road Transportation Act beyond June 16; to the Committee on Interstate and Foreign Commerce.

9036. Also, petition of the Northwestern Retail Coal Dealers Association, Minneapolis, Minn., urging the enactment of Senate bill 1632 and House bill 5379, providing for the regulation of interstate water transportation; to the Committee on Interstate and Foreign Commerce.

9037. Also, petition of the Northwestern Retail Coal Dealers Association, Minneapolis, Minn., urging the enactment of Senate bill 1629 and House bill 5262, providing for the regulation of interstate transportation by highway; to the Committee on Interstate and Foreign Commerce.

9038. Also, petition of the Minneota Businessmen's Association, Minneota, Minn., urging the enactment of the flaxseed amendment and other amendments to the Agricultural Adjustment Act; to the Committee on Agriculture.

9039. By Mr. SADOWSKI: Petition of the Michigan State Association of Letter Carriers, endorsing House bills 19, 44, 46, 47, 48, 124, 3893, 4440, 4672, 5157, 6680, and 7688, and Senate bills 2196 and 2040; to the Committee on the Post Office and Post Roads.

9040. Also, petition of the Michigan State Association of Letter Carriers, endorsing House bill 3801; to the Committee on the Post Office and Post Roads.

9041. By Mr. TRUAX: Petition of the executive council of the International Longshoremen's Association, New York City, by their representative, Joseph P. Ryan, commending the House of Representatives on their action on the Wheeler-Rayburn bill and urging them to continue their fight; to the Committee on Interstate and Foreign Commerce.

9042. Also, petition of the Ohio Buckeye Brewers' Association, comprising all breweries in Ohio and one in West Virginia, by their secretary, John D. Marshall, opposing the enactment of House bill 8539, which would place brewers under a permit and would write into Federal law an inflexible code of fair trade practices; to the Committee on Interstate and Foreign Commerce.

9043. Also, petition of the Retail Tobacco Dealers of America, Inc., New York City, by their president, William A. Hollingsworth, urging the immediate adoption by the Congress of the United States of a resolution providing for a congressional investigation with full inquisitorial powers of the loss-leader practice in nationally distributed products of all kinds, and in particular of tobacco products; to the Committee on Interstate and Foreign Commerce.

9044. Also, petition of the Toronto Fire Clay Co., Toronto, Ohio, by their secretary, H. H. Campbell, urging modification of the $1,400 ruling so as to permit the inclusion of labor from factories or plants producing and transporting materials and equipment for road-construction purposes; to the Committee on Labor.

9045. Also, petition of the International Association of Machinists, Lodge No. 521, Lorain, Ohio, by their recording secretary, P. J. Gifford, asking for modification of the $1,400 ruling to permit the ruling to apply to the men in the shops as well as to the men in the actual hand-labor work, as it is not fair to the machinist to have unemployment forced upon him, which will be done if the present ruling stands; to the Committee on Labor.

9046. By Mr. WELCH: California Assembly Joint Resolution No. 56, memorializing the President and the Congress to enact legislation proposed by House bill 6984, providing benefits to persons who served in the Quartermaster Corps or under the Quartermaster General during certain wars; to the Committee on Pensions.

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# SENATE

## MONDAY, JULY 1, 1935

*(Legislative day of Monday, May 13, 1935)*

The Senate met at 12 o'clock meridian, on the expiration of the recess.

### THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Thursday, June 27, 1935, was dispensed with, and the Journal was approved.

### MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS AND JOINT RESOLUTIONS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries, who also announced that the President had approved and signed the following acts and joint resolutions:

On June 25, 1935:

S. 148. An act for the relief of the estate of Donnie Wright;

S. 1052. An act for the relief of the Washington Post Co.;

S. 1066. An act to extend the provisions of section 2 of the act of February 28, 1925, authorizing reservations of timber, minerals, or easements to exchanges of lands in the State of New Mexico, under the act of February 14, 1923, and the act of February 7, 1929;

S. 1656. An act for the relief of Ward J. Lawton;

S. 2185. An act to amend an act entitled "An act to accept the cession by the State of Oregon of exclusive jurisdiction over the lands embraced within the Crater Lake National Park, and for other purposes";

S. 2333. An act for the relief of John W. Dady; and

S. 2780. An act to repeal the limitation on the sale price of the Federal building at Main and Ervay Streets, Dallas, Tex.

On June 26, 1935:

S. 1051. An act for the relief of the Western Union Telegraph Co.; and

S. 1860. An act for the relief of the Tampa Marine Co.

On June 28, 1935:

S. 314. An act for the relief of Vito Valentino;

S. 2276. An act to authorize participation by the United States in the Interparliamentary Union;

S. 2917. An act authorizing an appropriation to effect a settlement of the remainder due on Pershing Hall, a memorial already erected in Paris, France, to the commander in chief, officers, and men of the expeditionary forces, and for other purposes;

S. J. Res. 131. Joint resolution providing for the participation of the United States in the Texas Centennial Exposition and celebrations to be held in the State of Texas during the years 1935 and 1936, and authorizing the President to invite foreign countries and nations to participate therein, and for other purposes; and

S. J. Res. 152. Joint resolution to extend to August 31, 1935, the temporary plan for deposit insurance provided for by section 12B of the Federal Reserve Act, as amended.

### MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its reading clerks, announced that the House had passed without amendment the bill (S. 2642) to incorporate The American National Theater and Academy.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 5599) to regulate the strength and distribution of the line of the Navy, and for other purposes, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. VINSON of Georgia, Mr. DREWRY, and Mr. DARROW were appointed managers on the part of the House at the conference.

The message further announced that the House had concurred in the concurrent resolution (S. Con. Res. 19), as follows:

*Resolved by the Senate (the House of Representatives concurring)*, That the Secretary of the Senate be, and he is hereby, authorized and directed, in the enrollment of the joint resolution (S. J. Res. 152) to extend for 1 year the temporary plan for deposit insurance provided for by section 12B of the Federal Reserve Act, as amended, to amend the title thereof by striking out the words "for 1 year" and inserting in lieu thereof "to August 31, 1935."

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 27) to print and bind the proceedings in Congress and in Statuary Hall upon the acceptance in the Capitol of the statue of Hannibal Hamlin, presented by the State of Maine, in which it requested the concurrence of the Senate.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

SIGNING OF ENROLLED BILLS AND JOINT RESOLUTIONS DURING RECESS

The legislative clerk read the following announcements on behalf of the Vice President:

The Chair announces that, under authority heretofore granted by the Senate, he signed, on Friday, June 28, 1935, the following enrolled bills and joint resolution and they were delivered to the committee to be presented to the President of the United States:

S. 2738. An act to authorize the use of park property in the District of Columbia and its environs by the Boy Scouts of America at their national jamboree;

S. 2917. An act authorizing an appropriation to effect a settlement of the remainder due on Pershing Hall, a memorial already erected in Paris, France, to the commander in chief, officers, and men of the expeditionary forces, and for other purposes;

H. R. 5809. An act to amend an act entitled "An act to control the manufacture, transportation, possession, and sale of alcoholic beverages in the District of Columbia";

H. R. 7160. An act to provide for research into basic laws and principles relating to agriculture and to provide for the further development of cooperative agricultural extension work and the more complete endowment and support of land-grant colleges; and

H. J. Res. 324. Joint resolution to provide revenue, and for other purposes.

The Chair also announces that, under the said authority, he signed, on Friday, June 28, 1935, the enrolled joint resolution (S. J. Res. 152) to extend to August 31, 1935, the temporary plan for deposit insurance provided for by section 12B of the Federal Reserve Act, as amended, said joint resolution having been signed by the Speaker of the House of Representatives and previously reported by the Committee on Enrolled Bills as having been examined and found truly enrolled, and that it was delivered to the committee to be presented to the President of the United States.

CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Adams | Connally | King | Overton |
| Ashurst | Coolidge | La Follette | Pittman |
| Bachman | Copeland | Lewis | Pope |
| Bankhead | Dickinson | Logan | Radcliffe |
| Barbour | Dieterich | Lonergan | Reynolds |
| Barkley | Donahey | Long | Robinson |
| Bilbo | Duffy | McAdoo | Schall |
| Black | Fletcher | McCarran | Schwellenbach |
| Bone | George | McGill | Sheppard |
| Borah | Gerry | McKellar | Shipstead |
| Brown | Gibson | McNary | Smith |
| Bulkley | Glass | Maloney | Steiwer |
| Bulow | Gore | Metcalf | Thomas, Okla. |
| Burke | Guffey | Minton | Townsend |
| Byrd | Hale | Moore | Trammell |
| Byrnes | Harrison | Murphy | Truman |
| Capper | Hatch | Murray | Tydings |
| Caraway | Hayden | Neely | Wagner |
| Carey | Holt | Norbeck | Walsh |
| Chavez | Johnson | Norris | Wheeler |
| Clark | Keyes | O'Mahoney | White |

Mr. LEWIS. I announce that the Senator from North Carolina [Mr. BAILEY], the Senator from Colorado [Mr. COSTIGAN], the Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], and the Senator from Indiana [Mr. VAN NUYS] are absent from the Senate on important public business. I request that this announcement stand for the day.

Mr. McNARY. I wish to announce that the senior Senator from Michigan [Mr. COUZENS] is absent on account of illness, and that the Senator from Vermont [Mr. AUSTIN], the Senator from Pennsylvania [Mr. DAVIS], the Senator from North Dakota [Mr. FRAZIER], the Senator from Delaware [Mr. HASTINGS], the Senator from North Dakota [Mr. NYE], and the junior Senator from Michigan [Mr. VANDENBERG] are necessarily detained from the Senate. I ask that this announcement stand for the day.

The VICE PRESIDENT. Eighty-four Senators have answered to their names. A quorum is present.

FIDELITY TRUST CO. OF BALTIMORE, MD.—VETO MESSAGE (S. DOC. NO. 105)

The VICE PRESIDENT laid before the Senate the following letter from the Secretary of the Senate, which was read:

UNITED STATES SENATE,
*Washington, July 1, 1935.*

Hon. JOHN N. GARNER,
*President of the Senate.*

MY DEAR MR. PRESIDENT: On Tuesday, June 18, 1935, the Committee on Enrolled Bills of the Senate presented to the President of the United States the enrolled bill (S. 694) for the payment of the claims of the Fidelity Trust Co. of Baltimore, Md., and others, which had passed both Houses of Congress and been signed by the Speaker of the House of Representatives and the President of the Senate.

The Senate at 5:35 p. m., Thursday, June 27, 1935, took a recess until 12 noon on Monday, July 1, 1935.

During the interim, the President of the United States sent by messenger a message addressed to the Senate, dated June 27, 1935, giving his reasons for not approving this bill. The Senate not being in session on the last day which the President had for the return of this bill under the provisions of the Constitution of the United States, in order to protect the interests of the Senate so that it might have the opportunity to reconsider the bill, I accepted the message, and I now present to you the President's veto message, with the accompanying papers, for disposition by by the Senate.

Sincerely yours,

EDWIN A. HALSEY,
*Secretary of the Senate.*

The VICE PRESIDENT also laid before the Senate a message from the President of the United States, which was read, and, with the accompanying paper, referred to the Committee on Claims and ordered to be printed, as follows:

*To the Senate:*

I return herewith, without my approval, S. 694, an act for the payment of the claims of the Fidelity Trust Co. of Baltimore, Md., and others.

This bill authorizes refunds of the bankers' special taxes which were, under the principles laid down by the United States Supreme Court, in *Fidelity & Deposit Co.* v. *United States* (259 U. S. 296) and *United States* v. *Fidelity & Deposit Co.* (266 U. S. 587), erroneously collected many years ago under the acts of June 13, 1898, and October 22, 1914, notwithstanding the fact that the prescribed statutory periods for refund have long since expired.

But recently there was submitted to me another bill which proposed to except certain taxpayers from the operation of the statutes of limitations pertaining to the revenue laws by extending the time for the refunding of certain taxes to such taxpayers. At that time I had occasion to express my accord with the enacted policy of Congress that it is sound to include in all revenue acts statutes of limitations, by the operation of which, after a fixed period of time, it becomes impossible for the Government to collect additional taxes or for the taxpayer to obtain a refund of an overpayment of taxes. I pointed out in that instance that legislation, such as the proposed bill, selects a small class of taxpayers for special treatment by excepting them from that policy. Such legislation thus discriminates against the whole body of Federal taxpayers and establishes a precedent which would open the door to relief in all cases in which the statute operates to the prejudice of a particular taxpayer, while leaving the door closed to the Government in those cases in which the statute operates to the disadvantage of the Government.

In this regard the instant measure (S. 694) does not differ in principle from S. 279, which was under consideration on the prior occasion. With regard to S. 694, too, I know of no circumstances which would justify the exception made by that bill to the long-continued policy of Congress. Again I must express my belief that the field of special legislation should not be opened to relieve special classes of taxpayers from the consequences of their failure to perfect their claims for the refund of taxes within the period fixed by law.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *June 27, 1935.*

HEIRS OF JAMES TAYLOR, DECEASED CHEROKEE INDIAN—VETO MESSAGE (S. DOC. NO. 106)

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was read, and, with the accompanying paper, referred to the Com-

mittee on Agriculture and Forestry and ordered to be printed, as follows:

*To the Senate:*

I return without approval Senate 2306, an act to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of the heirs of James Taylor, deceased Cherokee Indian, for the value of certain lands now held by the United States, and for other purposes.

The bill involves a claim of approximately $389,706 made by the heirs of James Taylor, a deceased Cherokee Indian, for some 22,800 acres of land in North Carolina, now a part of the Nantahala National Forest. A finding of facts in connection with this claim was transmitted to Congress by the Court of Claims on November 11, 1915, and is contained in the Senate report, no. 875, Seventy-third Congress, second session, on Senate 3092, a bill similar in purpose, which was vetoed by me, both because I considered that it tied the hands of the Court of Claims and prevented an equitable determination of the case, and because of other objectionable features.

While the present bill omits most of the objectionable features of that bill, I invite particular attention to section 4 of the present bill, which authorizes the court to allow attorney's fees in addition to the award on the claim. Such action is without precedent, and if permitted to stand, the United States would be placed in the position of paying the fees for attorneys representing both the plaintiff and the defendant. If the court awarded the claimants in this case the total amount stated, the Government, in addition to paying $389,706 or any other amount found due, would pay a sum of not to exceed an additional 10 percent to the attorneys for the plaintiffs. Any fees to attorneys should be paid out of the amount recovered.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *June 26, 1935.*

THOMAS G. CARLIN—VETO MESSAGE (S. DOC. NO. 107)

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was read, and, with the accompanying paper, referred to the Committee on Military Affairs and ordered to be printed, as follows:

*To the Senate:*

I return herewith, without my approval, S. 1410, entitled "An act for the relief of Thomas G. Carlin."

