt to work them or provide recreation. He opposed abusing, cursing, or any form of brutality, favoring firm and just discipline without coddling. He hoped with the changes

47Bronson Morgan to Jester, February 7, 1948, Jester Papers, 4-14/113; Dallas Morning News, January 30, 1948.
that he recommended he could use less desirable work assignments and withdrawal of privileges as an effective method of discipline. He hoped to develop willingness to engage in productive work by offering a variety of employment, with some relationship between the inmates' previous training and abilities and their prison work assignment. He wanted to develop at least two industrial units to serve the prisons and other state agencies and to modernize and mechanize farming operations and develop a good breeding stock for beef and dairy cattle. He would devote the agricultural program primarily to truck farming, dairying, beef cattle and hogs, feed crops to take care of the stock, and enough cotton to supply the prison textile mill and mattress factory, with some surplus for the market as a cash crop. With proper equipment and methods he believed the system could grow and process enough food for itself and all state institutions. To improve sanitation he asked for modern bath houses and laundries. For parole purposes the records should show the attitude and ability of the inmates to do productive work and get along with other inmates; and he called for equal opportunity for pardons and paroles regardless of social or financial standing. The rehabilitation program should rest on work, recreation, education, religious training, and aid to
those being discharged. He estimated the initial cost of his proposals at $4,176,075.48

At the January prison board meeting the board had authorized member B. A. Stufflebeme of Grand Prairie to confer with labor leaders to seek their support of legislation to allow the prison system to sell its products to state agencies at a small profit, which Texas labor had always opposed. Stufflebeme secured the acquiescence of several labor leaders by taking them on a tour of the prison system's worst units, but they could not convince their colleagues. The executive board of the Texas State Industrial Union Council and the state convention of the Texas State Federation of labor endorsed the Ellis prison reform plan with the reservation that no prison-made goods enter the channels of commerce. The former group objected to allowing prison labor to supply even state institutions with goods currently purchased from private enterprise, mentioning especially printing and clothing.49

During 1948 Stufflebeme mounted a personal campaign to enlist public support for the prison improvement program. At the height of his activity he made an average of four speeches a week across the state. In speeches labeled "for

48O. B. Ellis, Report to the Texas Prison Board, February 20, 1948, Jester Papers, 4-14/113.

men only" (which raised a few eyebrows in the governor's office with its reminder of the 1946 gubernatorial campaign), Stufflebeme gave lurid details of the filth, deprivation, perversion, brutality, and moral degredation he observed when he toured the farm system, which he called as bad as any German concentration camps. His speeches enlisted many of his listeners in the cause of prison reform, most notably the Texas Jaycees, which gave active support to publicizing the Ellis program of reform.\textsuperscript{50} Some of Stufflebeme's listeners believed he rendered an invaluable service in mobilizing public support for prison reform.\textsuperscript{51} However, Stufflebeme became something of an embarrassment to the governor and to other members of the prison board, which had agreed not to present the prison issue in such a way as to cast blame on anyone.\textsuperscript{52} Another board member warned Stufflebeme that the press had begun to play up the sensational aspects of his speeches, making the public skeptical of the possibility for improvements; he suggested emphasizing plans for the future instead.\textsuperscript{53} Stufflebeme failed to heed

\textsuperscript{50}Ibid., March 4, 6, and 12, July 4, 1948; McGill to Jester, interoffice memo, March 25, 1948, Jester Papers, 4-14/113.

\textsuperscript{51}E. B. Stroud, Dallas attorney, to Jester, April 12, 1948, Jester Papers, 4-14/113; Wichita Daily Times, April 24, 1948, in ibid., 4-14/60.

\textsuperscript{52}J. E. Wheat to Jester, May 18, 1948, ibid., 4-14/113.

\textsuperscript{53}McGill to Jester, interoffice memo, March 9, 1948, Bronson Morgan to Stufflebeme, March 9, 1948, ibid.
the subtle warning, and Jester and the prison board began to receive indications of resentment from legislators, state officials, and former members of the prison board. After a letter from Senator James E. Taylor of Kerens containing a "veiled warning" about the publicity, Jester wrote Stufflebeme suggesting that he tone down his speeches, with their implied criticism of neglect by previous boards and administrations. Stufflebeme protested that he had not cast blame for prison conditions on anyone but agreed to follow Jester's suggestions in future speeches. In July a heart attack sharply curtailed his activities.

Without a doubt Stufflebeme's speeches roused the Texas Jaycees to action, and he urged them to ask legislative candidates to pledge support for prison reform. In one of many Jaycee-sponsored meetings across the state, the Dallas Jaycees invited area legislators to a meeting to discuss prison reform. O. B. Ellis explained his reform plans at meetings such as the annual convention of the East Texas Chamber of Commerce and a rally sponsored by the Dallas Jaycees. The prison board voted to hold mass meetings in twelve large cities before the summer primaries to get


55 Stufflebeme to Jester, May 18, 1948, ibid.; Dallas Morning News, July 1, 1948.
voters behind the reform program. Jester described the Ellis Plan to groups like the Sheriffs Association of Texas. Newspapers such as the *Dallas Morning News* and the *Austin American* endorsed the reform program, and the *Wichita Daily Times* urged all voters to make prison reform part of their political thinking. Service organizations such as the Knights of Columbus, various chambers of commerce, Lions Clubs, Business and Professional Women, and Women's Society of Christian Service endorsed the Ellis Plan.

Unfortunately for Jester's plans, the building pressure for prison reform also resulted in renewed calls for a special session of the Legislature to relieve the intolerable prison conditions before they ruined other lives and minds. This development and the desire to play down implications of previous neglect of the prisons led during the last half of 1948 to more emphasis on improvements under Ellis's management. Despite straitened financial circumstances, prison personnel and inmates busily cleaned,

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56 *Dallas Morning News*, April 7, 9, and 19, May 1 and 4, September 17, 1948.

57 Ibid., October 21, 1948; *Wichita Daily Times*, April 24, 1948, clipping in Jester Papers, 4-14/60; Jester to Stufflebome, February 3, 1948, ibid., 4-14/113.

58 See letters and resolutions in Jester Papers, 4-14/113.

59 David Heath, Dallas attorney, to Jester, May 28, 1948, ibid.
painted, repaired, and generally improved existing facilities with the materials they had on hand. A lot of soap, water, and elbow grease removed the "institutional odor" from the kitchen, mess hall, and cell blocks at Huntsville. Ellis's firm "work or don't eat" policy increased inmate productivity and reduced the number of mutinies. He sharply reduced self-mutilations by refusing to transfer those inmates off the farms after they recovered. Despite or perhaps because of the firm discipline, the morale of the inmates improved greatly; and they made fewer escape attempts and took better care of the physical property and equipment. By the end of the year the chairman of the prison board reported that all units looked clean and orderly with all the buildings painted inside, the livestock in good condition, a bumper harvest, and a good start on preparing the land for the 1949 crops. In any case, architects did not have detailed working plans and final cost estimates of the building program ready to submit to the prison board in time for a special session of the Legislature, nor did the governor's staff have ready the legislative bills embodying the reform program.

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61 O. B. Ellis to McGill, June 3, 1948, Jester Papers, 4-14/113; McGill to Paul Brown, interoffice memo, August 13, 1948, McGill to Jester, interoffice memo, November 10, 1948, ibid., 4-14/104.
In its January 1949 meeting the prison board voted to sponsor nine prison bills in the upcoming session of the Legislature. One would provide emergency operating funds for the remainder of the fiscal year. The capital improvements bill would provide $4,196,075 to build new cell blocks, shops, hospitals, fences, wells, and employees' residences and dormitories; make general repairs; replace worn-out equipment in the housing facilities, industries, bath houses, and laundries; build new farm buildings, silos, feed rooms, and milk houses with pasteurizing equipment; buy livestock; and buy tractors, bulldozers, hay balers, and other farm equipment. Other bills would authorize the sale of prison-made products at a fair profit to other state institutions and agencies, cities, counties, school districts, and other local governments; make certified copies of official prison records admissible evidence in all Texas courts so that prison personnel would not have to testify personally; provide for the disposition of unclaimed bodies of executed convicts; abolish the obsolete industrial revolving fund; allow the prison board to approve building plans without submitting them to the State Board of Control; make escape a felony; and revise the prisoner classification law to award benefits to
inmates for good conduct, industry, and obedience by
commutation of sentences. 62

The governor's staff supervised the drafting of the legislative bills. Senator Jimmie Phillips of Angleton, previously a hard-liner on prisoner treatment whose district contained two prison farms, agreed to sponsor the appropriation bill for prison improvements. 63 As promised, soon after the Fifty-first Legislature convened Jester sent a message outlining the goals of the Ellis Plan and the legislation to implement the goals. He submitted the proposed bills as emergency measures, reminding the legislators that the state currently spent almost $2,000,000 annually on a system that national authorities called one of the worst in the country while the Ellis Plan could make the system self-supporting in five years. 64

With all the public pressure for reform, the Legislature began work on the bills promptly. William McGill, Jester's aide, closely followed the progress of the bills, calling on members of the prison board for assistance when obstacles developed. For example, the Senate Finance


63 McGill to Paul Brown, interoffice memo, August 13, 1948, McGill to Jester, interoffice memo, November 10, 1948, Jester Papers, 4-14/104; Dallas Morning News, December 17, 1948.

Committee held up the two appropriation bills for about a month because certain senators objected to allowing the general manager to put the proceeds from the sale of prison products back into the improvement of the operations, including the purchase of equipment and materials; the senators wanted the proceeds specifically itemized and appropriated by the Legislature. Frustrated over his inability to get the capital improvements bill out of committee, Jimmie Phillips shouted furiously, "I don't care as much about itemization as I do about people's lives." He said the people in his district lived in terror when convicts escaped, and he wanted quick action on the bill in order to get quick improvements in the prison system.  

The bill granting $529,398.99 in emergency funds for the rest of the fiscal year passed quickly once it reached the floor. However, the committee rejected the Phillips capital improvements bill which would have given a lump sum and sent out a substitute which specified how to spend each dollar. Once the bill reached the Senate floor, it passed easily. In the House Jimmy Horany of Archer City tried

65 Dallas Morning News, February 8, 1949; McGill to French Robertson, Texas Prison Board, Abilene, January 20, 1949, Jester Papers, 4-14/113.

unsuccessfully to curtail the livestock breeding program and bar the sale of prison livestock on the open market, and the bill passed easily. Jester complimented the legislators who worked for the bill and the individuals, organizations, and newspapers which molded public opinion in the cause of prison reform, saying, "No longer will Texans have to apologize for their penitentiaries and penal system."68

The bill authorizing the prison board to approve building plans for the prison, aimed at speeding up the building program, passed the Senate easily; but the House did not act on it until late May, although it passed the bill unanimously.69

On the bill to allow the sale of prison-made products to the state, its institutions and political subdivisions, the Senate Finance Committee sent out a substitute bill. Over the objections of the bill's sponsor, Senator James Taylor of Kerens successfully amended the bill to prevent the prison system from doing printing for state agencies. The bill then passed the Senate unanimously. House amendments restricted the sale of prison-made products solely

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to departments, boards, commissions, and institutions owned and operated entirely by the state. The bill went to a conference committee, and both houses subsequently adopted the committee report which retained the amendments.\textsuperscript{70} The other recommended bills passed easily, often unanimously, but not always expeditiously.\textsuperscript{71}

Before Jester died in July he saw the prison system make great strides. With mechanization the system could plow, plant, and harvest more acreage. Construction began on the new isolation unit at Huntsville, and a prison factory was producing bricks to go into new buildings throughout the system. Prison morale improved as inmates felt that at last the state was taking an interest in their welfare. The prison board authorized Ellis to hire an agricultural specialist and an industrial specialist to develop a practical program of industry for the system, and Jester appointed a soil conservation specialist to the prison board.\textsuperscript{72} Shortly before he died, Jester summed up


\textsuperscript{72} Minutes, Texas Prison Board Meeting, May 2, 1949, Jester to Walter Cardwell, chairman, Luling Foundation, June 2, 1949, Jester Papers, 4-14/113; Dallas Morning News, March 10, May 30, June 14, July 6, 1949.
the accomplishments: "Succeeding generations of Texans will consider this a Legislature which at long last has solved our penitentiary problems in Texas." 73

Although reality never quite equalled Jester's optimism, over the next dozen years before he died Ellis transformed the Texas prison system. The Fifty-second and Fifty-third Legislatures appropriated funds to continue the building and improvement program. Inmates built modern buildings, which not only resulted in substantial savings in cost but also provided valuable vocational training for the inmates. Higher salaries and better working conditions attracted better personnel at all levels. Qualified personnel provided education, vocational training, religious training, medical services, and other rehabilitative programs. Agricultural operations, mechanized to the fullest practicable extent, expanded and diversified. After 1950 meat production exceeded consumption even with a doubled population and a daily ration increase. New industries and new equipment for old ones expanded and diversified industrial production. By 1953 the total revenues from agricultural and industrial operations amounted to $1,866 per man per day; the prison spent $2,562 per man per day, making the net cost to the taxpayers less than 70 cents per man per day even while the standard of living for inmates improved.

immeasurably. The Texas prison system rose from one of the worst in the nation to one of the best, temporarily at least.\footnote{Texas Department of Corrections, Progress Report, pp. 22, 33-34, 36-45, 54-58, 101; Shivers, "The Texas Prison System," pp. 114-15.}

In summary, Jester initiated and nurtured the prison reform movement to its successful conclusion. He carefully picked a prison board that would carry out the reforms, and he actively supported the legislative program recommended by the board. He stated that he aggressively pushed reforms in the prisons and the state eleemosynary institutions because those people had no active spokesmen looking out for their interests.\footnote{Weldon Hart (Jester aide) to Jester, interoffice memo, March 14, 1949, Jester Papers, 4-14/126.} However, not even the dire financial straits of the prison system in 1948 could make him amenable to calling a special session of the Legislature which might upset his overall program of cautious, sensible expenditures without a new tax levy. As in the case of the public schools, he would resort to unorthodox, even illegal, methods of securing necessary funds in order to avoid a special session.
CHAPTER VIII

YOUTH DEVELOPMENT COUNCIL

As a corollary to his interest in prison reform, Beauford Halbert Jester took a special interest in a movement to change the handling of juvenile delinquency in Texas. The Fiftieth Legislature, which had appointed a legislative committee to study prison conditions, also appointed a committee to investigate conditions in the state eleemosynary institutions, including the reformatories. Among other things, the committee observed at Gatesville State School for Boys insufficient food served under unsanitary conditions and unnecessary brutality in handling runaways; and it urged creation of an interim committee to investigate further.

