Gordon Reigle's invitation to Chairman Lee White last January referred to the evolution of the Commission-petroleum industry relationship through the years. "It has been the subject of seminar papers when I was in school," Mr. Reigle said, "and has been in every petroleum trade journal at one time or another."

The task he assigned was to present an accurate picture, from the Commission's side, of the industry-Commission relationship.

To lay a foundation for the imprecision of my answer, let me pose a question to you petroleum engineers—could you present an accurate picture, from the engineer's side, of the relationship between the engineers and the lawyers, or the engineers and the accountants, or the engineers and the financial experts, in the management of the petroleum enterprises with which you are connected?

From your experience or your study, you would likely tell me about the considerable variation among companies—the top command of one company might be dominated by men with engineering background, while in another lawyers or fiscal people call the shots. Then, looking to your profession broadly, you might generalize around a time frame. In the construction or physical expansion phases of an industry—whether railroad building or natural gas transportation, the emphasis is on the engineering talent. When expansion takes the form of mergers and consolidations, lawyers and accountants are in the ascendancy. And a time came to the railroad industry in the mid-thirties, when bankruptcy and reorganization were the pressing issues, and then the bankers had the upper hand.

The time variable applies to regulation. From its beginning in the 19th Century until today, regulation has been evolutionary. When I came to the Federal Power Commission a half year ago, I found that it was just beginning to add to the fabric of regulation strands of public policy considerations with which on a quite different basis I had worked closely in the Department of the Interior.

These related to the fact that the whole country is increasingly sensitive to environment quality. Symptoms of this awareness and sensitivity are found in court decisions like that of the Circuit Court of Appeals of the Second Circuit in the Scenic Hudson case, which spelled out responsibilities in this area for the Federal Power Commission.
Symptoms are found in Commission decisions, Commission rules, in the language of appropriation acts and authorization; and in substantive legislation. Safety legislation now being proposed is a specialized aspect of this concern, but the whole air pollution drive is a part of it, too.

This heightened national consciousness of environmental and aesthetic values affects regulation, which, along with all of government is struggling to accommodate to the complexities of our era. The growth in population and such factors of the technological explosion as increased leisure and global interdependence multiply the difficulties.

In the Interior Department, I served under a Secretary who personified for two Presidents the idea that conservation in the broad sense of the word was good government. During this time, I saw great segments of American industry accept the idea that it was also good business.

But as the Department and Congress built the institutional structures for government to carry out programs concerned with these values—a Bureau of Outdoor Recreation, a Land and Water Conservation Fund, a Water Pollution Control Administration with broadened authority, and new organizations like a National Water Resources Council—thoughtful men were facing the need for a reevaluation of the structures and mechanisms by which government stays alert to the rights of the private citizen, individual or corporate.

As they attempt to meet this vital requirement of our free government, executive agencies have recognized that citizens can make their voices heard by joining a group of like-minded citizens, and electing or selecting representatives to speak for them. This "freedom to join" is a valuable recognized right.

In the Interior Department, the consultative and informational process with the public involved a comparatively formalized relationship with so-called constituent groups. These groups blanket the spectrum of interests, from the mining and lumbering and cattle associations to the Sierra Club, the Wilderness Society, the National Parks Association, the garden clubs and the wildlife groups.

In Interior, we dealt with these groups or their representatives on an open-door policy basis. They had the right to come in to consult and advise, and we on the government's side of the table, had the right and duty to weigh and evaluate and make our decisions in the public interest as best we could determine it. These proceedings were sometimes formal, but more generally they were an informal part of the political and governmental decision-making process, not
greatly different from the way the same forces are considered in the private decision-making process.

Occasionally, indeed with greater frequency in recent years, we had to face the ad hoc organization, one formed specifically to oppose or support a particular proposal, such as a national park or a wilderness area, based on the effect this proposal would have on them or their businesses. When the membership of a group is made up of people who have an economic or property interest in the outcome, as opposed to those whose interest is simply ideological, that group tends to receive attention transcending that given the more generalized membership of groups in harmony or opposition.

This comparatively easy relationship in my experience served the interests of good government in the conservation activities of the Department of the Interior in part because it was so diverse. It contributed to the airing of public issues, exposing facets which otherwise might have eluded the most careful staff work, and brought a larger segment of the public into the arena of public policy.

One of the principal problems facing the Federal Power Commission and all the regulatory agencies is how to bring this diversity of view and this public participation into the adjudicative processes.

The national mood of which I spoke earlier is seen in court decisions which emphasize the need for regulators to consider the social issues urged by groups affected by regulatory decisions and require us to weigh such social values in reaching conclusions. Perhaps this is not precisely a new thing. But it gives a dimension to regulation which it hasn't had in the same way before, and illustrates my point that time changes many things, including the responsibilities of regulators.

It also illustrates, perhaps more obscurely, that industry and regulatory commissions are two variables in an equation which has many other variables. It is no more accurate to confine the equation to commission-industry than to confine it to industry-consumer, or commission-consumer.

Who speaks for the industry? In the gas industry, three principal segments are separately organized—the producers, the pipelines, and the distributors.

Who speaks for the consumer? Different kinds of consumers have different kinds of organizations, and of course some of the State regulatory commissions play a vital role in this activity.

Who speaks for the Commission? The Commission, like the Supreme Court, guarantees to each member the right of
self-expression, and a majority must decide every question. But Commission membership changes, and Commission members themselves change.