This bill authorizes me to summon Thomas G. Carlin, formerly a captain in the Regular Army, before a retiring board to inquire whether at the time of his resignation he was incapacitated for active service, and whether such incapacity was a result of an incident of service, and if, as a result of such inquiry, it is found that he was so incapacitated, to take the necessary action to have him placed upon the retired list of the Army.

From the facts in this case of record in the War Department it appears that on September 9, 1929, a board of general officers placed the then Captain Carlin provisionally in class B, under the provisions of the National Defense Act, as amended; that on December 2, 1929, charges were preferred against him involving drunkenness and disorderly conduct; and that while these charges were pending he tendered his unconditional resignation, which was accepted. It further appears that although Captain Carlin, at the time of his separation from the service, expressed the belief that he was suffering from the effects of being gassed in France in 1918, and an injury received in an automobile accident in October 1929, his final physical examination on January 4, 1930, by the Army medical authorities showed that he was not incapacitated for active field service at that time. Also, as I am advised, his annual physical examinations for several years prior to and including 1928, as well as a 4 months' period of observation and general medical survey in a general hospital, failed to develop any incapacity for the performance of full military duty.

I am also advised by the Veterans' Administration that a claim filed by Thomas G. Carlin for disability compensation was disallowed November 20, 1930, because of his failure to establish as much as a 10-percent service-connected disability.

In view of the foregoing, it would be a futile thing for me to order this man before an Army retiring board, even if I considered him entitled thereto, which I do not. It is not good policy subsequently to reopen the cases of officers separated from the military service with a view to placing them upon the retired list, when at the time of their separation they were clearly not entitled to such treatment. The retirement system of the Regular Army was provided for the twofold purpose of attracting desirable permanent personnel to the service and of vitalizing the active list. Its maintenance for such purpose is vital to the national defense, and should not be jeopardized by utilizing it as a means of relief or for placing upon the retired list persons other than the permanent personnel of the Military Establishment.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *June 27, 1935.*

PARTICIPATION BY UNITED STATES IN INTERPARLIAMENTARY UNION (S. DOC. NO. 98)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States transmitting a supplemental estimate of appropriation, Department of State, for the fiscal year 1936, amounting to $12,500, for participation by the United States in the Interparliamentary Union, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE: M'MILLAN PARK PUMPING STATION (S. DOC. NO. 99)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the water fund of the District of Columbia, for replacing of pumping equipment at the McMillan Park pumping station, amounting to $150,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE: MEMORIAL TO PERSONNEL OF AMERICAN EXPEDITIONARY FORCES (S. DOC. NO. 100)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation, for the fiscal year 1936, for Memorial to Personnel of American Expeditionary Forces, amounting to $482,032.92, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE: LEGISLATIVE ESTABLISHMENT (S. DOC. NO. 101)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate for the legislative establishment, United States Senate, fiscal year 1936, amounting to $2,089.18, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

PUBLIC SERVICE COORDINATED TRANSPORT OF NEWARK, N. J. (S. DOC. NO. 102)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the payment of a claim of the Public Service Coordinated Transport of Newark, N. J., upon settlement and adjustment by the Comptroller General of the United States, amounting to $122,422.43, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE: NAVY DEPARTMENT (S. DOC. NO. 103)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting supplemental estimates of appropriations for Public Works, Bureau of Yards and Docks, Navy Department, no

fiscal year, aggregating $3,050,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

RELIEF OF LILY M. MILLER (S. DOC. NO. 104)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation for the fiscal year 1935, for the relief of Lily M. Miller, amounting to $9,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

ELECTRIC RATE SURVEYS IN MISSISSIPPI, MARYLAND, AND THE DISTRICT

The VICE PRESIDENT laid before the Senate letters from the Chairman of the Federal Power Commission, transmitting, pursuant to law, compilations completed through the electric rate survey of the domestic and residential rates in effect in the States of Mississippi and Maryland and the District of Columbia on January 1, 1935, which, with the accompanying papers, was referred to the Committee on Interstate Commerce.

EMPLOYMENTS IN FEDERAL ALCOHOL CONTROL ADMINISTRATION

The VICE PRESIDENT laid before the Senate a letter from the United States Civil Service Commission, signed by its president, relative to House bill 8539, exempting from the merit system established by the Civil Service Act and Rules all employments in the Federal Alcohol Control Administration proposed to be created by such bill, and recommending that the bill be amended to provide that, with such exceptions as the President may make, all employments will be subject to the provisions of the Civil Service Act and Rules, and compensation be fixed in accordance with the Classification Act of 1923, as amended, which was referred to the Committee on Civil Service.

PRINTING OF PROCEEDINGS AT UNVEILING OF STATUE OF HANNIBAL HAMLIN

The VICE PRESIDENT laid before the Senate House Concurrent Resolution 27, which was read, as follows:

*Resolved by the House of Representatives (the Senate concurring)*, That there be printed with illustrations, and bound, in such form and style as may be directed by the Joint Committee on Printing, the proceedings at the unveiling in Statuary Hall, upon the acceptance of the statue of Hannibal Hamlin, presented by the State of Maine, 1,000 copies, of which 200 shall be for the use of the Senate and 500 for the use of the House of Representatives, and the remaining 300 copies shall be for the use and distribution of the Senators and Representatives in Congress from the State of Maine.

SEC. 2. The Joint Committee on Printing is hereby authorized to have the copy prepared for the Public Printer, who shall provide suitable illustrations to be bound with these proceedings.

Mr. HALE. Mr. President, I ask unanimous consent for the immediate consideration of the concurrent resolution.

Mr. KING. Mr. President, I should like to ask the Senator whether under the rule the resolution would be required to go to the Committee on Printing? There may be maps or engravings to be included.

Mr. HALE. No; there is nothing that would make it necessary for the resolution to go to the committee.

The VICE PRESIDENT. Is there objection to the consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a joint resolution of the Legislature of the State of California, requesting the President and the Congress of the United States to cause an invitation to be extended to the peoples of the world to participate in the Pacific Exposition, an international exposition to be held in the county of Los Angeles, Calif., during 1937–38, etc., which was referred to the Committee on Commerce.

(See joint resolution printed in full when presented by Mr. McADOO on June 27, 1935, p. 10240, CONGRESSIONAL RECORD.)

The VICE PRESIDENT also laid before the Senate the following joint resolution of the Legislature of the State of California, which was referred to the Committee on Military Affairs:

Assembly Joint Resolution No. 56

Assembly joint resolution relating to memorializing the President and the Congress to enact legislation proposed by H. R. 6984, providing benefits to persons who served in the Quartermaster Corps or under the Quartermaster General during certain wars.

Whereas many persons who served in the Quartermaster Corps or under the jurisdiction of the Quartermaster General during the War with Spain, the Philippine Insurrection, and the China Relief Expedition were disabled while in such service; and

Whereas many of these persons, because of their disabilities, need aid from the national Government; and

Whereas there was introduced into Congress by Hon. RICHARD J. WELCH a bill known as "H. R. 6984" which proposes to allow certain benefits to disabled persons mentioned therein; and

Whereas many social and civic organizations together with the service organization known as "McKinley Fleet No. 1" have endorsed this bill; and

Whereas the legislation proposed is humanitarian and for a worthy cause: Now therefore be it

*Resolved by the Assembly and the Senate of the State of California, jointly*, That the President and the Congress are hereby respectfully urged to enact the legislation proposed by H. R. 6984 as speedily as possible: And, be it further

*Resolved*, That the Governor of the State of California is hereby requested to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Member of the House of Representatives from California in the Congress of the United States and that such Senators and Members from California are hereby respectfully urged to support such legislation.