The Legislature authorized creation of a Training School Code Commission to investigate and recommend improvements in the conditions in and laws governing the three state training schools, Gatesville State School for Boys, Gainesville State School for Girls, and Brady State School.

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for Negro Girls. The Legislature provided no funds for the commission, so members had to pay their own expenses.\(^3\)

The seven-member group elected as chairman Leslie Jackson, dean of law at Baylor University, and as vice-chairman Walter Kerr, an Austin minister. Members of the commission made several visits to the training schools and worked with state departments and agencies concerned with youth matters. In addition, the commission consulted national organizations, including the United States Children's Bureau and the American Law Institute, and other national authorities in the field of juvenile delinquency and child care. The commission decided to fashion its recommendations after model codes drafted by the American Law Institute, as they applied to conditions in Texas. It planned to study the methods and circumstances surrounding commitment of youths to the training schools, testing and classification at the time of commitment, treatment while in the training schools, placement in employment after release, and the final effects of reformatory treatment.\(^4\)


In its investigations the commission found that the population in the training schools had dropped from the pre-war level, although no corresponding drop in delinquency had occurred. The commission feared that judges hesitated to commit children to the schools because of the stigma attached, the conditions in the schools, and the failure of the schools to rehabilitate. It feared that many children who needed constructive care away from their own homes did not get help that might correct antisocial habits and attitudes. Although the commission believed that personnel and programs played the more important role in changing the behavior of delinquent children, it found, at best, living conditions in the training schools that met only a minimum standard of desirability and, at worst, some defective and dangerous physical facilities, especially in electrical wiring and inadequate provisions for escape in case of fire.5

In addition to juvenile delinquents the schools housed runaways and dependent, neglected, abused, retarded, handicapped, and mentally disturbed children, all crowded together; the schools lacked psychiatrists or psychologists

to help classify inmates as to learning capacity, emotional balance, and willingness to improve. At Gatesville the commission found that the boys got little school time, working half a day and attending classes about two and a half hours; the school lacked sufficient funds to attract enough instructors. The sketchy vocational training, mostly geared to the maintenance and operation of the schools, had little value in preparing youths for useful places in society. The boys got mostly agricultural training, and the girls got mostly domestic training; neither received any training in job skills that would help them find gainful employment later. The schools also lacked medical personnel and equipment, recreational facilities and opportunities, and religious training for the youths. They had a rapid turnover, and the youths returned to the same home environment that originally contributed to their problems with no further official supervision. One member of the commission commented about Gatesville, "It appears to me as just a place to keep them an average nine months, and then see how many will return."6

The commission recommended that the schools substitute other methods of discipline for corporal punishment and reduce such practices of regimentation as marching under

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guard to meals and classes, giving more freedom of choice and action in order to develop the ability to conform to the laws, customs, and acceptable patterns of behavior. The commission wanted to make the juvenile homes true training schools, not penitentiaries.\(^7\)

The commission did not blame the administrations of the schools or the work of the personnel, believing they did as well as they could with slender resources, but sharply criticized the meagerness of training and efforts at rehabilitation. It concluded that good training schools should not put major emphasis on custodial and punitive functions instead of changing antisocial attitudes and habits, as the Texas schools did; that training schools could form only one part of the rehabilitation program of delinquents; that the state should provide a well-coordinated program of rehabilitation aside from the training schools because only a small percentage of delinquent youths did or should go to a training school; and that the state could most effectively deal with juvenile delinquency in the area of prevention.\(^8\)

Jester took a special interest in the work of the commission and made its recommendations one of his pet projects for the Fifty-first Legislature. His staff,

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\(^8\)Ibid., pp. 805, 818-21.
especially William McGill, took an active role in securing information from and the assistance of state agencies, sought suggestions and recommendations from individuals inside and outside the state, and generally provided the public relations work to smooth the task of the commission.\(^9\) The governor's office called on the prison system's Bureau of Classification to provide information as to how many inmates' records revealed previous convictions and commitments as juveniles.\(^10\) Jester arranged for the commission to meet with John Ellingston of the American Law Institute, author of a liberal, modernized code for dealing with juvenile delinquency; a representative of the institute later helped draft the statute, modeled after the institute's youth authority act.\(^11\) As the Legislature had not provided funds for the commission's expenses, the governor's office arranged for the Texas Highway Patrol to provide transportation for meetings and inspection trips to the schools.\(^12\) In order to give the commission's report

\(^9\)Ibid., p. 807.

\(^10\)Frank B. Campbell, director of Bureau of Classification and Records, Texas Prison System, to William L. McGill (Jester's executive assistant), December 7, 1948, Jester Papers, 4-14/77.


\(^12\)McGill to Walter K. Kerr, March 30, 1948, McGill to Homer Garrison, Jr., Department of Public Safety, December 11, 1947, Jester Papers, 4-14/77.
favorable publicity, Jester arranged a press conference on a quiet day, with two members of the commission present to answer detailed questions and the House speaker and other legislators present as interested spectators; several reporters expressed special interest in the commission's report and gave it special publicity. Jester also wrote to and personally conferred with the House and Senate leadership and the State Board of Control, seeking their assistance in getting the youth development council program adopted.

The commission recommended establishing a statewide cooperative youth development program aimed at helping those in reform schools and keeping youths out of reform schools by keeping them out of trouble, a "program to fit the needs" rather than a "punishment to fit the crime," said Walter Kerr. The plan would establish a youth development council made up of the heads of eight existing

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13 McGill to Jester, interoffice memos, February 3 and 8, 1949, ibid., 4-14/88; Walter K. Kerr to John R. Ellingston of the American Law Institute, New York, February 5, 1949, ibid., 4-14/78; Austin American, February 16, 1949; Dallas Morning News, February 6, 1949.

14 Jester to House Speaker Durwood Manford, February 10, 1949, Jester to Representative Sid Gregory of Gatesville, March 27, 1949, McGill to Jester, interoffice memo, April 12, 1949, Jester Papers, 4/14/78; McGill to Lieutenant Governor Allan Shivers, June 10, 1949, Governors' Papers--Allan Shivers, Texas State Archives, Austin, 1977/81-369.

state agencies handling matters relating to youths, six lay members appointed by the governor, and two paid, full-time executive supervisors. The council would have two functions—to coordinate the various youth programs of the state departments into one unified development program and to administer the program and facilities for youngsters declared delinquent by the courts and referred to the council for treatment. As the heart of the program, the council would establish and operate a diagnostic medical center, staffed with medical doctors, psychiatrists, and social workers. The courts would not send youths in trouble directly to reform schools but would remand them to the youth council, which would send them first to the diagnostic center. By a thorough study of four to six weeks the center would determine what had led the youths into trouble and how best to help them. The diagnostic center might recommend reform school for some youths, or it might recommend a boys' ranch, a foster home, release under supervision, or the right kind of job as the best way to help others. The commission emphasized that the proposed council would not take powers from nor compete with the courts; rather, it would provide a new resource and enable them to do a better job of reclaiming children and protecting the public. The council would also work to strengthen all services for children and youths in local communities, promoting local youth development councils to do at the local level what
the council attempted to do at the state level. The plan had the advantage of a relatively low cost; most of the funds would go for the diagnostic center, as the rest of the plan looked primarily toward coordination of the work of existing agencies and personnel.\textsuperscript{16}

On March 14 Jester sent a message to the Legislature submitting the commission's report and recommendations as emergency legislation. Recalling that the commission had received no money from the state for expenses, he stated that in his judgment it had produced one of the most comprehensive and challenging reports ever made by such a commission. He noted that the plan did not call for an expensive new agency but for the mobilization of existing forces of the state government in a comprehensive council, emphasizing prevention of delinquency and scientific diagnosis and treatment in addition to custodial care in the training schools.\textsuperscript{17}

The Training School Code Commission had its report and proposed bill printed in booklet form and distributed to all members of the Legislature and, with the assistance of the governor's office, to other groups in the state interested in youth problems.\textsuperscript{18} The commission needed to mobilize


\textsuperscript{17}House Journal, 51st Leg., reg. sess., pp. 803-4.

\textsuperscript{18}"Child by Child--We Build a Nation," in Jester Papers, 4-14/78; Billie [Burt] (governor's staff) to McGill, inter-office memo, April 13, 1949, ibid.
public opinion behind its bill as battle lines had already begun to form in the House of Representatives, with one group wanting to take the training schools away from the State Board of Control and another group objecting, one bloc wanting to put the schools under the Department of Public Welfare and another group saying they should go to an entirely new department.\textsuperscript{19} The approval of the proposed youth council by the State Board of Control and the welfare department took some of the steam out of that battle.\textsuperscript{20} In the end the Legislature placed the training schools under the supervision of the Youth Development Council.\textsuperscript{21}

The governor's staff and the commission agreed to several amendments proposed by House members, most of which did not appreciably change the original bill; but as the price for the support of certain legislators, most notably former Speaker W. O. Reed of Dallas, they agreed to amendments strengthening the Legislature's control over the council's budget.\textsuperscript{22} House members raised several objections.

\textsuperscript{19}McGill to Jester, interoffice memo, February 8, 1949, ibid., 4-14/88.

\textsuperscript{20}Hall Logan, chairman of the State Board of Control, to Jester, February 23, 1949, ibid.; Walter K. Kerr to John R. Ellingston, February 5, 1949, ibid., 4-14/78.

\textsuperscript{21}Texas, General and Special Laws of the State of Texas, 51st Leg., reg. sess., 1949, pp. 660-70.

\textsuperscript{22}McGill to Representative Pearce Johnson of Austin, April 18, 1949, and analysis of amendments, HB 705, Youth Development Bill, Jester Papers, 4-14/78.
to the bill, some of which reflected the fear that the council would interfere with the prerogatives of the courts or local authorities. In contacting legislators who raised objections to the bill, Jester's staff explained that the bill specifically guarded against unwanted intrusion into local responsibilities, merely giving the courts and local communities another resource, if requested, for handling the more serious cases. Representatives Sam Hanna of Dallas and Cecil Storey of Longview objected to the bill because they advocated punishing parents for letting their children get into trouble. Hanna led the opposition to the bill, saying it resembled the Russian plan of taking children from their parents and placing them under a committee; he further objected to the proposed $150,000 annual budget as unjustified.23

The House passed the bill early in May, but the Senate added nine amendments proposed by the Senate sponsor intended to make the bill work more smoothly. Jester did not object to the amendments, but an amendment to place the two state homes for dependent and orphaned children at Corsicana and Waco under the Youth Development Council raised objections in the House. The Training School Code

23Jester to Representative Dolph Briscoe of Uvalde, April 28, 1949, handwritten notes on plans for pushing Youth Development Bill, n. d., ibid.; McGill to Jester, interoffice memo, April 27, 1949, ibid., 4-14/88.
Commission had in fact considered including the two homes in its program but decided not to disturb the status quo too much at the onset. The chairman of the State Board of Control objected to putting the two homes under the Youth Development Council and reportedly summoned their superintendents to Austin to lobby against the amendment. The commission and Jester had no adamant feelings about the matter, leaving it up to the Legislature. The House refused to agree to the amendment, and the bill went to a conference committee, which omitted the amendment.