The governing statute may reveal important truths about the relationship which a too-general statement might hide. For example, the Civil Aeronautics Board is charged by law to promote air travel and the air transportation industry. A healthy natural gas or a healthy electric industry is important to the country, too, but the Federal Power Commission has not been adjured to "promote" such in specific statutes.

When you add to this equation the segment of the public which is interested not in the gas service, but in the aesthetics of the physical structures, or which is interested not in the economics of gas use, but in the relativity of sulfur-free by-products of its combustion, you begin to approach the real tough questions which face regulatory agencies today.

Then you get to the nuts and bolts questions like those puzzling State regulatory commissions across our land this very day—should the cost of putting electric utility wires underground be borne by the land purchaser, as an amenity increasing the value of his house, or by the electricity-consuming public as an amenity properly to be added to the rate base, or to the general public, by additions to their taxes?

Or, to pose a problem of more interest to you and the Federal Power Commission, will certificates be issued for the sale and transport of the volumes of gas and the capacity to carry it to replace high-sulfur fuel-burning boilers in every market with such and such level of air pollution?

These are questions which illustrate that Mr. Reigle in his search for a definitive answer about the relationship of the petroleum industry and the Federal Power Commission will have to be satisfied with some generalities.

I spoke to another group a couple of weeks ago to outline one generalization—that there must be a tension between regulators and regulated, and this tension hopefully should be a creative one. Each side has its own responsibilities, which neither should abdicate to the other.

An off-shoot generalization is that there are many areas in which a community of interest transcends all the differences. One such area is the field of reliable statistics and information. Here leadership is being furnished by the API-AGA committee which has brought the three principal segments of the gas industry together to work with each other and responsibly with government for getting much better data on
reserves and requirements over the next two or three decades.

In the Federal Power Commission, we have demonstrated the validity of the generalization that a community of interest may transcend differences, in the monumental National Power Survey. The diverse and particulated electric utility field—with investor-owned, public, and cooperative segments—came together in that effort, and produced a document of national importance.

And that illustrates the next generalization—that there is an active function of leadership for a regulatory commission, which it alone may be able to carry out. Many offices and agencies of the federal government are concerned with the gas industry, but I think none but the Federal Power Commission could carry out a truly effective National Gas Survey, such as the Commission will carry out if the necessary money is secured.

The peculiar advantage of the Commission is that it is neither a supplier nor a competitor of the regulated industry. Furthermore, it is an agency of limited powers, an arm of the Congress circumscribed by its enabling statute—this furnishes a degree of political (small "p") responsibility which is reassuring to all. The leadership role properly belongs to an agency’s chairman. Our own gifted chairman will, I predict, guide a National Gas Survey in such a way as to make it an even greater achievement than the National Power Survey.

The final generalization is that the Federal Power Commission regards as a trust its role as an "expert" agency. Charged by the law with seeking the public interest, it has to resolve many achingly difficult technical issues. To this end, it has an outstanding staff, respected by the regulated industry, the executive branch, the Congress, and the consumer-representative groups who come before the Commission.

The presumption of the correctness of our technical judgments puts a heavy burden on us to be informed—to deserve the reputation which is legally ours. This we take seriously. It requires us to work hard and think hard—and I’ve never been associated with a harder working, more conscientious group of men in all my experience.

I could go on with other generalizations. Spokesmen of your industry have made it clear, for example, that they accept the idea that regulation is here to stay. The issue of whether producer prices should be regulated isn’t open, but the area pricing system is far from fully stabilized. It is a measure of the health of industry-regulation relationships that the settlement conferences looking toward a quicker resolution of these problems have not broken down—a few years ago, they could not have gotten this far along. The effort
may eventually fail, but all of us believe that whether a settlement is achieved or not, the progress already made is very worthwhile.

As with so many human activities, regulation is a process, not an objective. We can foretell with certainty only that there will be new kinds of challenges, not what they will be. Individually, we can guess. For example, I can guess that the Commission will give greater attention to the market end of the pipeline. As new market opportunities decline in number, the competition for existing markets will intensify, and sorting out the public-interest considerations presented by this struggle will challenge the Commission's ingenuity and insight.

Rate design has been forecast by one of my colleagues as the arena for regulatory creativity and innovation, and I agree with him. This will be a challenge worthy of our best efforts.

Suggestions which might be applicable to the activities of the Federal Power Commission have been made by the members of some of our sister commissions, and by some members of Congress with reference to the Federal Power Commission. Some of these are in the data and information field, which I have already alluded to; others are in the technical field, looking toward building a specialized technical or research expertise. You are aware, of course, that the Federal Power Commission is supporting a bill which would give expanded safety responsibility to the Department of Transportation. Yet in our hearings before the House Commerce Committee, some members suggested that we should be seeking this function for ourselves.

Any major changes or additions or deletions of our functions require the action of the Congress. Each of our actions in the adjudicative area is subject to the review scrutiny of the courts. These checks and balances are central to the American system.

It is a privilege to be working at this particular crossroads of executive, legislative, and judicial activity. I believe in the Commission's work, and I'm delighted to be a part of it. It is complex and it is imprecise, but the scheme for regulation of the gas and electric utility businesses at the federal level was devised by a Congress deeply committed to the public interest, and it is being administered by men deeply committed to the public interest. Decisions are reviewed by courts under the finest tradition of the rule of law.

To paraphrase Winston Churchill, it is the worst system in the world, except for all the others.

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