The VICE PRESIDENT also laid before the Senate a petition of sundry citizens of Carroll County, Md., praying for the passage of the bill (S. 916) to carry into effect the decisions of the Court of Claims in favor of claimants in French spoliation cases not heretofore paid, which was referred to the Committee on Claims.

He also laid before the Senate resolutions adopted by the Board of Aldermen of the City of Chelsea, Mass., protesting against certain regulations promulgated in regard to the personnel of the C. C. C. camps, which were referred to the Committee on Education and Labor.

He also laid before the Senate papers in the nature of petitions from several citizens of Chicago, Ill., and New York City, N. Y., praying for the enactment of House bill 7688, for the benefit of substitute postal employees, which were referred to the Committee on Post Offices and Post Roads.

He also laid before the Senate petitions of sundry citizens of the United States, praying for an investigation of charges filed by the Women's Committee of Louisiana relative to the qualifications of the Senators from Louisiana (Mr. LONG and Mr. OVERTON), which were referred to the Committee on Privileges and Elections.

He also laid before the Senate a letter in the nature of a petition from Rebecca Dobson, of New York City, N. Y., praying for the granting of certain old-age relief, which was ordered to lie on the table.

Mr. BARBOUR presented the petition of the congregation of the First Methodist Church of Lakewood, N. J., praying for the enactment of legislation to prevent profiteering in war and to promote peace, which was ordered to lie on the table.

REPORTS OF COMMITTEES

Mr. SHEPPARD, from the Committee on Military Affairs, to which was referred the bill (H. R. 3109) for the relief of Herman W. Bensel, reported it with an amendment and submitted a report (No. 976) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 6768. A bill to authorize the Secretary of War to lend War Department equipment for use at the Seventeenth National Convention of the American Legion at St. Louis, Mo., during the month of September 1935 (Rept. No. 977):

H. R. 7902. A bill to provide a right-of-way (Rept. No. 978); and

H. R. 8400. A bill providing for the loan by the War Department of certain material and equipment to the Veterans of Foreign Wars 1935 Encampment Corporation, and for other purposes (Rept. No. 979).

Mr. BLACK, from the Committee on Military Affairs, to which was referred the bill (S. 1683) for the relief of Robert L. Monk, reported it without amendment and submitted a report (No. 980) thereon.

Mr. HALE, from the Committee on Naval Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 4274. A bill correcting date of enlistment of Elza Bennett in the United States Navy (Rept. No. 981); and

H. R. 4623. A bill for the relief of George Brackett Cargill, deceased (Rept. No. 982).

Mr. LOGAN, from the Committee on the Judiciary, to which was referred the bill (S. 1194) for the relief of the State of Maine, reported it without amendment and submitted a report (No. 983) thereon.

Mr. McCARRAN, from the Committee on the Judiciary, to which was referred the bill (S. 3002) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto, reported it with amendments and submitted a report (No. 985) thereon.

Mr. TYDINGS, from the Committee on Territories and Insular Affairs, to which was referred the bill (S. 2330) authorizing the Virgin Islands Co. to settle valid claims of its creditors, and for other purposes, reported it without amendment and submitted a report (No. 984) thereon.

Mr. PITTMAN, from the Committee on Foreign Relations, to which were referred the following joint resolutions, reported them each with amendments and submitted reports thereon:

S. J. Res. 99. Joint resolution to regulate the issuance of passports to American citizens in time of war (Rept. No. 987); and

S. J. Res. 100. Joint resolution to prohibit the extension of credits and the issuance of foreign loans under certain conditions (Rept. No. 988).

Mr. CONNALLY, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 382) to provide for the purchase of a certain lot of land in Cedar City, Utah, reported it with amendments and submitted a report (No. 986) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 2888. A bill to provide for the disposition, control, and use of surplus real property acquired by Federal agencies, and for other purposes (Rept. No. 1004);

S. 2958. A bill authorizing the Secretary of the Treasury to execute a quitclaim deed of certain land located in the village of Lyons, N. Y. (Rept. No. 989);

H. R. 5920. A bill to authorize the conveyance of certain Government land to the borough of Stroudsburg, Monroe County, Pa., for street purposes and as a part of the approach to the Stroudsburg viaduct on State Highway Route No. 498 (Rept. No. 990); and

H. R. 6983. A bill to provide for the transfer of certain land in the city of Anderson, S. C., to such city (Rept. No. 991.)

Mr. BAILEY, from the Committee on Commerce, to which was referred the bill (S. 1820) to provide warrant officers of the Coast Guard parity of promotion with warrant officers of the Navy, reported it with an amendment and submitted a report (No. 992) thereon.

Mr. McNARY, from the Committee on Commerce, to which was referred the bill (S. 620) to authorize the periodic construction of channels for fishing purposes in the Siltcoos and Takenitch Rivers, in the State of Oregon, reported it without amendment and submitted a report (No. 993) thereon.

Mr. WHITE, from the Committee on Commerce, to which was referred the bill (S. 2002) to provide for the establishment of load lines for American vessels in the coastwise trade, and for other purposes, reported it without amendment and submitted a report (No. 994) thereon.

Mr. COPELAND, from the Committee on Commerce, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 33. A bill to encourage travel to and within the United States by citizens of foreign countries, and for other purposes (Rept. No. 999);

S. 2905. A bill to increase the efficiency of the Coast Guard (Rept. No. 995); and

S. 3071. A bill providing for the placing of improvements on the areas between the shore and bulkhead lines in rivers and harbors (Rept. No. 996).

Mr. COPELAND also, from the Committee on Commerce, to which was referred the bill (S. 3) to regulate commerce in firearms, reported it with amendments and submitted a report (No. 997) thereon.

Mr. TRAMMELL, from the Committee on Naval Affairs, to which was referred the bill (H. R. 1714) for the relief of Russell H. Lindsay, reported it without amendment and submitted a report (No. 998) thereon.

Mr. REYNOLDS, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 2021. A bill to recognize the service of Brig. Gen. Edward R. Chrisman (Rept. No. 1000); and

S. 2558. A bill for the relief of Pettus H. Hemphill (Rept. No. 1001).

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, to which was referred the bill (S. 2731) to create an Indian Claims Commission, to provide for the powers, duties, and functions thereof, and for other purposes, reported it with amendments and submitted a report (No. 1002) thereon.

Mr. BURKE, from the Committee on the Judiciary, to which was referred the bill (S. 2867) to reenact section 463 of the act of Congress entitled "An act to define and punish crime in the District of Alaska and to provide a code of criminal procedure for said District", approved March 3, 1899, and for other purposes, reported it with an amendment and submitted a report (No. 1003) thereon.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on June 28, 1935, that committee presented to the President of the United States the following enrolled bills and joint resolution:

S. 2738. An act to authorize the use of park property in the District of Columbia and its environs by the Boy Scouts of America at their national jamboree;

S. 2917. An act authorizing an appropriation to effect a settlement of the remainder due on Pershing Hall, a memorial already erected in Paris, France, to the commander in chief, officers, and men of the expeditionary forces, and for other purposes; and

S. J. Res. 152. Joint resolution to extend to August 31, 1935, the temporary plan for deposit insurance provided for by section 12B of the Federal Reserve Act, as amended.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred, as follows:

By Mr. BARBOUR:

A bill (S. 3174) granting a pension to Julia A. King; to the Committee on Pensions.

By Mr. LEWIS:

A bill (S. 3175) for the relief of Jesse Ashby; to the Committee on Claims.

By Mr. CONNALLY:

A bill (S. 3176) to authorize the Secretary of War to lend to the reunion committee of the United Confederate Veterans, to be delivered to a United States property and disbursing officer, 3,000 blankets, olive drab, no. 4, and 3,000 canvas cots, to be used at their annual encampment to be held at Amarillo, Tex., in September 1935; to the Committee on Military Affairs.