As finally drawn by the conference committee and accepted by both houses, the act eliminated the two paid, fulltime employees as members of the council, designating them as employees of the council. The act directed the council to make continuing studies of the needs of children; provide programs and information to strengthen the family in meeting its responsibility; make recommendations to other agencies on matters affecting youth; develop

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25 McGill to Senator James Taylor of Kerens, June 8, 1949, Jester Papers, 4-14/78.

programs to provide, strengthen, and coordinate essential services for youth; assist local authorities, when requested; administer the diagnostic treatment and training and supervisory facilities of the state for delinquent children committed to the council; manage and direct the training school facilities, combine such facilities if advisable, create new facilities within the appropriations provided by the Legislature, and provide a program of constructive training aimed at the rehabilitation and successful reestablishment in society of delinquents; make recommendations for legislation as part of a unified youth program; and, if requested, serve as a probation agency for youths adjudged delinquent.27

The Youth Development Council began operations with high hopes on September 1, 1949. A director of institutions administered the state schools and other programs for the treatment and care of state wards; and a director of community service would work with local communities, courts, and probation departments in the development of programs for youths and the prevention of delinquency. A recreation consultant assisted local communities and state institutions with recreation programs.28 However, the amendments to

which Jester and the Training School Code Commission agreed giving the Legislature more control over the budget of the Youth Development Council proved its undoing. The Legislature appropriated $270,000 for the first biennium of the council's operation but specified how to use the money. The Training School Code Commission intended to emphasize the preventive and diagnostic aspects of the program; but the appropriation allowed only $33,000 annually for diagnostic services, and the council could not establish an adequate diagnostic center with the available funds. The council approved a plan for a mobile clinic with a staff of three professionally trained persons to go into local communities at the request of the juvenile judge or a recognized agency to provide diagnostic services; it ceased operations after August 31, 1951, for lack of appropriations. On August 31, 1953, the community service program ended for lack of appropriations. By 1954 the council administered the training schools with two employees for the central office, the director of institutions and a supervisor of buildings, grounds, and farms. In the second biennium of the council's operation the Legislature cut the appropriation to $98,754 per year and to $46,082 annually for the third biennium. By 1954 the Youth Development Council had no diagnostic services except those provided in the training schools, no foster home facilities, no separate facilities for psychotic juveniles, and no probation workers. Rigid line-item
appropriation patterns left the council little latitude except in budget requests and recommendations. Despite the broad powers and responsibilities delegated to the council, the Legislature, through appropriations, made most of the policy and program decisions for the council.²⁹

Although the Youth Development Council, as such, did not fulfill the hopes of its creators, it did form the basis for the present Texas Youth Council, into which the Legislature reorganized the Youth Development Council in 1957.³⁰ While the primary emphasis has remained on the council's supervision of the training schools, in recent years the Legislature has made more generous appropriations.

²⁹Ibid., pp. 336-45.

³⁰Texas, General and Special Laws of the State of Texas, 55th Leg., 1957, pp. 660-70.
CHAPTER IX

THE PUBLIC SCHOOLS AND THE

GILMER-AIKIN PROGRAM

The public schools took much of the spotlight during 1948 and early 1949. Early in 1948 a problem arose concerning the rural aid or equalization law, and by the time that furor settled the deliberations of the Gilmer-Aikin Commission attracted public attention.

Beauford Jester began the new year of 1948 with his foot in his mouth. In one of those impromptu remarks which kept political advisor Paul Brown edgy, Jester commented during a press conference that teachers deserved better pay but not necessarily as much as doctors, lawyers, and engineers. He placed teachers in the category with ministers, saying both entered their professions for compensations other than financial rewards. Jester's opposition to House Bills 300 and 301, the Blankenship school bills, still rankled teachers; and his subsequent readiness to take credit for increased state expenditures for public schools

1William McGill (Jester's executive assistant) to the Faculty of Stonewall Jackson School, Denton, January 20, 1948, Governors' Papers--Beauford H. Jester, Texas State Archives, Austin, 4-14/81 (hereafter cited as Jester Papers); Dallas Morning News, January 14, 1948.
and improved salaries for teachers annoyed them further.\(^2\) The new irritant drew a veritable flood of denunciations, some of them quite vicious.\(^3\) Jester’s executive assistant, William Lawrence McGill, concluded that Jester’s replies should simply try to divert attention to recent improvements and the work of the Gilmer-Aikin Commission.\(^4\)

Toward the end of January a diversion arose but did nothing to improve Jester’s standing with teachers. The Fiftieth Legislature had increased appropriations for the rural aid schools but liberalized eligibility requirements so that many more schools qualified. By the middle of the 1947-1948 school year L. A. Woods, State Superintendent for Public Instruction, announced that the appropriation would fall short by two or three million dollars of the sum needed to pay rural aid school teachers for the full school year.\(^5\) Jester bore no responsibility for the error; school authorities and the state agencies concerned with administration of the equalization funds informed the Legislature of the

\(^2\)John H. Box, Tyler, to Jester, January 22, 1948, Jester Papers, 4-14/81.

\(^3\)McGill to Jester, interoffice memo, February 29, 1948, ibid. See ibid., 4-14/115 for letters to Jester from teachers.

\(^4\)McGill to Secretary of State Paul Brown, interoffice memo, January 15, 1948, ibid., 4-14/81.

sum needed for the coming biennium. However, Jester refused to call a special session of the Legislature to appropriate emergency funds. As soon as they discerned the healthy condition of the state treasury, some legislators had set up a clamor for a special session for one purpose or another—to deal with a midwinter shortage of butane, to appropriate emergency funds for the prison system, to repass several "ghost bills" for local projects which passed in the last days of the session but died because at the time the state comptroller could not certify available funds, and to appropriate emergency equalization funds.

Jester refused all calls for a special session, however worthy the cause, because he feared the Legislature would go on a spending spree that would upset his conservative financial program and result in a new tax levy.

As in the case of the prison system deficit, Jester cast about for another solution to the rural aid deficit and came up with a suggestion that local banks lend the school districts money to finish the current school term.

6 Jester to H. H. Nicholas, Lubbock, March 12, 1948, Jester Papers, 4-14/81.

7 Senator Gus J. Strauss, Hallettsville, to Jester, January 10, 1948, ibid., 4-14/61; Representative C. M. McFarland, Wichita Falls, to Jester, January 9, 1948, ibid., 4-14/113; Representative Pat Wiseman, Jacksonville, to Jester, January 29, 1948, ibid., 4-14/81; Dallas Morning News, February 17, May 2, 1948.

8 McGill to Byron Simmons, Orange, March 25, 1948, Jester Papers, 4-14/81.
on the assurance that he would submit the matter of the deficit to the next regular session of the Legislature as an emergency measure. Jester obviously had not thought the problem through, for some school officials pointed out that Texas law did not permit school districts to obligate future funds. Nevertheless, Jester, assisted by Representative Ottis E. Lock of Lufkin, Senator James E. Taylor of Kerens, William A. Kirkland, president of the Texas Bankers Association, and Charles H. Tennyson, public relations director for the Texas State Teachers Association (TSTA), worked out the details of a plan. Lock suggested the procedure ultimately followed: have Kirkland urge school depository banks to make the loans to the school districts, encourage school leaders to accept the solution, and in January have the Legislature supplement the grant to the school districts for the second year of the biennium in an amount equal to the loans with the understanding that they would use the money to repay the loans. Lock recognized the shaky legality of the procedure—that, strictly speaking, a school board could not obligate anything but current funds and that the Legislature could not appropriate money for a debt created in a prior year. However, he stated that practically all of the school depository banks made similar loans every year for the purchase of school

\footnote{Dallas Morning News, February 17 and 19, 1948.}
buses, and the Legislature could legally supplement appropriations for the current year of the biennium.10

The plan sounded simple enough, but putting it into action took almost four months. Lock and the governor's office worked together to get the cooperation of the Texas Bankers Association, the state banking commissioner, the TSTA, the legislative committee that supervised equalization funds, the State Department of Education, and State Superintendent Woods so that all would feel involved in the plan and not sabotage it.11 Senator Grover C. Morris of Greenville, chairman of the Joint Legislative Committee, pledged to introduce and support emergency legislation to cover the deficit.12 Then Jester made the plan public, and it threatened to fall apart. Kirkland's letter to the banks suggested that teachers in each district sign notes assuming legal obligation for the loans to pay their salaries since neither the state nor the school districts could legally obligate future appropriations.13 Jester and Tennyson immediately objected to the teachers' incurring any legal

10 McGill to Jester, interoffice memo, February 29, 1948, attaching analysis of the deficiency situation dictated by Lock, Jester Papers, 4-14/81.

11 McGill to Jester, interoffice memo, March 6, 1948, ibid.

12 To Jester, March 10, 1948, ibid.

13 Kirkland to Members of the Texas Bankers Association, March 16, 1948, copy in ibid.
obligation, especially if it made them liable for interest on the loans. Senator Fred Harris of Dallas called the whole procedure unconstitutional and threatened to call for an opinion from the attorney general. The attorney general's office, wanting to cooperate with Jester, hoped to avoid issuing an opinion; and the governor's staff tried to push the plan to completion before anyone elicited a ruling. Kirkland insisted that having the teachers sign notes for the loans would avert attacks on the validity of the loans. Confusion reigned, as bankers did not know whether they could legitimately make the loans without valid collateral, who should sign the notes, or whether the Legislature would actually cover the loans. Jester warned Kirkland that many banks had declined to make the loans and that pressure was building for a special session, which might prove inimical to business interests. While Kirkland held out against Jester's pleas to recede from his


15 McGill to Jester, interoffice memo, March 15, 1948, Jester Papers, 4-14/81; McGill to Jester, interoffice memo, [March 1948], William L. McGill Papers, Texas State Archives, Austin, 2-23/165 (hereafter cited as McGill Papers).

16 McGill to Jester, interoffice memo, March 18, 1948, Jester Papers, 4-14/81.


18 Jester to Kirkland, March 24, 1948, ibid.
stand, doubts about the legality of the procedure grew.\textsuperscript{19} Finally Kirkland put together a pool of big city banks to underwrite the deficit without having the teachers sign notes. Apparently that action reassured the local banks, for ultimately they handled all but about $315,000 out of an estimated $3,000,000 worth of loans.\textsuperscript{20}

The problem remained of getting the Fifty-first Legislature to appropriate money to cover the loans. As promised, Senator Morris of Greenville presented the bill; as expected, Dallas's Fred Harris opposed it. Harris verbally blistered Jester for pledging the legislators' votes and for assuming the Legislature would "go hog wild" on appropriations if he called a special session and moved to table the bill. Harris's motion failed, but one-third of those present voted with him. By the same vote the Senate refused to call for an opinion by the attorney general on the legality of the bill. On February 10 the Senate passed the bill by a vote of 23 to 7.\textsuperscript{21}

\textsuperscript{19} McGill to Jester, interoffice memo, March 22, 1948, McGill to Jester, interoffice memo, June 1, 1948, Mat Davis, Gilmer attorney, to Jester, March 25, 1948, Senator Fred Harris, Dallas, to Jester, May 1, 1948, ibid.

\textsuperscript{20} Jester press memorandum, April 7, 1948, Kirkland to Jester, June 17, 1948, ibid.; McGill to Jester, interoffice memo, October 11, 1948, ibid., 4-14/126; Dallas Morning News, April 8, 1948.

House members, led by Charles S. McLellan of Eagle Lake, also sharply criticized Jester for refusing to call a special session, and the House called for an opinion by the attorney general. The resulting opinion stated that school districts could not legally borrow money in excess of the current year's funds; however, the districts had made contracts with the teachers in accordance with the rural aid bill and had an obligation to pay them if they could lawfully get sufficient funds. While the Legislature had no legal obligation to cover the deficit, sufficient constitutional and statutory authority existed for making the funds available. Most of the school districts had already used money from their 1948-1949 appropriation to liquidate the loans; and while the attorney general had not approved or known about such an unauthorized procedure, the action had extinguished the 1947-1948 deficiency and enlarged the 1948-1949 shortage by the same amount. Since the Legislature could legally make up a deficiency for the current biennium, the attorney general suggested redrafting the bill to cover the deficit and make the entire amount available for the biennium rather than for separate years.