By Mr. SCHWELLENBACH:

A bill (S. 3177) granting a pension to Lottie B. Smith; to the Committee on Pensions.

A bill (S. 3178) to authorize the incorporated city of Anchorage, Alaska, to construct a municipal building and purchase and install a modern telephone exchange, and for such purposes to issue bonds in any sum not exceeding $75,000; and to authorize said city to accept grants of money

to aid it in financing any public works; to the Committee on Territories and Insular Affairs.

By Mr. McKELLAR:

A bill (S. 3179) to appoint one additional judge of the district court of the United States for the eastern, middle, and western districts of Tennessee; to the Committee on the Judiciary.

By Mr. ADAMS:

A bill (S. 3180) to authorize the appointment and retirement of Joseph P. Constantine as a second lieutenant of the United States Army; to the Committee on Military Affairs.

By Mr. THOMAS of Oklahoma:

A bill (S. 3181) authorizing an appropriation to enable the Secretary of Agriculture to cooperate with the experiment station of the Panhandle Agricultural and Mechanical College, located at Goodwell, Okla.; to the Committee on Agriculture and Forestry.

A bill (S. 3182) authorizing an appropriation to carry out the provisions of section 26 of the agreement with the Muskogee or Creek Tribe of Indians, approved March 1, 1901; to the Committee on Indian Affairs.

By Mr. SMITH:

A bill (S. 3183) to amend the Agricultural Adjustment Act to make all varieties of potatoes included in the species Solanum tuberosum a basic agricultural commodity, to raise revenue by imposing a tax on the first sale of such potatoes, and for other purposes; to the Committee on Agriculture and Forestry.

By Mr. HARRISON:

A bill (S. 3184) to provide for the immediate settlement of the obligation of the Joe Graham Post of the American Legion arising out of the purchase of the Ship Island Military Reservation; to the Committee on Military Affairs.

By Mr. COPELAND:

A bill (S. 3185) for the relief of Grace K. Barber; and

A bill (S. 3186) for the relief of Edward H. Karg; to the Committee on Claims.

A bill (S. 3187) to amend section 32 of the World War Veterans' Act of 1924, as amended; to the Committee on Finance.

A bill (S. 3188) authorizing the Secretary of War to purchase lands for the purpose of carrying into effect the provisions for national cemeteries; to the Committee on Military Affairs.

By Mr. FLETCHER:

A joint resolution (S. J. Res. 155) authorizing exchange of certain securities, coins, and currencies of the United States, withdrawing the right to sue the United States on its bonds and other similar obligations, limiting the use of certain appropriations, and for other purposes; to the Committee on Banking and Currency.

AMENDMENTS TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. WHEELER submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 47, after line 12, to insert the following:

"CUSTER MEMORIAL MUSEUM

"For the establishment and maintenance of a public museum as a memorial to Lt. Col. George A. Custer, $20,000: *Provided*, That the Secretary of War is authorized and directed to erect and maintain such museum on such site as he shall select within the Custer Battlefield National Cemetery in the State of Montana and to accept such historical relics as he may deem appropriate for exhibit therein."

Mr. FLETCHER submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 34, after line 14, to insert the following:

"Naval air station, Pensacola, Fla.: Barracks and mess hall, $650,000; assembly and repair shop, $675,000; quarters for student officers, $500,000; improvement to power plant and distributing systems, roads, walks, and sewer systems, $175,000; in all, $2,000,000."

Mr. SHEPPARD submitted an amendment intended to be proposed by him to House bill 8554, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 26, after line 6, to insert the following:

"NATIONAL PARK SERVICE

"Big Bend National Park: To enable the Secretary of the Interior to determine the boundaries of the Big Bend National Park under the provisions of an act entitled 'An act to provide for the establishment of the Big Bend National Park in the State of Texas, and for other purposes', approved June 15, 1935, and to carry out the provisions of said act, fiscal year 1936, $50,000."

LEGISLATIVE PROGRAM AND ADJOURNMENT

Mr. McNARY. Mr. President, in the absence of the senior Senator from Delaware [Mr. HASTINGS], I submit a concurrent resolution, and ask that it be read. I shall ask that the resolution lie over under the rule for the day, but I commend it to the studious and careful consideration of the Congress.

The PRESIDING OFFICER. The clerk will read.

The Chief Clerk read the concurrent resolution (S. Con. Res. 20), as follows:

*Resolved by the Senate (the House of Representatives concurring)*, That when the Congress shall have completed its legislative program, except the revenue bill, it shall adjourn until noon on Monday, November 18, 1935;

*Further resolved*, That between the day of adjournment and November 18, 1935, the proper committees of the two Houses are requested to study the financial conditions of the Government as to income and expenses and make such recommendations as they find necessary to balance the Budget and begin the reduction of the national debt;

*Further resolved*, That when the Congress reconvenes on November 18, 1935, such revenue bill as such committees may recommend shall be the first order of business.

Mr. KING. Mr. President, I ask that the resolution go over for the day under the rule.

Mr. McNARY. I suggested that, in view of the rule, the resolution would have to go over for the day. I commend it to the studious consideration of the Senator from Utah and his brethren, both in the House and in the Senate, and on another day, if not tomorrow, I shall ask that it be brought before the Senate for consideration and discussion.

The PRESIDING OFFICER. The concurrent resolution will lie over under the rule.

INVESTIGATION OF PATENT POOLS, PATENT HOLDING CORPORATIONS, ETC.

Mr. FLETCHER. I submit a resolution, which I ask to have printed in the RECORD and referred to the Committee on Interstate Commerce.

The PRESIDING OFFICER (Mr. MINTON in the chair). Without objection, the resolution will be received and referred as requested by the Senator from Florida.

The resolution (S. Res. 164) was referred to the Committee on Interstate Commerce, as follows:

Senate Resolution 164

Whereas the following combinations of patent holding corporations, patent pools, and major companies in each commodity and industry, directly or indirectly affecting interstate commerce, the national defense, and relations with foreign governments and interests, viz: Glass-container industry—including milk bottles, beverage bottles, and pharmaceutical ware; radio industry; electrical industry—including electrical equipment manufacturing and articles approved by underwriters; railway signaling apparatus and systems—including automatic train control; business-machine industry—including stenciling machines, tabulators, bookkeeping machines, and cash registers; ethyl-gasoline industry; and telephone and telegraph equipment industry; and

Whereas the combinations of holding corporations, patent pools, and the major companies in each industry simultaneously control most, if not all, of the thousands of patents covering products of the above-mentioned industries through patent pools and exclusive franchises to the continuing disadvantage of other manufacturers, small enterprises, and the consuming public; and

Whereas it is alleged that the control of these patent pools and patents is tantamount to the power to dominate the industries and to fix all prices for the products thereof by mentioning royalties under the patents on the one hand and by issuing or refusing to issue franchises for the manufacture and use of patented articles on the other hand; and

Whereas the military and naval forces cannot effectively operate without the patented articles so essential to the national defense; and

Whereas it is alleged that the advantages inherent in the exercise of the exclusive franchise to manufacture and use the various patented articles are not available to all manufacturers in each of the industries upon open, equal, and reasonable terms but

are granted or withheld solely within the absolute discretion of the holding corporations or patent pools; and

Whereas it is alleged that such limitations upon the free use of the patented products tends to substantially lessen free and open competition and constitutes an unreasonable restraint of trade; and

Whereas it is alleged that this control of holding corporations and patent pools is preventing the full recovery of small industries, preventing the reemployment of hundreds of thousands of unemployed: Now, therefore, be it

*Resolved*, That the Committee on Interstate Commerce, or any duly authorized subcommittee thereof, is authorized and directed to make a full and complete investigation of patent pools, patent holding corporations, and the major companies and corporations in each of the above-named industries, with a view to determining to what extent, if any, their patent rights, trade practices, trade policies, contracts, financial status, and other functions directly or indirectly affect interstate commerce, the national defense, and our relations with foreign governments, and to determine the cost of Government purchase of patented articles manufactured by such industries and such other matters as may be pertinent thereto. The committee shall report to the Senate as soon as practicable the result of its investigation, together with its recommendaions.