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23 Attorney General Price Daniel to H. A. Hull, chairman of the Committee of the Whole House of Representatives, March 11, 1949, Opinion No. V-784, pp. 12-13. McGill to Jester, interoffice memo, [March 1948], McGill Papers, 2-23/165, indicates that the attorney general's office not only knew about the plan but participated in the discussions and deliberately sought to avoid giving a formal opinion.
The Legislature subsequently passed a revised bill conforming to the attorney general's recommendation.\footnote{Texas, Legislature, House, \textit{Journal}, 51st Leg., reg. sess., 1949, p. 1608 (hereafter cited as House \textit{Journal}, 51st Leg., reg. sess.); Senate \textit{Journal}, 51st Leg., reg. sess., pp. 603-4.}

By midsummer of 1948 the emergency over the equalization deficiency had ended and the activities of the Gilmer-Aikin Committee began to attract attention. The committee, authorized by House Concurrent Resolution 48 of the Fiftieth Legislature to study the public school system, began organizing soon after the Legislature adjourned. The resolution directed the committee to study questions relating to improvement of the public school system, particularly with a view to effecting school district reorganization, obtaining adequate local financing for a uniform school program for the state, obtaining regular attendance, and revising and recodifying the school laws. The speaker of the House of Representatives would appoint six members, including three House members; the lieutenant governor would appoint six, including three senators; and the governor would appoint six.\footnote{Texas, Legislature, House, \textit{Journal}, 50th Leg., reg. sess., 1947, pp. 700-01, 2115; Texas, Legislature, Senate, \textit{Journal}, 50th Leg., reg. sess., 1947, p. 827.} Although it considered the study a slap at the educational system, the Texas State Teachers Association
did not fight the resolution, mainly because it doubted the committee would accomplish anything.\textsuperscript{26}

The committee began its work under a cloud because of its origin in the bitter fight over school legislation in the Fiftieth Legislature. The composition of the committee did little to allay teachers' doubts about its merits, even though it included distinguished members. The House members included two friends of the public schools--Ottis E. Lock of Lufkin, a former school superintendent and sponsor of the rural aid bill, and Rae Files Still, a classroom teacher from Waxahachie and chairman of the House Education Committee--but also included Claud H. Gilmer of Rock Springs, who had incurred the wrath of teachers by fighting the Blankenship school bills. From the Senate the lieutenant governor appointed A. M. Aikin, Jr., of Paris, Senate sponsor of the Blankenship bills and considered a friend of education; James E. Taylor of Kerens, sponsor of Jester's proposed alternative to the Blankenship bills and public relations director for the Texas Manufacturers Association, which showed more concern for low taxes than

\textsuperscript{26}Rae Files Still, The Gilmer-Aikin Bills: A Study in the Legislative Process (Austin: Steck Company, 1950), p. 17. Claude Gilmer credited Joe C. Humphrey, a former legislator, a school superintendent, and later president of TSTA, with persuading the TSTA that the study would do no harm and with helping to get school people to help with the study. Interview with Claud Gilmer, November 15, 1976, pp. 7, 16, East Texas State University Oral History Program, A. M. Aikin, Jr., Special Project, Commerce, Texas.
for the quality of education; and Gus J. Strauss of Hallettsville, whose district contained many of the state's private and parochial schools. The House Speaker also appointed, from his own home city of Dallas, Roscoe L. Thomas, former member of the board of regents of the state teachers colleges, bank executive, and an early proponent of educational reform; a Dallas building and loan association executive; and J. C. Peyton of El Paso, businessman, a director of the Texas Manufacturers Association, and a former Texas Regular. Lieutenant Governor Allan Shivers appointed three school superintendents, including Hollis A. Moore of Kerrville, who had written his doctoral dissertation on school finance and provided the information that led the Jester forces to oppose the Blankenship bills. Jester appointed Henry A. Stillwell, superintendent at Texarkana and an active member of the TSTA legislative committee; a former dean of the College of Education at the University of Texas; a Jester family friend and classroom teacher; a past president of the Texas Congress of Parents and Teachers; the retired head of the Education Department at Denton's Texas State College for Women; and Wright Morrow, a wealthy Houston lawyer, Jester political supporter, and active Texas Regular. Frederick Eby, a retired University of Texas professor of education,

27 Thomas to Jester, March 18, 1947, Jester Papers, 4-14/69.
expressed teachers' skepticism about the conservative complexion of the committee when he refused to serve on it because he doubted its disinterested character.28

At the first meeting of the committee on July 22, 1947, Jester commented that no other committee ever had a more challenging opportunity for public service. He suggested naming it the Gilmer-Aikin Committee for the two men who had guided House Concurrent Resolution 48 through the Legislature. The committee elected as chairman James Taylor, arousing further suspicion that "the interests" would control the committee.29

On August 29 Taylor divided the committee into five subcommittees to conduct studies in five areas: organization of the educational system at the state level; organization of administrative school units on the local level; financing the educational system; textbooks, curriculum, certification, and teacher training; and school census, attendance, codification of school laws, and buildings and building codes. Each subcommittee would work separately in one of the five areas and report to the full committee.


29 Interview with Claud H. Gilmer, April 6, 1968, North Texas State University Oral History Collection, Denton, Texas, No. 143, p. 46.
in November 1948. The committee set a public meeting for September 19 and 20 in Austin and issued a general invitation to all interested parties and a specific invitation to State Superintendent L. A. Woods, the chairmen of the State Board of Education and the State Board of Vocational Education, and Senator Grover C. Morris of Greenville, chairman of the legislative committee that supervised rural aid funds.31

Many of those present at the September meeting urged unification of the state's disjointed system of educational supervision that spread over several agencies without clear lines of authority, resulting in the Legislature's making policy decisions. However, reorganization involved an issue which would create great difficulties for the committee. A state of disharmony and frequent hostility had long existed between the state superintendent, who held his post by statewide election, and the State Board of Education, appointed by the governor. Woods, the kind of man who could openly support Homer Price Rainey for governor despite pressure from Coke Stevenson's administration, had during his sixteen-year tenure built a strong political following, particularly in the rural aid schools because he

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30 Texas, Legislature, Gilmer-Aikin Committee on Education, To Have What We Must, submitted to the People of Texas in September 1948, p. 10.

31 Dallas Morning News, August 30, 1947.
had a strong voice in allocation of equalization funds. Many members of the Gilmer-Aikin Committee and many legislators believed he conducted his office with the primary design of perpetuating his political power. Woods clearly believed that his position as an elected official gave him some authority for policy-making. On the other hand, governors Wilbert Lee O'Daniel and Coke Stevenson had appointed conservatives and Texas Regulars to the State Board of Education, officially the policy-making body for public education. Therefore, the recommendation by board members to the Gilmer-Aikin Committee that the board should appoint the state superintendent and Woods's objection to that recommendation involved political and philosophical differences and created controversy that threatened the entire Gilmer-Aikin program.  

In December 1947 the full committee met again and took important steps. It accepted a report by the subcommittee on organization, which had worked closely with Laurence DeFoe Haskew, dean of the University of Texas College of Education; its recommendations remained largely unchanged in the committee's final report. The subcommittee

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recommended that the Legislature relinquish control over public school affairs except financing by creating a state board of education, elected by districts, which would appoint a commissioner of education with broad powers to employ skilled administrators for a state department of education.\(^{33}\)

More important, the Gilmer-Aikin Committee took steps at the December meeting to broaden its scope to a grassroots study of the ills and needs of public education in Texas. At Haskew's urging the committee heard a report from the former executive director of a Florida citizens' committee for educational reform, Edgar L. Morphet. He discussed the mechanics of the Florida program and the methods used to sell the program to the public, primarily through citizens' organizations operating throughout the state and working with the main committee.\(^{34}\) Morphet's suggestions provided a blueprint for the Gilmer-Aikin Committee's decision to set up a statewide organization with an executive agent to organize and direct the work of the groups, necessitating the expenditure of more than the $25,000

\(^{33}\) *Dallas Morning News*, December 8, 1947.

provided by the Legislature. The committee appointed a subcommittee to select the necessary personnel and secure additional funds from private sources. According to committee member Rae Files Still, large corporations and wealthy conservatives contributed most of the money, including at least $1,000 from committee member Wright Morrow. Hollis Moore, who had resigned as superintendent at Kerrville, served as executive director for the committee until he took an out-of-state post in July 1948, when Pat Norwood of Southwest Texas State Teachers College succeeded him.

The Gilmer-Aikin Committee created five statewide advisory committees, with membership divided equally between professional educators and laymen, to work with the existing subcommittees. In addition, the committee organized a county committee in every county, drawing in members of the press and radio, local service organizations, and civic leaders, to study local problems and needs. Thus groups interested in education, paying their own expenses, participated in the planning, sought friendly candidates in the legislative elections of 1948, and provided grass-roots support for the Gilmer-Aikin Committee's recommendations to

the Fifty-first Legislature.\textsuperscript{37} The \textit{Dallas Morning News} of November 25, 1948, estimated that more than eight thousand citizens helped gather information for the Gilmer-Aikin Committee.

During 1948 the statewide advisory groups met with the Gilmer-Aikin subcommittees and then with the full committee to hear recommendations of the special work groups and receive information gathered through the county committees. From these reports and recommendations came the items included in the final report of the Gilmer-Aikin Committee.\textsuperscript{38}

The work of the Gilmer-Aikin Committee received favorable publicity, thanks to efforts by committee members and friendly newspapers. When the Dallas superintendent wailed that a proposal to base state aid on average daily attendance rather than scholastic population would wreck the Dallas school budget, Roscoe L. Thomas, a Dallas committee member, replied that State Department of Education figures showed that attendance averaged only two-thirds of the total scholastic population. He asked whether a district interested only in registering scholastics should get the same consideration as a district which diligently tried to keep


\textsuperscript{38}\textit{Dallas Morning News}, February 7 and 8, April 29, July 31, 1948.
the children in school. He explained that the Gilmer-Aikin Committee did not want to penalize city schools but to raise standards for all schools. He noted that 720 common school districts in 1944 levied no local tax, operating entirely on state funds and closing the schools when the money ran out; in 1946-1947 nearly 3,000 schools in 196 counties had less than a nine-month school term. He said, "The committee has reached one unanimous conclusion so far—that if Texas is to provide a citizenship capable of meeting its responsibilities tomorrow, its schools must do a better job today." 39

Hollis Moore, executive director of the Gilmer-Aikin Committee, told a conference of parents and teachers that the average high school in Texas had only 93 students and that about half of the high schools in Texas operated less efficiently than the one-room school. The state needed fewer and better school districts and a way to avoid

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The committee found that many districts collected per capita payments for black and Mexican-American children, made no effort to keep them in school, and used the funds for the white schools. They found one instance where seven different school districts counted and collected state funds for a family of Mexican-American migrant workers who did not attend school in any district for more than a few weeks. Taylor interview, p. 23, East Texas State University Oral History Program.
spending state money for children not actually attending school, he said.\textsuperscript{40}

By the summer of 1948 the committee had gathered sufficient information to call a general meeting in September to formulate a tentative draft of proposals. The committee received a clear mandate for reform; only 15 percent of the people who replied to thousands of questionnaires distributed by the various committees considered the public schools adequate.\textsuperscript{41}

Measuring local ability to support the schools had proved one of the thorniest problems. The September meeting adopted a proposal that the state guarantee the financing of a minimum foundation program by requiring an equalized local effort toward support of the program and allocating to each school district a sum sufficient to finance the remaining costs of the minimum program. Estimating the total cost of the minimum program at $180,000,000 annually, the committee recommended $45,000,000 as the amount for local contribution and the use of a statutory economic index to measure the taxpaying ability of a district in relation to the total taxpaying ability of the state. The minimum foundation program should guarantee twelve years of schooling with nine-month terms, with

\textsuperscript{40}Dallas Morning News, February 7, July 8, 1948.
\textsuperscript{41}Ibid., September 10, 1948.
classes not exceeding twenty-five students in average daily attendance and with special service personnel such as counselors, nurses, librarians, and supervisors in addition to classroom teachers. At a future date the minimum program should include adequate school buildings and equipment. Other proposals provided for more efficient local organization and management. Any county, or two or more counties, could form a countywide independent school district. The Legislature should establish a state commission to furnish guidance for consolidation and reorganization plans and should provide for commissions on reorganization in each county. The county commission would draw up a plan for reorganization to submit to county voters; if after two tries the voters did not approve a reorganization plan, the state commission on reorganization could reorganize the county. The Legislature should delegate state management of public school education to a central authority composed of a nine-member state board of education elected from geographical districts established by the Legislature, an appointed professional commissioner of education, and a professional state department of education selected by the commissioner and the board. An appointive investment commission should administer the permanent school fund. Under a statewide minimum salary schedule a beginning degreed teacher should receive $2,400 annually, with
increments for experience and higher degrees. Other proposals included a new compulsory attendance law, a minimum safety code for new buildings, modification of selection procedures for textbooks and teaching aids, a two-year developmental study of teacher education, and the recodification of the state school laws.\textsuperscript{42}

The Gilmer-Aikin Committee printed the proposals in a booklet mailed to each county committee for perusal and comments. Even before the committee received reports from every county, Taylor called a committee meeting for November to adopt a final report based on the replies thus far received. He took the hurried action because some committee members wanted the governor to call a special session of the Legislature in December to consider the recommendations. A special session would have several advantages: the Legislature could give its entire attention to the recommendations without the usual flood of bills; the House of Representatives would have the services of Claud Gilmer, who had not sought reelection, and Ottis E. Lock, who would move to the Senate in the Fifty-first Legislature; and enacting the

\textsuperscript{42}Gilmer-Aikin Committee, Final Report, submitted to the governor and the Legislature, January 25, 1949, Aikin Papers--Paris, 5-36. Committee members James Taylor and Ottis Lock secured the aid of University of Texas professor John R. Stockton in working out the economic index and tried out the formula on several school districts to make sure it worked properly to give more money to the poorer districts. Taylor interview, pp. 27-29, East Texas State University Oral History Program.
Legislation in December would allow ample time to implement the program for the 1949-1950 school year. Privately, Taylor also noted that the state comptroller could earmark the additional funds needed for the Gilmer-Aikin program and thus deny that money for other appropriation during the regular session. Also, a special session would permit the committee to marshall public support for the program before opposition had time to organize.\(^4\)

At the November meeting the committee adopted, with a few minor changes, all of the tentative proposals except the one providing for reorganization and consolidation of school districts. Many people considered this proposal essential in order to make optimum use of funds and provide a richer program for rural schools. However, this proposal had received the most objections, especially from the State Department of Education and from A. M. Aikin; and the committee decided to retreat on the point rather than risk their opposition to the whole program, believing that a revitalized central educational authority could accomplish the same purpose later. In any case, the proposal to allot one teacher for every twenty-five students in average daily

\(^4\)James Taylor to J. C. Peyton (Gilmer-Aikin Committee member), El Paso, November 16, 1948, Jester Papers, 4-14/103; Still, The Gilmer-Aikin Bills, pp. 31-32; Pat H. Norwood, executive agent of the Gilmer-Aikin Committee, wire to A. M. Aikin, Jr., November 20, 1948, A. M. Aikin, Jr., Papers, East Texas State University Archives, Commerce, Texas (hereafter cited as Aikin Papers—Commerce), Box 38, file 17.
attendance would force many small schools to consolidate with other districts in order to benefit from the Gilmer-Aikin program. After adopting the proposals the committee drafted a request for the governor to call a special session, already publicly recommended by the lieutenant governor and the House speaker.