For the purposes of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-fourth and succeeding Congresses, to employ such clerical and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $———, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

MAKING NATURALIZATION ADMINISTRATIVE

Mr. WAGNER. Mr. President, on June 27 I requested unanimous consent to have printed in the RECORD an article entitled "Making Naturalization Administrative", published in the Boston University Law Review for April 1935 and written by Mr. Harold Fields.

At that time I did not have at hand the estimate for the printing of this article. I now have that estimate and wish to submit it, together with a copy of the article.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston University Law Review for April 1935]

MAKING NATURALIZATION ADMINISTRATIVE

By Harold Fields *

Under present statutes, regulations, and practices, acquiring a change in nationality in the United States is a function which is divided between the executive and judicial departments of our Government.

Problems of citizenship have assumed increasing importance in recent conferences and legislation. By authorization of Congress, President Roosevelt has appointed the Secretary of State, the Secretary of Labor, and the Attorney General as members of a special commisison to study nationality problems arising out of our citizenship and legislative procedure, and to make recommendations. The same topic was made the basis of a long discussion at the last Pan American conference. In spite of pressing economic problems, Congress, in 1934, passed legislation tending to equalize nationality rights between men and women. At Geneva, too, and elsewhere this problem has assumed increasing importance.

For these reasons, therefore, careful thought should be given, for review and evaluation, to the manner and process by which foreign-born arrivals are permitted to become American citizens.

Since 1790, and through the basic law of June 29, 1906,[1] the right to naturalize has been given to Federal courts or State courts of record. However, unlike most other judicial functions, the executive branch of the Government, through the Naturalization Service, is also legislatively required to act, much in the capacity of a master or referee.[2] The functions of these two departments of our Government are basic to any naturalization case if it is to be legal and proper.

The result of this judicial-executive procedure has brought about lack of harmony in viewpoints between the two branches of the Government. Frequently these differences are of diametric character; frequently they resolve themselves into a subordination of opinion by one department to the other.

But because of the increasing importance of naturalization and in the face of a very small immigrating group, it is timely now to consider whether, as a matter of efficiency, the process of effecting the conversion of aliens into citizens should not be placed exclusively in the hands of one branch of the Government only, rather than be made subject to the decisions of two.

The statutes require that an alien who applies for citizenship must evidence to the satisfaction of the Government that he was admitted to this country with its sanction and approval.[3] To do this he must apply to the Naturalization Service for a certificate of arrival when requesting his declaration of intention or first papers. The Service checks his application as to facts of identity, arrival, residence, and other pertinent data and then, when found satisfactory, places it before the naturalization court, for recording and issuance of the declaration of intention itself. (This is the first instance where the court actively participates in the process, the role it plays being purely formal and clerical in character.) The fee which is required for the certificate of arrival on which the declaration of intention is based is made payable not to the court but to the Naturalization Service which has investigated the facts on which the issuance of the first papers is determined.

Some years later, but not earlier than two nor more than seven, the applicant may send in his application to the Naturalization Service for his second papers. The petition is then formally filed by requiring the applicant and his two witnesses to appear before a naturalization examiner who questions him and his witnesses as to his fitness for citizenship. The alien is then turned over to a "designated examiner" who, in the capacity of a master or referee, reports to the court his recommendation as to the fitness of the applicant for naturalization. The right of the designated examiner to so act has been established by law and applies to Federal courts only.[4]

The provisions of this act were summarized by Dr. Henry B. Hazard, Chief Counsel, Bureau of Naturalization, as follows:[5]

"In relieving the judges of hearing the testimony in these cases, the naturalization officers really act in the capacity of masters in chancery. The preliminary hearings by the designated examiner or officer, referred to in this law, are held in a naturalization office or other convenient place, and are open to the public. They are conducted in the orderly and dignified manner which characterizes a regular court proceeding. * * * Other witnesses than those produced by the applicant may be called by the Government, acting through a naturalization officer, and mate-

* B. S. (cum laude 1911) New York University, M. A. 1914; executive director National League for American Citizenship; active in immigration and naturalization fields; frequent contributor to legal and other publications on naturalization, citizenship, and immigration.

[1] Act of June 29, 1906 (34 Stat. 596), as amended and supplemented:

"SEC. 3. That exclusive jurisdiction to naturalize aliens as citizens of the United States is hereby conferred upon the following specified courts:

"United States * * * district courts now existing, or which may hereafter be established by Congress in any State, United States district courts for the Territories of * * * Hawaii and Alaska, the Supreme Court of the District of Columbia, and the United States courts for the Indian Territory; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited.

"That the naturalization jurisdiction of all courts herein specified, State, Territorial, and Federal, shall extend only to aliens resident within the respective judicial districts of such courts" (34 Stat. 596; U. S. C. t. 8, secs. 357, 358).

[2] This right was granted in the law of June 8, 1926, which stated that:

"(a) The judge of any United States district court, or the senior judge of such court, if there are more judges than one, is hereby authorized, in his discretion, to designate one or more examiners * * * of the Bureau of Naturalization * * * to conduct preliminary hearings upon petitions for naturalization to such court and to make findings and recommenations thereon. For such purposes any such designated examiner or officer is hereby authorized to take testimony concerning any matter touching or in any way affecting the admissibiilty of any petitioner for naturalization, to subpena witnesses, and to administer oaths, including the oath of the petitioner to his petition and the oath of his witnesses.

"(b) The findings of any such designated examiner or officer upon any such preliminary hearing shall be admitted to the court at the final hearings upon the petition required by sec. 9 (of the act of June 29, 1906), with a recommendation that the petition be granted or denied or continued, with the reasons therefor. * * * The judge to whom such findings and recommendations are submitted shall by written order approve such recommendations with such exceptions as he may deem proper, by subscribing his name to each such list when corrected to conform to his conclusions upon such recommendation.

"(c) The provisions of sec. 9 requiring the examination of the petitioner and witnesses under oath before the court and in the presence of the court shall not apply in any case where a designated examiner or officer has conducted the preliminary hearing authorized by this subdivision, except that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner and the witnesses under oath before the court and in the presence of the court."

[3] U. S. Code, Annotated, title 8, ch. 9, par. 380: "At the time of filing his petition there shall be filed with the clerk of the court a certificate from the Department of Labor, if the petitioner arrived in the United States after June 29, 1906, stating the date, place, and manner of his arrival in the United States and the declaration of intention of such petitioner which certificate and declaration shall be attached to and made part of such petition (June 29, 1906, ch. 3592, par. 4, 34 Stat. 596).

[4] See note 2.

[5] See article in Zeitschrift für Volkerracht, 1932.

rial evidence introduced in opposition to the granting of naturalization. Where the applicant appears to be qualified and his witnesses competent, the witnesses are usually excused from further appearance.