Jester's disinclination to call a special session for any purpose had not changed, even though he supported the Gilmer-Aikin Committee's efforts. He considered the possibility of a special session only if the committee could prepare a convincing statement on the need for one without openly saying that the proposals had a better chance of passing before opposition had time to organize; if the TSTA publicly backed a special session; if the committee secured a pledge from the House speaker and the lieutenant governor not even to allow other matters to arise; and if the lieutenant governor promised confirmation of all of Jester's important appointees.


46 McGill to Jester, interoffice memo, November 22, 1948, and unsigned, undated draft of memo, Governors' Papers--Allan Shivers, Texas State Archives, Austin, 1977/81-232 (hereafter cited as Shivers Papers).
Other considerations worked against a special session, especially the time element. With the imminence of the Christmas holidays and the regular session of the Fifty-first Legislature, Jester's staff needed the month of December to prepare his message and legislative program; and Jester had already committed himself to attend important out-of-state meetings which would consume ten days in December. He doubted both the wisdom of allowing such a short time for consideration of important legislation and the possibility of getting the bills passed in that length of time. If he did call a special session, Jester could expect accusations of trying to "railroad" the Legislature into passing the Gilmer-Aikin proposals, a charge which had already surfaced. Failure of the special session to pass the proposals would diminish the prestige of the governor and the leading proponents of the special session and impair chances of getting the proposals enacted in the regular session. Furthermore, calling a special session for the Gilmer-Aikin proposals when he had refused to call one for other matters would surely offend other groups who would not have time to cool off before the Fifty-first Legislature convened, thereby endangering other parts of his legislative program. The so-called "ghost bills" presented a potential source of wrangling, with the possibility that

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47 L. A. Woods to Jester, November 23, 1948, Jester Papers, 4-14/103.
with the Fiftieth Legislature back in session someone might attempt to have the bills declared alive. The lieutenant governor's overriding interest in one of those bills, the bill to make Lamar Junior College a four-year school, made that possibility a real threat. Jester did not necessarily contemplate fighting the ghost bills, but he did not want them put ahead of prison reform or making up the rural aid deficit.  

Although Jester apparently gave more serious consideration to calling a special session for the Gilmer-Aikin proposals than for any other purpose, ultimately he decided against it. In a letter to the members of the Gilmer-Aikin Committee he explained that the time element weighed heaviest in his decision. Furthermore, a legal question as to whether the members of the Fiftieth Legislature or the new legislators elected in November should attend the special session raised the possibility of litigation over any actions taken by the special session. Therefore, in lieu of a special session Jester promised to submit the Gilmer-Aikin Committee's report as an emergency matter at the beginning of the regular session of the Fifty-first Legislature and and to cooperate with the legislators in keeping emergency

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48 McGill to Jester, interoffice memo, November 22, 1948, and unsigned, undated draft of memo, Shivers Papers, 1977/81-232. The "ghost bills," most of them appropriating money for local projects, passed in the closing days of the Fiftieth Legislature but died because the state comptroller could not at that time certify available funds to cover them.
bills to a minimum in the early days of the session so they could give undivided attention to the Gilmer-Aikin proposals. He expressed the hope that the additional time would permit the public and the educational community to study the Gilmer-Aikin proposals and develop a greater degree of public support for them.49

Although Taylor and Gilmer wanted the special session, Aikin had disagreed; and most committee members agreed that the limited time made a special session unfeasible. Indeed, the task of translating the proposals into legislative bills proved unexpectedly time-consuming, and the committee did not have the bills quite ready at the beginning of the regular session. As Taylor feared, the delay gave opponents of the Gilmer-Aikin proposals time to organize; on the other hand, as Jester hoped, the delay permitted closer study of the proposals and created public support, particularly among teachers.50

In his letter to the committee Jester mentioned the first wave of opposition from those within the public education system who feared that streamlining the system would eliminate their position. He was referring to State Superintendent Woods, who viewed the committee's work with

49 Jester to Members of the Gilmer-Aikin Committee on Education, n. d., Jester Papers, 4-14/103.
skepticism and began organizing opposition even before the committee adopted its final report.\textsuperscript{51} Woods wrote Jester opposing the special session of the Legislature because he did not want the "undemocratic" proposals foisted upon the people before they had time to study them, and he enclosed a copy of a letter he was sending to all county superintendents expressing his opinions. His opposition centered primarily on the proposal that the state board of education appoint the commissioner of education and the proposal concerning reorganization and consolidation of school districts by a central state authority. He charged that the latter proposal, later abandoned by the Gilmer-Aikin Committee, would destroy the county superintendent’s office, the county board of trustees, and all local control. As for the former proposal, Woods recommended a more democratic method of electing both the board of education and the state commissioner of education.\textsuperscript{52}

Woods’s friends rallied behind him in opposition to the Gilmer-Aikin proposals. One of the most effective workers, W. V. Harrison, superintendent at Frost and president of the Department of Rural Education of the TSTA, wrote a series of

\textsuperscript{51}Ibid., pp. 42-43; Jester to Members of the Gilmer-Aikin Committee on Education, n. d., Jester Papers, 4-14/103.

\textsuperscript{52}Woods to Jester, November 23, 1948, enclosing a copy of letter to county superintendents, November 23, 1948, ibid.
articles for the *Dallas Morning News* beginning December 28, 1948, criticizing the appointive state commissioner, the loss of local control of the public schools, and the threatened loss of rural schools through consolidation. The superintendent at Highland Park criticized the "vicious New Deal" proposals, which would "pull up the grass roots of democracy and local self-government." He charged that the Gilmer-Aikin program would level education in Texas and destroy efforts of local districts to improve their schools.\(^{53}\) Jester's mail also reflected fears of loss of local control and loss of rural schools. Comment ranged from epithets of "pure hitlerism" to charges that the Gilmer-Aikin Committee sought to centralize all education in the urban centers and replace a workable educational system with a wholly untried system.\(^{54}\)

Woods organized the first statewide protest against the Gilmer-Aikin proposals in the form of a panel discussion at the annual midwinter conference of the Texas Association of School Administrators in Austin in January 1949. The six speakers scheduled for the panel included only two Gilmer-Aikin proponents, James Taylor and Austin superintendent J. W. Edgar. Illness prevented Edgar's attendance,

\(^{53}\) *Dallas Morning News*, November 21, 1948.

\(^{54}\) H. D. Coleman, Dozier, to Jester, November 25, 1948, Bell County Association of Rural Schools, Resolution, n. d., Jester Papers, 4-14/103; these are two of many such communications.
leaving Taylor as the sole defender of the program against four opponents who attacked the program as a "devious, camouflaged contemptible scheme" which would create a "commissar of education" and put the burden of taxation on the poor instead of on the natural resources industry where it belonged.\textsuperscript{55} Woods's tactics backfired; the association adopted a resolution criticizing the one-sided symposium and endorsed the Gilmer-Aikin proposals.\textsuperscript{56}

Through most of 1948 the TSTA had kept aloof from the Gilmer-Aikin Committee, neither impeding nor helping its work. School administrators and school boards had cooperated with the committee from the beginning, probably believing as Austin superintendent J. W. Edgar did that the schools needed some kind of stabilization of state support in order to make long-range plans; but classroom teachers had remained dubious. Although individual teachers helped with the local studies, many merely gave lip service because they did not want to oppose the study openly but doubted the sincerity of Taylor, Gilmer, and Jester. Taylor and Gilmer quickly convinced other committee members of their sincerity, but when such members addressed teacher groups on the committee's work they had to defend the two men. Even when the committee devised a sound program, many

\textsuperscript{55}Dallas Morning News, January 7, 1949.
\textsuperscript{56}Ibid., January 8, 1949.
teachers feared some hidden catch that they failed to perceive; and the TSTA declined to support the movement for a special session of the Legislature. When Taylor requested time at the TSTA convention in November 1948 to speak on the committee's proposals, the group's leaders gave him an exceedingly cool reception and granted him only ten minutes. However, committee members worked the floor at the convention with notable success, and acceptance among teachers of the committee's proposals had gradually increased at the grass-roots level; the November convention turned down a weak statement in favor of a resolution endorsing the Gilmer-Aikin proposals, although it withheld endorsement of the actual bills pending study of the final drafts. The announcement that Taylor had invited the TSTA officers and legislative committee to help draft the bills helped overcome lingering distrust; no doubt, the election of Joe C. Humphrey, who had urged cooperation with the committee, as the new president of the group also helped.57

By the time the Legislature convened few doubted favorable Senate action on the Gilmer-Aikin proposals. The Senate now contained four members of the Gilmer-Aikin Committee, although Gus Strauss of Hallettsville ultimately

opposed the bills because they made no special concessions to districts containing parochial and private schools.\textsuperscript{58}

Taylor and Aikin held strategic positions as chairmen of the powerful Finance and State Affairs committees, respectively, which would handle many of the most important bills of other senators; each also served on the other's committee. Taylor's friendship with Lieutenant Governor Allan Shivers assured a favorable Education Committee, which included Taylor, Aikin, and Lock. Although a newcomer to the Senate, Lock had a record of leadership in educational legislation in the House. As a lawyer and a former school superintendent, he had both written and administered many of the rural aid bills passed by former Legislatures, providing invaluable experience when he helped draft the new foundation program because he knew the legal loopholes in the previous laws.\textsuperscript{59}

Without depreciating the role of any of the sponsors of the Gilmer-Aikin bills, several participants agreed with Rae Files Still that Taylor furnished the driving leadership,

\textsuperscript{58}Still, The Gilmer-Aikin Bills, p. 185, note 22; Dallas Morning News, February 10 and 16, 1949. Under the current system of per capita apportionment based on scholastic population, such districts received state funds for children attending parochial and private schools without having the expense of educating them.

\textsuperscript{59}Still, The Gilmer-Aikin Bills, pp. 46-47, 54-57; Taylor interview, pp. 19, 36, East Texas State University Oral History Program.
skill, and indomitable will necessary to push the Gilmer-Aikin program to a successful conclusion. With singleness of purpose Taylor subordinated for the time being other interests, even resigning as public relations director of the Texas Manufacturers Association when that position hampered his efforts on behalf of the program. Although actually sponsoring only one of the bills, he engineered all three bills through both houses, making final decisions in every crisis and even staying in the House, where he had once served, during its consideration of the bills. In addition to providing legislative leadership, Taylor used his business connections to persuade the natural resources lobby to support the Gilmer-Aikin bills. He pointed out the potential for greater economic efficiency, higher standards from having a professional rather than a political commissioner of education, elimination of the use of the public schools as a political football every two years, and the possibility that the federal government might move in unless Texas provided an adequate system of public education. He warned that if the Gilmer-Aikin program failed the TSTA might revert to an earlier plan to seek a $75 per capita annual state expenditure for the public schools and a broadened equalization law. If none of these arguments convinced the natural resources lobbyists, they knew that Taylor could and would use his considerable influence to
block legislation they wanted until they saw reason.  

Taylor himself gave special credit to A. M. Aikin, whose calm and soothing approach put out the brush fires that the more abrasive Taylor started in his zeal for the bills.  

While the TSTA's legislative committee helped draft the bills, Claud Gilmer did most of the work on Senate Bill 115, which Taylor sponsored; and Lock drafted and sponsored Senate Bill 116. As introduced in the Senate the bills closely followed the recommendations of the Gilmer-Aikin Committee.  

Senate Bill 115 provided for the central education agency, setting forth the method of selection and the duties of the nine-member board of education, the state commissioner of education, the state department of education, a textbook committee of professional educators, and a commission to invest the permanent school fund. Senate Bill 116 set up the foundation school program, providing the formula for allotting professional positions and transportation and operating costs for school districts based on average daily

60 Still, The Gilmer-Aikin Bills, pp. 47-54; Dallas Morning News, June 16, 1949 (for Aikin's statement about Taylor's role); interviews with J. W. Edgar, p. 5, and Claud Gilmer, pp. 40-41, East Texas State University Oral History Program. Gilmer credited Senator Ottis E. Lock with a role second only to Taylor's in seeing the bills through.  