"These provisions have resulted in the practical elimination from congested court dockets of naturalization cases which had accumulated under the previous method. * * *

"The attitude of the judges of the Federal district courts, who have the power to disapprove the recommendations of the designated naturalization examiners or officers, is indicated by * * * figures showing the results of hearings. * * * (The percentage shown in Dr. Hazard's table is 1.2.)

"As one Federal judge has recently declared: 'Under the law * * * and the practice which has grown up, the report of the Naturalization Bureau practically determines an admission to citizenship.'"[6]

The Federal courts today concede almost all naturalization matters to the administrative service except the final act of formally certifying to the citizenship of the applicant. The only positive and active exercise of the function of the court is found in cases that are recommended for denial, or where justices—in rare instances—choose to decide cases for themselves. Justices of State courts, where as yet designated examiners are not permitted to act, frequently take an active part in naturalization cases. This generally occurs, however, only where naturalization cases are few in number; the recommendation of the Service in the vast majority of cases are accepted by the courts.

Concisely, the task of securing certificates of arrival, the process of checking up on such arrivals, action on declarations of intention and on second papers, the preliminary hearings, examinations of facts submitted, official recommendations to the court on such petitions, even the function of providing duplicates of lost papers and the providing of certificates of derivative citizenship, are all administrative or executive matters. The Commissioner of Immigration and Naturalization promulgated rules and regulations bearing on naturalization, which decide and dictate the standards for the examiners in determining the qualifications for citizenship. The courts do not act except to sign the necessary petitions or to question applicants about whom some doubt has been raised.

Thus, at the present time, naturalization is largely an administrative function, with the courts exercising—save in exceptional instances—a purely formal, signatory, and presiding capacity. For that reason, the recent renewal of a discussion on the topic whether naturalization in the United States should not be made entirely an administrative measure, and the functions of the court removed, becomes a fair problem for consideration in the present Federal program of economy and the elimination of duplication functions.

Although legislation has technically assigned to the judiciary the right to establish the determinants for naturalization, such practice today is archaic, inefficient, and contrary to every theory of proper Government procedure. The fact that both State and Federal judges are governed by appellate court decisions and all of them by decisions of the Supreme Court of the United States is observed in the fields of immigration and naturalization, in the breach from time to time. The custom of relegating to the Naturalization Service almost 90 to 95 percent of the work incident to citizenship and then permitting its technical work to be overruled by justices who frequently are unacquainted with naturalization precedent, decisions, and laws, leads to grave faults. Since naturalization is subject to the rule and interpretation of two departments, neither of which is subordinate to the other, the result has been one of conflict or of domination of one over the other—not a desirable state of affairs. There can be no sense of responsibility for decisions; the Service advises its field force as to certain standards, which are variously received by the judges of more than 2,000 courts throughout the land, and who give little heed to one another's decisions. The Service is thus confused, not knowing how to rule in many cases. Thus an applicant for citizenship, whose minor son was deportable, was denied his papers in a Detroit court,[7] whereas in a parallel case in New York, citizenship was granted.[8] A judge in one of our New England States granted citizenship to an applicant although her family was still abroad,[9] while, in another State, another judge sitting on the same type of case, denied a similar petition.[10] A case involving rape was held by one judge not to have come within the province of immoral conduct even though the crime took place within the 5-year period for naturalization;[11] in another State immoral conduct was construed to cover a single traffic violation.[12] In naturalization cases we have one of the few instances in law where State courts are permitted to rule on Federal functions and where their own interpretation often differs widely from that given by the United States courts.

The Naturalization Service can send out its instructions to its field force defining such terms as "continuous residence" and "immoral character", and upon such instructions the force will recommend (or not recommend) favorable action in each case. The designated examiner himself, an employee of the administrative staff but acting on behalf of the court, is guided by these instructions under present conditions. There is no assurance, however, that the court will abide by them, nor for that matter that any one court will agree with any other court in the interpretation of these terms. There is no authority which can compel any judge to abide by former or higher decisions. As illustrative of this, we note that even after the Supreme Court of the United States had disapproved applications for citizenship where there was involved the refusal to bear arms, minor and inferior courts occasionally continued to approve of such applications.[13] This lack of uniformity and responsibility leads to chaos and irresponsibility. As constituted today, the courts are not a check on the Naturalization Service; in fact, in most cases they subscribe to the decisions of the Service, as is indicated by the fact that in only 1.2 percent of the cases acted on, as has been stated, are differences to be noted between the recommendations of the Service and the courts. Today many courts turn to the naturalization examiner for guidance; other courts attempt to dictate to the examiner what steps and attitude he should follow. In the first instance this leads to needless duplication of decisions; in the second, to confusion. In New York most judges are guided by the Service; in Massachusetts the Service is guided by the courts. With 2,000 courts authorized to grant certificates of naturalization and with from 1 to 25 judges sitting in each of these courts,[14] the total of judicial opinions possible is colossal and Babel-like. A single authority can overcome this confusion by drawing up regulations which will set uniform standards. It can allow for exceptional factors and thus aid social agencies and attorneys to properly instruct their clients. Today advisers hesitate to commit themselves or even to follow precedent in naturalization decisions because of the innumerable differences in attitudes between judges sitting in the same term, between courts in the same district, and between Federal and State courts generally.

Good government demands a centralized authority with power to enforce obedience; where provision has been made by law for administrative action in the first instance, the courts should be instruments of appeal only. The naturalization process today does not comply with this fundamental precept.

In fairness to the judges sitting in naturalization terms, it should be stated that the attitude of the courts is the natural consequence of a number of circumstances. Precedent, laws, regulations, and treaties in naturalization work are quite outside the content of the average court calendar. Where the number of applications is few, the problems and contentions are few; where the numbers of applications are many, the judge frequently finds the demands on his time a source of irritation because of their interference with the civil or criminal cases facing him. Federal and State judges have frankly stated that it is their practice to hurry naturalization cases along; they do not consider these matters part of their basic function of arbiter and interpreter of laws; they frequently maintain that the simplest solution lies in accepting the findings of the Bureau, particularly where favorable recommendations are reported.[15] Courts frequently tend to clear their calendars of accumulated naturalization cases by putting such cases "through the mill." In one instance, 2,500 applications in 1 day were acted on by a single judge.[16] About 3 years ago, in a New York court, 10,000 cases were acted on in 1 month.[17] In the latter instance the accumulation had taken place because the court for a period of a year and a half had had very little time for naturalization. Cases waited not the statutory 90-day period, but 6 months, a year, and a year and a half. The work of the Service was thus held up until the courts would find time to give consideration to these applications. The Service could have disposed of all of them in the statutory period and saved aliens from the consequent exploitation that ensued.

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[6] In a report by the United States Department of Labor entitled "Historical Sketch of Naturalization in the United States" (p. 17) the statement is made: "The Bureau of Naturalization knows, from an actual daily experience, extending over a period of nearly 20 years, that the judges as a body may be depended upon implicitly to discharge with fidelity the high function imposed upon them by the law granting naturalization to only such aliens as are qualified to become citizens. But the judges can pass only upon the evidence before them. If that consists solely of the ex parte statements made by a petitioner and his friendly witnesses, what can a judge do but grant the petition, unless by a happy accident in cross-examination he develops some contradiction of those statements? Nothing. What was formerly left to chance, and at the cost of the consumption of much valuable time of the court, is now developed, if any objection exists, by skilled investigators of the Bureau of Naturalization and presented to the court with definiteness and the minimum expenditure of time at the hearings."

[7] United States District Court, Detroit, Mich., Petition No. 68961.

[8] Supreme Court, State of New York, Onondaga County, *In re Iannolo*, Petition No. 9590.

[9] United States District Court, Providence, R. I., Petition No. 29491 (woman's husband and three children were still in their native land).