61 Taylor interview, p. 50, East Texas State University Oral History Program.

attendance; setting salary schedules for school administrators, teachers, and other professional personnel; and outlining the method of financing the program, including calculation of local districts' share by an intricate economic index. Conferring with TSTA groups, Lock drafted the complex formulas of Senate Bill 116 with such meticulousness that the bill passed with no crippling amendments. Senate Bill 117, sponsored by Aikin, provided the automatic financing for the program, extending the idea advanced by House Bill 301 in the previous session that the state comptroller would transfer from the clearance fund of the 1941 omnibus tax bill the necessary funds for the foundation program.¹⁶³

Taylor had already lined up enough votes for Senate passage of the bills before their introduction on January 25, and as promised Jester submitted the bills as emergency legislation.¹⁶⁴ A rumor had circulated that if Senate Bill 115 passed the sponsors would drop the other two bills because they really only wanted to destroy Woods's job. To counter the rumor and emphasize the unity of the bills, the Education Committee decided to hold a joint hearing for all


three bills and complete Senate action on all three before starting any of them through the House. Few doubted a favorable committee report, but the hearing gave both sides factual data and arguments for use in the House deliberations. An impressive procession of witnesses from the educational community and supporting lay groups appeared on behalf of the bills. Witnesses opposing the bills concentrated on the provision for an appointive state commissioner. Other arguments concerned the failure to include a natural resources tax to finance the program, the lack of concessions for districts with transient labor and parochial and private schools, and inadequate transportation allowances for sparsely settled West Texas districts.65

As expected, the Education Committee reported the bills favorably, and all three bills slipped through the Senate quickly as opponents saved most of their efforts for the more unpredictable House. Efforts to make the state commissioner elective and the state board appointive or to gain special concessions for districts with migratory labor and parochial and private schools failed, despite an eleven-hour filibuster by Rogers Kelley of Edinburg, aided by Fred Harris of Dallas and Kilmer Corbin of Lamesa. Three

amendments passed over objections of the sponsors which gave minor concessions to sparsely settled districts on transportation costs and teacher allotments. 66

House members bore the brunt of the pressure from proponents and opponents of the Gilmer-Aikin bills. By the time the House took up the first bill, the TSTA had adopted the Gilmer-Aikin bills as its legislative program, bringing the considerable weight of that organization upon legislators and helping the bills' sponsors keep close touch with educators across the state who favored the program, urging them to pressure their representatives to pass the bills. The sponsors encouraged supporters to fill the galleries during legislative hearings and debates to keep legislators who had promised to support the bills honest. In some cases

66 Senate Journal, 51st Leg., reg. sess., pp. 143, 179-85, 191, 249-56, 286, 338-39; Dallas Morning News, February 16 and 24, 1949. In Taylor's interview, East Texas State University Oral History Program, p. 44, Taylor recalls that Lieutenant Governor Shivers took no active interest in the Gilmer-Aikin program although he helped ease the way for the bills and helped with rulings on points of order. However, Shivers recalls forming an unofficial committee of educators, legislators, and other interested people, including Taylor and Aikin, to revise the method of financing and provide a minimum standard for the public schools. Shivers said his unofficial committee predated and provided the basis for the Gilmer-Aikin Committee. In Shivers's recollection, Jester did not recommend the program until after its introduction in the Fifty-first Legislature. Interview with Allan Shivers, October 2, 1965, North Texas State University Oral History Collection, Denton, Texas, No. 6, pp. 22-24.
the sponsors asked the governor to confer with wavering legislators. 67

Opponents of the bills stayed equally busy. State Superintendent Woods circulated regularly among House members and sent out letters, allegedly at state expense, to school administrators urging them to ask their representatives to oppose the bills. He even enlisted the aid of the Catholic clergy; apparently, Woods had secured textbooks for many parochial schools and had allowed them to use public school buses. Lending his prestige in Woods's aid, former Governor James V. Allred called the Gilmer-Aikin proposals a continuation of the Homer Rainey fight, in that Rainey's foes had vowed to "get" Woods for supporting Rainey. Some who shared Rainey's political philosophy saw the requirement for local support of the schools as a plot by the Wall Street group to save themselves tax dollars; others saw the program as a plot by the Texas Manufacturers Association to force passage of a general sales tax. 68


In addition to Woods's supporters, two other influential groups opposed the Gilmer-Aikin bills. Some members of the current State Board of Education objected to election of the board, knowing they could not win in an election; and a number of legislators from the home districts of board members, including Dallas and San Antonio, opposed that aspect of the program. Representatives of certain textbook publishing companies which had enjoyed a favored status under the current set-up also objected to the reorganization and to a provision allowing multiple textbook lists for both elementary schools and high schools. Representatives of that group conferred frequently with opponents of the bills, particularly Dallas Representatives Sam Hanna and Douglas Bergman; in Taylor's view, the textbook companies gave more trouble than any group.  

As one of their first goals sponsors of the Gilmer-Aikin bills had sought the support of House Speaker Durwood Manford of Smiley. With the intercession of his friend Claud Gilmer and a promise that the Gilmer-Aikin people would support a farm-to-market road program, Manford agreed to cooperate with the Gilmer-Aikin sponsors. Given the climate of indecision in the House, Manford tried to appoint a

69 Still, The Gilmer-Aikin Bills, pp. 82-84; Taylor interview, pp. 21-22, 33-34, East Texas State University Oral History Program. Both Taylor and Gilmer, ibid., p. 93, believed that "hanky panky" and favoritism occurred in the selection of textbooks.
reasonably favorable Education Committee, selecting Rae
Files Still as chairman. She sponsored the controversial
bill for reorganization at the state level. To present
the other two bills in the House, the sponsors chose George
O. Nokes of Corsicana, a young veteran who in the previous
session had acquired a reputation for courage, honesty, and
ability; had served actively on the Education Committee;
and, to offset Taylor's fiscal conservatism, had voted for
a tax on natural gas.\textsuperscript{70}

Still set the committee hearing on the Gilmer-Aikin
bills after the last bill passed the Senate. Because of
the late arrival of a committee member favorable to the
bills, a motion to hear the three bills jointly failed by
one vote. By exhaustive testimony opponents tried to pro-
long the hearing on Senate Bill 115 in the hope that members
would adjourn before hearing the other two bills, a strategy
that resulted in the first all-night committee hearing in
the history of the Texas Legislature. After all witnesses
had testified, Nokes offered a committee substitute for the
Senate bill which he felt would make it more acceptable to
House members without materially changing its intent. The
major changes, approved by Taylor, included making the
board of education a twenty-one member board, with one

\textsuperscript{70}Taylor interview, pp. 37, 44, Gilmer interview, pp.
17, 35, East Texas State University Oral History Program;
member elected from each congressional district; prohibiting any person or group in any way connected with the textbook business or with selling any type of bonds to the state board of education from contributing to or taking part in the campaign of any candidate for the board; prohibiting the central education authority from unilaterally closing or consolidating any independent or common school district; requiring the commissioner of education to have lived in Texas at least five years immediately preceding his appointment; dividing the duty of investing the permanent school fund between the board of education and the investment commission; and providing for close supervisory authority over the commissioner of education by the board of education. The committee turned down proffered amendments to Nokes's substitute bill to make the commissioner elective and the board of education appointive, as well as a motion to refer the bill to a subcommittee for further study. The committee then adopted Nokes's substitute bill and voted to report favorably Senate Bill 115, as amended.71

The hour having grown late, the committee reversed its earlier action and voted to hear Senate Bills 116 and 117 jointly. After all witnesses had testified, the

committee voted to report both bills favorably and adjourned at 5:30 a.m.; about 3,000 spectators had filled the chamber for much of the night, and some 400 remained to the end.  

During the first two weeks of House consideration, Senate Bill 115 survived repeated efforts to postpone consideration and the sponsors defeated every crippling amendment, but opponents wrote new amendments as fast as the House could dispose of them. An amendment by Still providing that Woods should serve out his term of office as advisor and consultant to the new commissioner of education passed but did not mollify opponents of the bill. An effort by the sponsors on April 6 to cut off further debate and amendments and bring the bill to a direct vote failed.

Over the weekend of April 8 Representative John Crosthwaite of Dallas, previously favorable to the bill, dismayed the sponsors by joining Jimmy Horany of Archer City, a vocal opponent, in asking the governor to call a special session after the regular session to consider the Gilmer-Aikin bills. They described the Legislature as hopelessly deadlocked by the controversy, preventing consideration of other important legislation. Such a plan

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would require the bills to start the entire legislative journey anew. The press reported that Jester agreed to study the request; he assured worried sponsors that he had no intention of granting the request but would make a strong plea to cease the delaying tactics and pass the bills. On April 11 Jester read a statement to a group of House members assembled in his office and sent a copy of the statement to every member of the Legislature. He reminded them that school districts, which must start planning for the next school year, could not make vital decisions until they knew what system they would operate under and how much financial assistance they could expect from the state. He said, "I can think of no more important subject upon which the Legislature could spend its time than this proposal for the betterment of our public school system." Still credited Jester's action with a major contribution to the sponsors' effort to force final action on the Gilmer-Aikin bills.

Despite Jester's plea, however, opponents of Senate Bill 115 continued their delaying tactics through the week before adjourning for the Easter weekend. During the holiday the sponsors and TSTA leaders telephoned friends of the Gilmer-Aikin program throughout the state, urging them

to ask their representatives to bring consideration of Senate Bill 115 to a conclusion. When the House convened after the holiday, test votes indicated that the pressure had some effect; so determined opponents of the bill, led by Sam Hanna of Dallas, adopted more drastic tactics. Hanna and thirty or forty other opponents of the bill planned a walkout to break the House quorum, but a reporter learned of the plan. The sponsors saw the plan as a break they could capitalize on, and Taylor and Weldon Hart of the governor's office independently conceived a similar strategy. The sponsors urged the attendance of every proponent of the bill at the next day's session; since some opponents of the bill refused to take part in the walkout, the sponsors hoped to secure a quorum predominantly of Gilmer-Aikin proponents. If not, they planned to move a call of the House until Senate Bill 115 passed to engrossment and the third reading, in effect ending debate on the bill. A call of the House meant locking in all members present until the bill passed to the third reading, with the sergeant-at-arms bringing in absentees until the House reached a quorum. With Taylor and Ottis Lock coaching, Nokes planned to release a list of the absentees to the press, while Hart stood by to issue hourly bulletins and carry on a propaganda campaign to embarrass the obstructionists.\footnote{Hart to McGill, interoffice memo, April 19, 1949, Shivers Papers, 1977/81-232; Dallas Morning News, April 21, 1949; Still, The Gilmer-Aikin Bills, pp. 117-21.}
The bill's sponsors found the propaganda campaign unnecessary. When the House convened the following morning, it lacked just seven members having a quorum. Nokes's motion for a call of the House prevailed, and the sergeant-at-arms quickly found seven absentees. The House passed the bill to engrossment and, with most of the opponents of the bill absent, suspended the rules and took the final vote on the bill. Despite delaying tactics by those opponents present, the House finally passed Senate Bill 115 by a vote of 85 to 30, having taken longer on the one bill than the Senate took for all three Gilmer-Akin bills.77

The Speaker then laid Senate Bill 116 before the House. Considering the difficulties encountered by the first bill, it made relatively smooth progress. A motion prevailed to consider the bill section by section, which under House procedure would expedite action on the long and detailed bill. In a two-week period the House methodically worked its way through Senate Bill 116. The sponsors fought off amendments to liberalize the method of allotting teachers by combining the average daily attendance of parochial and private schools with public schools or by using the twenty weeks of highest daily attendance during the school

77House Journal, 51st Leg., reg. sess., pp. 1779-92. The bill did not pass by the necessary majority to go into immediate effect upon the governor's signature.
year. They fought vigorously but unsuccessfully against an amendment giving concessions on teacher allotments to sparsely populated districts. The Senate bill provided for one teacher for every twenty-five pupils in average daily attendance, but the amendment provided that a school district with fewer than three pupils per square mile which maintained a four-year high school should base its pupil-teacher quota on twenty pupils in average daily attendance. The provision would have greatly increased the cost of the program if a conference committee had not changed the designation to districts with fewer than one pupil per square mile and authorized the state commissioner to decide the number of teachers needed. The sponsors defeated efforts to revise the salary schedule of classroom teachers upward and to raise the allowance for operating costs but failed to defeat an amendment increasing the allotment for transportation costs.78

The sponsors had feared some of the proposed amendments to the section of the bill providing for financing the minimum foundation program. The House took that section up late one afternoon, and the first proposed amendment to decrease the local districts' share of the cost failed. Observing the members' fatigue, the sponsors decided to

move the previous question on the section to cut off further amendment and debate of that section; to their surprise, the motion passed. The following day the House refused to reconsider the earlier vote and passed Senate Bill 116 finally by a vote of 113 to 22. 

On the same day Speaker Manford laid before the House Senate Bill 117, on which the sponsors expected little difficulty. The proponents defeated an effort to limit the amount of state money placed annually in the foundation school fund to $59,000,000; they had used as one of the selling points of the program the fact that under its provisions the state would provide the necessary amount of money for the minimum program outlined in Senate Bill 116, eliminating the frequent deficits that occurred under the current system. The sponsors received an unpleasant surprise on this bill, however. Representative Fred Niemann of Yoakum offered an amendment providing that the annual $15,000,000 allocation from the clearance fund of the 1941 omnibus tax bill for farm-to-market roads under Senate Bill 287 would precede the allocation for the foundation school fund. By this time the legislators expected a deficit in state funds; therefore, the order of allocation from the clearance fund assumed great importance. To their consternation, the sponsors learned that Speaker Manford originated

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the amendment. The sponsors of the Gilmer-Aikin bills had agreed to support the farm-to-market road program in exchange for Manford's support but felt they had done their part by voting for Senate Bill 287. In a conference with Taylor and Aikin, Manford intimated that if the House adopted the Niemann amendment and the Senate refused to concur he would appoint House members to the conference committee who would kill the whole Gilmer-Aikin program. With Senate Bill 116 already headed for a free conference committee, Taylor and Aikin could do little but accept the amendment in return for a friendly conference committee. Criticized for his tactics, Manford explained simply, "People in my district are more interested in roads than the Gilmer-Aikin program." The Niemann amendment passed, and a few minutes later Senate Bill 117 passed finally by a vote of 116 to 22.80

After House passage of the Gilmer-Aikin bills the sponsors had to decide whether to accept the House amendments or ask for a conference committee to work out the differences. Anxious to avoid a conference committee on the controversial Senate Bill 115, Taylor successfully moved that the Senate concur in the House amendments. Since Taylor and Aikin had agreed to accept the Niemann

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amendment to Senate Bill 117, the Senate also accepted that bill as amended. 91

The Senate requested a conference committee on Senate Bill 116, which contained amendments that would increase the cost of the program. Lieutenant Governor Shivers appointed a friendly committee, including Lock, Aikin, and Taylor. In accordance with his agreement, Manford appointed a friendly House committee which included Nokes and Still; another member had opposed the bill, but not vigorously. 82

During most of May the conference committee held meetings on the bill. A conference committee has a broad scope for change because both houses must either accept or reject its report as a whole. The committee made two types of changes, elimination of minor technical defects and compromise of differences between the two houses. To provide relief for districts with migratory labor problems the committee added a provision that for such districts the state commissioner and state board of education annually would make adjustments in professional allotments. It qualified an amendment giving districts in sparsely settled areas concessions on teacher allotments by authorizing the


state commissioner to decide whether the schools really needed supplementary teachers. To give districts with private and parochial schools a period of adjustment, since the bill made a radical change in their teacher allotment, the committee provided that for the first year under the program such districts could have the same number of teachers they had in 1948-1949. The committee qualified an amendment relating to allotment of transportation costs, reducing the maximum slightly and setting up four brackets allotting the funds in proportion to the sparseness of population. Since Senate Bill 115 would not take effect until ninety days after adjournment, thus leaving implementation of Senate Bill 116 in the unfriendly hands of State Superintendent Woods, in its most controversial action the conference committee inserted a new article in Senate Bill 116 providing for its temporary administration. It provided that pending implementation of Senate Bill 115 the state auditor would perform the duties assigned to the state commissioner and put Senate Bill 116 into operation, and it provided $96,230 for the state auditor's additional expenses.  

The motion to accept the conference committee report encountered some resistance, especially in the House; but

both houses adopted the report by the necessary majority to put it into immediate effect upon the governor's signature. 84

Rae Files Still, admittedly a friend of Homer Rainey in 1946 and harshly critical of Jester's stand on school legislation in the Fiftieth Legislature, 85 did not give Jester a lot of credit for enactment of the Gilmer-Aikin program; but some of her colleagues disagreed. In 1947 Jester had championed the concept of school financing later incorporated into the Gilmer-Aikin program and warmly endorsed Gilmer's proposed resolution to create an interim committee to study the public schools. Taylor attested that Jester initiated the proposed study, appointed good members to the committee, helped with publicity, supported Taylor's effort to sell the program to the TSTA, and gave the committee the help it needed all the way through. 86 Jester's files show that he and his staff gave valuable service in organizing, coordinating public relations, publicizing, explaining, soothing ruffled feathers, and generally smoothing the way for the Gilmer-Aikin Committee.


85 Secretary of State Paul Brown to Jester, interoffice memo, March 25, 1948, Jester Papers, 4-14/81; Still, The Gilmer-Aikin Bills, p. 80.

86 Taylor interview, pp. 39-40, East Texas State University Oral History Program.
When the Fifty-first Legislature convened, Jester kept close touch with the progress of the bills, conferring most often with Nokes or Lock. He began making plans early in the session to call in legislators to discuss the bills, contributed such courtesies as sending wires thanking members of the House Education Committee who supported the bills, and offered his services when Senate Bill 115 bogged down in the House. Although Still believed that Jester probably would not have supported the Gilmer-Aikin program if he had realized its total cost at the outset, on the contrary, Jester and his staff worried over the effect that an increasingly tight financial situation might have on securing passage of the Gilmer-Aikin bills. A. M. Aikin attested that Jester helped the Gilmer-Aikin program in every way he possibly could, and for that reason alone he counted Jester as one of the great governors of Texas.

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87 McGill to Jester, interoffice memo, February 1, 1949; McGill to Weldon Hart, interoffice memo, March 4, 1949; McGill to Jester, interoffice memo, March 30, 1949, Jester Papers, 4-14/103; McGill to Jester, interoffice memos, April 16 and 18, 1949, McGill to Hart, interoffice memo, February 24, 1949, Hart to McGill, interoffice memo, April 19, 1949, Shivers Papers, 1977/81-232. See Jester Papers, 4-14/69, for numerous examples of correspondence demonstrating Jester's public relations efforts on behalf of the Gilmer-Aikin Committee.


89 Interview with A. M. Aikin, Jr., November 4, 1975, pp. 151-52, East Texas State University Oral History Program.
The whole Gilmer-Aikin controversy had its ironies and anomalies. The teachers' villains of 1947, Gilmer and Taylor, became their heroes of 1949; and to legislators resentful of pressure from the teachers on behalf of the Gilmer-Aikin program the teachers became the villains of 1949. Some of the stiffest resistance to the Gilmer-Aikin program came from rural areas and small towns fearful of losing their schools through consolidation; yet the program's legislative sponsors, all products of rural and small town schools, sincerely believed that such schools would benefit most from the program.

Assessing the unsuccessful fight in the Senate against Senate Bill 115, Senator Rogers Kelly of Edinburg remarked, "Too many votes have been pledged for too many months. . . ." That remark essentially told the story of the battle for passage of the Gilmer-Aikin bills. Opponents had enough votes to delay and occasionally enough votes to secure passage of non-crippling amendments, but they never had enough votes to kill the bills or alter them drastically. At the Gilmer-Aikin Committee's first meeting Claud Gilmer had warned that the committee faced a task of salesmanship as well as fact-finding and recommending solutions.

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90 Dallas Morning News, April 22, June 9, 1949.
91 Ibid., June 16, 1949.
92 Ibid., February 17, 1949.
results show that the committee and its supporters did a competent job of selling the program to the public.
CHAPTER X

THE FINANCIAL CRISIS AND ELEEMOSYNARY

IMPROVEMENTS

During the 1946 campaign Beauford Jester promised to promote expansion of the state eleemosynary institutions and to visit all such institutions personally to determine their needs. Budget deficits during the 1930s and high construction costs and scarcity of materials during the war had resulted in almost two decades of neglect of building needs for the state hospitals and institutions. Jester pledged, in cooperation with the Legislature, to provide the necessary funds for improvements, including increased salaries and better working conditions for attendants.¹

Jester successfully secured from the Fiftieth Legislature emergency appropriations for the state institutions for the remainder of the fiscal year ending August 31, 1947, a nearly doubled appropriation for the next biennium, and legislation authorizing the State Board of Control to acquire and convert property and buildings of decommissioned army camps to relieve overcrowding in state hospitals and

institutions. The State Board of Control promptly began acquiring abandoned federal property to convert into state institutions. It planned to convert an old prisoner-of-war camp near Mexia into an institution for about 2,000 feebleminded patients and hoped to increase bed-space for tuberculars fivefold by acquiring abandoned army camps near Tyler and Mission to convert into sanitariums.

During the Fiftieth Legislature the House of Representatives appointed a committee to make its own survey of the state eleemosynary institutions. At some institutions the committee found unsanitary conditions and facilities far below the standards of a civilized nation. It observed instances of filth, extremely foul odors, unclothed patients, food too filthy for human consumption, and in almost every case inadequate or obsolete physical properties badly needing repairs, alterations, or replacement.

After the Fiftieth Legislature adjourned Jester began his promised unscheduled tours of all the state eleemosynary institutions. Although skeptics doubted that he learned

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2See Chapter IV of this study.

3Chairman, State Board of Control, press release, April 20, 1948, copy in Jester Papers, 4-14/61; Dallas Morning News, April 8, 1949.


much in one- or two-hour tours, Jester kept the plight of
the state institutions in the news throughout 1947 and
1948. 6 Typically, Jester did not harshly criticize the
administrators of the institutions, saying they did a good
job with the funds and facilities they had; but he called
attention to the urgent need to replace decaying and
dangerous old buildings, expand to relieve overcrowding,
make urgently needed repairs, and secure more attendants
by offering better pay and housing. 7 He recounted progress
in the improvement of state institutions with larger
appropriations from the Fiftieth Legislature but urged
still further expansion and improvement. "I shall not be
content until every fire hazard is eliminated from the
buildings of our state hospitals and schools, every pos-
sible comfort provided for the patients and students, and
adequate facilities provided," he said. 8

Jester's interest in the eleemosynary institutions
spurred newspapers to carry articles on conditions in the
state hospitals. Investigating reporters found that the
state hospital system contained 15,000 patients in

6 Louis B. Orrill, president, Texas Association of the
Deaf, Dallas, to Jester, November 3, 1947, Jester Papers,
4-14/82.

7 Dallas Morning News, August 29, October 7, November

8 Press memo, June 18, 1948, Jester Papers, 4-14/82.
facilities built for half that number, with patients sleeping on pallets or bare mattresses in halls, basements, porches, and bathrooms. Chronic alcoholics, the incurable senile, and the criminally insane crowded into the same hospitals with the mentally ill, preventing the overworked doctors and staffs from giving the best-known treatment to any of them. One mental hospital had only one experienced psychiatrist for 2,400 patients; typically, poorly-paid, aged doctors handled case loads of 400 to 800 patients each. Instead of places for curative treatment, state hospitals had become asylums where an inadequate number of overworked and poorly-paid attendants simply kept patients locked up. Everywhere investigative reporters found unsanitary, dilapidated, dangerous buildings, many of which lacked fire escapes; overburdened electrical plants; and water mains and reservoirs desperately in need of repair.⁹

Before the Fifty-first Legislature convened the publicity had built up a demand for improvements in the eleemosynary institutions. The State Board of Control's proposed budget recommended expenditures of almost $26,000,000 for buildings and repairs, later trimmed to approximately $21,000,000.¹⁰ However, the eleemosynary

¹⁰Ibid., December 19, 1948.
appropriations, one of the big four appropriations bills traditionally passed late in the session, ran afoul of a financial crisis.

The Fifty-first Legislature faced financial problems, some of which it should have foreseen, born out of post-war inflation. During the last half of 1947 and most of 1948 Texas enjoyed a booming prosperity on the surface. At the end of May 1948 total state revenue receipts from all sources ran $103,475,750 above the same period of 1947.\(^{11}\) By the time the Legislature met in January 1949 the general revenue fund had a balance of $80,131,144. Much of the revenue came from the peak postwar production of crude oil which sold at inflated prices. Just before the Fifty-first Legislature met the state comptroller said that the state received $89,422,791 in tax income from oil production for the year ended August 31, 1948, and he expected it to rise to $98,000,000 for the coming year.\(^{12}\) In addition, oil and gas royalties and mineral leases, rentals, and bonuses brought another $27,346,692 as well as an undetermined amount in property taxes.\(^{13}\) The gross

\(^{11}\)George H. Sheppard, Comptroller of Public Accounts, Revenue--Expenditures, Monthly Comparative Statement, May 1948, Jester Papers, 4-14/67.


\(^{13}\)"Major Sources of State Income for 1948-49," n. d., list in Jester Papers, 4-14/126.
receipts and production tax, mostly from oil and gas, brought $.2121 of each tax dollar during the fiscal year ended August 31, 1948.14

Before the end of 1948, however, Texas oil producers had grown concerned about the effect of an increasing amount of foreign oil imports on domestic oil prices, and the imports cut into the domestic market to such an extent that the Texas Railroad Commission ordered a cut in production of Texas crude oil for January 1949, the first of many such cuts in the state allowables during 1949.15 During 1949 Texas produced 158,664,000 fewer barrels of oil than in 1948, with a corresponding drop in production value of $425,350,000.16 Jester estimated that at the rate of production curtailment for January and February alone Texas would lose more than $12,000,000 in revenue from gross production taxes for the year, and several more cuts in production followed.17

The reduction in oil production caught many people by surprise, but the observant might have noticed other

14 State Comptroller, Report, State Receipts, copy in ibid., 4-14/98.


17 Jester to Eugene Holman, president, Standard Oil Company (New Jersey), New York, February 1, 1949, Jester Papers, 4-14/46.
warning signs during 1948. In August the state comptroller stated that an analysis of revenue figures revealed that greater volume of business accounted for only 29 percent of the increase in state revenues for the year; 59 percent of the increase resulted from inflated prices of products taxed on value, notably oil. A wary observer might have realized that inflation affected the costs of state government as much as it affected revenues. In the first six months of the fiscal year beginning September 1, 1947, government spending increased by 45 percent over the same period of the previous year. By the end of 1948 the rate of increase in state spending just about matched the rate of increase in state revenues and by April 1949 exceeded it.

The optimism raised by the apparent surplus in the state treasury did not evaporate as quickly as the surplus did, and everyone wanted a share of the phantom surplus. Budget requests for the so-called big four appropriations bills (higher education, eleemosynary, departmental, and judiciary) for the 1949-1950 biennium almost doubled the previous appropriations, and this did not include the

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18 State comptroller, "Inflation Most Powerful Factor in State Prosperity," statement received in Jester's office August 11, 1948, Jester Papers, 4-14/67.

public schools and junior colleges or funds for more farm-to-market roads or the prison improvement program. The State Board of Control said requests totaled more than $283,000,000; it prepared a budget recommending expenditures of $187,440,987, an increase of $65,528,716 over the current biennium. Of the recommended expenditures, $168,303,997 would have to come from the general revenue fund, which contained approximately half that amount when the Legislature met.\footnote{Ibid., October 28, December 19 and 28, 1948, January 7, 1949.} Furthermore, members of the Fifty-first Legislature arrived in Austin pledged to increase spending for the public schools, improve the eleemosynary institutions and prison system, and build more farm-to-market roads, as well as to secure funds for their own special local projects.

Barely a month into the session legislators found themselves looking at, even conservatively, $367,000,000 worth of essential or highly desirable appropriations requests and recommendations for the coming biennium and an anticipated income of $318,000,000;\footnote{Jester's message to the Legislature, February 17, 1949, Texas, Legislature, Senate, \textit{Journal}, 51st Leg., reg. sess., 1949, pp. 194-97 (hereafter cited as \textit{Senate Journal}, 51st Leg., reg. sess.).} and worse news followed. On March 8 the state comptroller advised the governor that consultations with economic advisors indicated
that the state would receive 15 percent less income from
the crude oil tax than he anticipated on January 1, and he
revised his estimate of income for the biennium downward to
$295,925,046.\textsuperscript{22} The Legislature thus faced the unwelcome
task of cutting recommended appropriations by 15 or 20 per-
cent, passing a new tax levy, authorizing deficit spending,
or finding some other solution to the state's financial
problems.

When Jester sent a message to the Legislature on
February 17 advising that requests and recommendations for
expenditures during the next biennium exceeded anticipated
income by some $49,000,000, he stated that he essentially
still opposed new taxes but at the same time recognized the
very pressing needs for expansion of state services in many
directions, particularly to remedy the disgraceful situation
of the eleemosynary institutions and prison system. At that
time he recommended scaling down requests for expenditures
to match expected income pending a thorough study of the tax
structure.\textsuperscript{23} The admonition fell on deaf ears; by March 8,
when the state comptroller decreased his estimate of avail-
able revenues for the biennium by $22,050,000, a gap of at
least $80,000,000 existed between the state's means and

\textsuperscript{22} Robert S. Calvert, Comptroller of Public Accounts, to
Jester, March 8, 1949, Jester Papers, 4-14/67.

\textsuperscript{23} Senate Journal, 51st Leg., reg. sess., pp. 194-97.
desires. Jester conceded at that point that the Legislature might have to levy new taxes since the state had certain obligations upon which it could not afford to default.\textsuperscript{24} At a March 15 press conference Jester emphasized that he would favor new taxes only if required for the necessities of state government. However, he did not mean a bare minimum; he included improvements in the prison system, eleemosynary institutions, and the educational system and a comprehensive road-building program among those necessities. He noted that with society becoming more complex the state must expand services to take care of its people and problems or the federal government would. If a prudent program to expand state services required a new tax levy, he favored a broad-based tax like the 1941 omnibus tax; he opposed a general sales tax or a "single shot" tax aimed at a particular industry.\textsuperscript{25} 

The Legislature splintered into factions that prevented any effective solution to the financial crisis. One group unalterably opposed new taxes, insisting on cutting appropriations to fit anticipated income. Another group, headed by House Speaker Durwood Manford of Smiley, insisted that the Legislature should face the problem realistically, pass

\textsuperscript{24} Statement of March 9, 1949, Jester Papers, 4-14/126.

a new tax levy, and finance state services adequately. For
over three months the legislators wrangled over proposed
solutions to the financial crisis, and tempers grew progress-
vively shorter. Proposed solutions included an increase
in the tax rates under the 1941 omnibus tax law, restoring
five to ten cents of the state ad valorem tax, a short-term
tax of some kind limited to two years, a graduated tax on
crude oil production aimed at large producers, a higher levy
on sulphur, and a natural gas gathering tax graduated
according to price. Forecasting a business recession by
the end of the year that would affect costs as well as
revenues, Lieutenant Governor Allan Shivers proposed making
one-year appropriations and postponing action until a
special session in January 1950. Shivers wanted to go
ahead with bills for local projects such as making Lamar

26 Dallas Morning News, March 27, April 6, 13, 15, and
26, June 6, 12, 13, and 14, 1949. Manford wanted to assure
enough funds for a comprehensive farm-to-market road
program. The most determined tax advocates wanted a tax
on natural resources.

sess., 1949, pp. 128, 138, 832, 1112-14 (hereafter cited as
House Journal, 51st Leg., reg. sess.); Jester press memo,
May 17, 1949, Jester Papers, 4-14/126; Texas State House
Reporter, "Oil Regulation Report" 17, no. 36 (May 20, 1949),
copy in ibid.; Dallas Morning News, March 27 and 29, May 29,
1949. The voters had just approved a constitutional amend-
ment in November abolishing the ad valorem tax for state
general revenue purposes; Texas Almanac, 1949-1950 (Dallas:
Junior College a four-year state college and building new medical schools at Dallas and San Antonio.\(^2^8\)

During the early part of April the economy advocates appeared to gain the ascendancy as even the House, previously less restrained on spending than the Senate, began showing caution on spending and tax bills. However, legislators found themselves unable to make significant cuts in the major appropriations bills and often added more than they cut.\(^2^9\) In response to requests to redefine his idea of "necessities," Jester reiterated that he included an adequate eleemosynary expansion program as a necessity, as partial payment on a public debt long overdue, and indicated that if the Legislature failed to provide the funds he would call a special session.\(^3^0\) In the Senate James E. Taylor of Kerens and A. M. Aikin, Jr., of Paris led efforts to keep at least $20,000,000 for an eleemosynary building program in the appropriation bill as frustrated House members proposed to delay providing the funds until Jester proposed a way to finance the program.\(^3^1\)

\(^{28}\) Dallas Morning News, March 27, April 6, 1949.

\(^{29}\) Ibid., April 12, 13, 20, and 30, May 5, 11, and 12, 1949.

\(^{30}\) Ibid., April 20, June 6, 1949; Jester statement, April 19, 1949, press memo, May 17, 1949, Jester Papers, 4-14/126; William L. McGill (Jester's executive assistant) to Jester, confidential memo, May 13, 1949, William L. McGill Papers, Texas State Archives, Austin, 2-23/165.

\(^{31}\) Dallas Morning News, April 3 and 6, June 7 and 16, 1949.
Jester added another irritant by proposing that the state acquire property surrounding the capitol in order to build new state office buildings in a planned, cohesive capitol development program. The plan, commendable in itself, left a Legislature struggling with a seemingly irreducible deficit cold. Jester hoped that the Legislature would find a solution to financing operating expenses for the state government and that the natural resources industries would agree to a small tax of short duration to finance his capitol development program. However, he found the natural resources industries unwilling to accept even a tax proposed by a friendly governor. In mid-May he invited a group of business leaders, including the president of Magnolia Oil Company, to Austin to discuss the financial crisis facing the state. He talked to them about the necessity for the state to provide essential services such as improvement of education and the prison system and a comprehensive farm-to-market road program, the urgent need for a building program for the eleemosynary institutions, and the desirability of an orderly capitol development plan. Apparently they suggested, instead of a natural resources tax, a constitutional amendment providing for a $70,000,000 bond issue to be retired by an ad valorem

32 Ibid., February 15, May 18 and 20, 1949; Outline of Governor's Remarks at Press Conference, May 17, 1949, Jester Papers, 4-14/126.
tax of five to ten cents per $100 valuation. Pursuant to their recommendation, Jester conferred with legislative leaders on whom he would have to depend to enact such a program; they informed him that they did not approve the plan and did not believe the House would accept it. Jester reluctantly concluded that he must give up his capitol development program, but he remained committed to an eleemosynary building program.\textsuperscript{33}

Further conferences with Shivers and Manford led to a proposed constitutional amendment offered by Senator Searcy Bracewell of Houston for a $20,000,000 bond issue to be retired by setting aside the first 1.5 percent of all taxes, licenses, and fees not otherwise allocated by the constitution.\textsuperscript{34} The Senate adopted the resolution; and Jester endorsed the proposal as the best solution, or partial solution, to financing an eleemosynary building program.\textsuperscript{35}

Dissatisfied with the Bracewell resolution, a group of House members devised an alternative plan to provide

\textsuperscript{33}\textit{Unsigned memo, n. d., Jester Papers, 4-14/126; Jester to J. L. Latimer, president, Magnolia Oil Company, Dallas, May 18, 1949, ibid., 4-14/98.}

\textsuperscript{34}\textit{Dallas Morning News, June 16, 17, 22, 23, and 24, 1949; Senate Journal, 51st Leg., reg. sess., p. 1521.}

\textsuperscript{35}\textit{Senate Journal, 51st Leg., reg. sess., pp. 1532-33; Jester statement, June 23, 1949, Jester Papers, 4-14/126; Dallas Morning News, June 23 and 24, 1949.}
$29,000,000 over a five-year period for a building program by transferring a $3,000,000 surplus from the Confederate pension fund and allocating 4.5 percent of all state tax collections except those marked for specific purposes to a building fund. Meanwhile, legislative leaders agreed to pass the big four appropriations bills, minus funds for a building program, in amounts totaling $131,829,856. The sum still exceeded expected income by $16,829,000, but the Legislature hoped that the state comptroller would certify the bills anyway.36

Just when the financial problem seemed near a make-shift solution, the House refused to adopt either the Bracewell resolution for a bond issue or the House alternative, with tax advocates spearheading the opposition.37 Jester immediately announced he would call a special session to provide for an adequate eleemosynary building program and to pass a tax bill to finance it. In order to postpone the special session until January to allow time to work out a sound tax bill he proposed temporary deficit financing; either the Legislature would re-pass the last major appropriations bill by a four-fifths majority to permit deficit spending or he would veto the second-year

appropriations for one or more of the major appropriations bills. The Legislature chose the latter course, and Jester accordingly vetoed the second-year appropriations for the eleemosynary institutions, stating that he would abandon his long-standing policy against new taxes in order to provide adequately for the state hospitals and institutions. The House refused a motion to override the veto, and the Legislature adjourned on July 6 after the longest session in the state's history.

On July 8 the Dallas Morning News reported that Jester had suffered food poisoning. On July 11 Jester died, reportedly from a coronary occlusion, while on board a train en route to Galveston for his annual physical check-up. Jester's successor, Governor Allan Shivers, would have the task of calling the special session to secure funds for an eleemosynary building program; but Jester's commitment to the program provided the impetus for the action.

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38 Statement, July 1, 1949, Jester Papers, 4-14/126.
CONCLUSION

In a recent memoir of half a century of Texas politics Richard Morehead, political reporter and former chief of the Austin bureau of the Dallas Morning News, called Beauford Jester's administration one of the most progressive in Texas history.\(^1\) Robert Wilburn Calvert, active in Texas politics for approximately half a century, culminating in his service as chief justice of the Texas Supreme Court, agreed that Jester's administration inaugurated more progressive social improvements than any other governor during Calvert's time, with the possible exception of James V. Allred.\(^2\)

The label of "progressive" seems to rest uneasily on the shoulders of a man as cautious and as fiscally conservative as Jester. Yet his record speaks for itself: major reforms in the state's public school system and prison system; the beginning of a comprehensive farm-to-market road program; an innovative approach to juvenile delinquency that did not quite live up to expectations through circumstances beyond Jester's control; and an abortive effort


\(^2\)Robert W. Calvert, Here Comes the Judge: From State Home to State House (Waco: Texian Press, 1977), p. 177.
toward improvements in the state's eleemosynary institutions that led to later improvements. He made these his major projects; but he also contributed significantly to securing passage of constitutional amendments to establish a legislative redistricting board and to provide a fund for the building needs of state-supported colleges and universities as well as generally expanding state services to meet the growing needs of a growing state. Jester did not accomplish the reforms alone, of course, but one cannot discount the importance of his leadership and support for the reforms.

Jester had less success in the areas of labor legislation and state finances. His moderate labor program failed in the atmosphere of anti-union sentiment in the Legislature and the state; and although Jester tried hard to put his program across during the Fiftieth Legislature, he virtually abandoned it during the next session. As for state finances, if Jester had called for a new tax levy with more promptness and decisiveness the Fifty-first Legislature might possibly have initiated an eleemosynary building program during the regular session. Jester's action in conferring with business leaders on the state's financial crisis gives some credibility to the charge during the 1946 campaign that he had promised to oppose new taxes in order to get the support of business and industry leaders.
On the other hand, Jester might have simply recognized a political fact of life that business interests wielded a strong influence over the Legislature and conferred with them in an effort to soften their opposition to new taxes. In any case, with the Legislature so badly divided over the tax issue and other possible solutions to the financial crisis, quite possibly Jester could have done nothing that would have changed the outcome.

Inevitably a comparison arises between Jester's record of progressive accomplishments and the programs that Homer Price Rainey would likely have promoted if he had won the governorship in 1946. Unquestionably, Rainey would have tried to go farther much faster than the cautious and conservative Jester did. However, even Jester's conservative program of progress encountered rough seas in the Legislature; given the same Legislature, the more controversial Rainey would probably have accomplished less than Jester did. Ironically, the conservative business community that fought Rainey so bitterly allowed one of their own to accomplish some of the same reforms that Rainey proposed. Although Jester did not seem very progressive in comparison to Rainey, his brand of progressivism fit the conservative milieu that symbolizes Texas, allowing him to make a successful and effective governor.
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