[10] United States District Court, Detroit, Mich., Petition No. 22129.

[11] United States District Court, Southern District, New York, No. 138788.

[12] United States District Court, Western District, Washington, *In re Erickson*, May 25, 1934.

[13] United States District Court, District of Minnesota, Third Division, Petition No. 2361, *In re Beale*.

[14] Such as the Supreme Court of the State of New York, First Judicial District.

[15] The late Chief Justice Taft, of the Supreme Court of the United States, and other leading justices of the Federal courts, urged the plan for the designated examiner, on these grounds, before the House Committee on Immigration and Naturalization on May 27, 1926.

[16] Historical Sketch of Naturalization in the United States, printed by Government Printing Office, p. 8, last paragraph.

[17] Supreme Court, State of New York, Bronx County.

In the case of unfavorable recommendations by the Service, the examiner may be overruled because of the personal attitude of the judge, or even in opposition to the law. Thus one judge admitted an alien to citizenship who had been absent from the country for 13 consecutive months,[18] despite the specific language of the law to the contrary;[19] another judge refused to allow applicants to request a change in their names in their petitions although the Government form and the law so permitted it;[20] one judge held a common-law marriage illegal under any circumstances;[21] aliens who cannot speak our language are admitted to citizenship by "liberal" judges while others whose ability to read is measured by some difficult passage, are denied by "strict" judges.[22]

Courts do not agree with each other nor with the Bureau; rule and precedent are frequently set aside. The lack of a directional or supervisory power over the courts has increased the demand that naturalization be placed in the hands of one department only, with the right of appeal to the other (rather than leave it, as at present, to be buffeted between the two). The selection of the administrative branch of the Government for this work is logical because of the major part it plays in this function and because it can offset the perfunctory work of many courts, and overcome the lack of administrative control, now existent under the present set-up.

It is regrettable that objection to this change has frequently been laid at the door of precedent and custom. Precedent is an excellent guide when situations are parallel and similar, but where customs, attitudes, and social forms change, not alone might precedent well change but the machinery for precedent, with it. Those who would retain the function of the judiciary in this program because it has been so in the past, should recognize the fact that all our institutions today are undergoing a late metamorphosis. We face a new social order—an order of responsibility and expedition of rights for the average man. Courts are giving way to arbitration tribunals and laws to agreements; and in this specific instance, naturalization should logically be turned over to that agency which can perform it most expeditiously under proper authority, and where it can be given specialized consideration. Under the law today, it is the underlying purpose of the Naturalization Service to encourage citizenship; hence in its hands should be left the right to grant citizenship.

Two chief objections against placing naturalization in the hands of an administrative bureau are often advanced. One is that it would make naturalization a procedure controlled by men rather than by law and the other that there would be no right of appeal. The first objection is tenuous; all law is man controlled and interpreted. Each judge must, in the nature of things, form his decisions from the composite angles of his own background and his personal interpretation of the law. Court procedure involves man-made law just as much as does the administrative process. How else can one explain away the inconsistencies and disagreements already cited in the interpretations given to naturalization procedure by these judges? To contend that many judges have no prejudices or personal "slants" is to overlook constant illustrations of man-made law.

Nor would administrative control block the right of appeal—where appeal is logical. While the law today grants the right of appeal in naturalization cases, it is a right that is so rarely exercised that it is almost nonexistent. In the last analysis there is no right of appeal for the poor man who must engage the services of a lawyer, pay the expenses of a printed brief, and be involved in other costs far beyond his financial reach. The printing of briefs for such appeals costs the average alien approximately $250 or $1,000. Hence, since the average alien is a man of small income, the right of appeal for him is a gesture, an empty grant. Were naturalization made an administrative power exclusively, there would still be retained the right of appeal to the courts just as it is today exercised in immigration matters (which is also an administrative function). Under such an arrangement, the number of such appeals would unquestionably increase and thus make this right a real one.

Administrative procedure would permit of a greater opportunity of appeal than does the present administrative-judicial process. There could be instituted an appeals board within the jurisdiction of the Service itself, the members of which would be selected lawyers of unquestioned repute and probity, or members of the Service selected specially similar to the Board of Review in the Immigration Service. These men could constitute a court similar to parallel tribunals in other departments. All rejected cases would, in the course of a stipulated formal process, come before them for review so that every rejected case would thus have the right of appeal, a right that would, in essence, be compulsory. Because the presence of attorneys would be optional, because formal briefs could be waived, because arguments on behalf of the applicant would be recognized whether presented as informal statements personally or through the representation of interested social-welfare workers—because of all of these humanized processes, appeal would be a step that every alien would not alone be entitled to but would actually receive. The cost element would be entirely eliminated. Furthermore, such a board would prove to be an excellent check on the efficiency and humanity of the acts of members of the field force.

Under such an arrangement, the right of further appeal to the Federal courts would still be retained, provided any question of law was involved. This would continue the right now in existence where appeals are allowed in cases only where it is maintained that the law has not been adhered to.

Some have held that administrative control will lead to greater strictness if naturalization is put under the authority of a single division. Under the present system there are innumerable cases of unwarranted and even unjustified strictness in judicial decisions which are unfair and disruptive of the spirit of true American citizenship. All execution of law, whether from the bench or from the desk, is molded, shaped, and affected by the personal attitudes of the one in authority. The present policy of the Naturalization Bureau shows convincingly that it is easier to change administrative attitudes through elections and appointments than it is through the courts.

One finds it difficult to justify objections to a program which calls for unification of direction and centralization of responsibility in the administration of any governmental function. The courts have always stood as interpreters of law rather than as enforcers. Placing naturalization exclusively under the direction of the Naturalization Service and so modifying the present law as to empower the designated examiner to issue the final certificate of citizenship (with a right of review as suggested above) will in no sense give unusual authority to that branch of our Government since that authority is already being exercised. In many instances judges, because they do not have the opportunity to study the naturalization law, urge this change. They point to the fact that they themselves lean on the opinions of the examiners. They believe that a program of proper supervision over naturalization matters, if under one control, can be articulated with a dignified and formal program for induction into citizenship—a program that is altogether too frequently lacking because of the pressure of other cases on the regular court calendar.

The transfer of the power over naturalization from the judiciary to the executive department can be authorized by congressional action.[23] Such a change would be logical and expeditious. It is to be hoped that some day the law will be changed to allow naturalization to be placed in the hands of the Commissioner of Immigration and Naturalization only. It will mean but little added work to the present service; it will release the present naturalization work of the courts, and it will be the means of adapting regulations to social conditions and the law. Further, it will afford, through statutory form, the right of supervision, the authority of direction, the opportunity for review in all denied cases without expense to the alien, the elimination of a dual control, and the means for developing and executing programs, which will lead to a finer, more dignified, more significant ceremony of induction into the state of citizenship. To the alien, to the courts, and to the development of efficiency in government such a change would prove a desirable boon.

[18] United States District Court, Philadelphia, Pa., *In re Ringstead* (41 Fed. (2d) 753).

[19] Under sec. 382 of title 8 of the United States Code, as amended on Mar. 2, 1929, absence from the United States for a continuous period of 1 year or more during the 5 years immediately preceding the date of filing the petition for citizenship, for which continuous residence is required as a condition precedent to admission to citizenship, breaks the continuity of such residence.

[20] Superior Court, Bristol County, Fall River, Mass., Sept. 26, 1933; other Massachusetts courts ruled similarly. Act of June 29, 1906, sec. 6 * * * It shall be lawful at the time and as a part of the naturalization of any alien, for the court * * * upon the petition of such alien, to make a decree changing the name of said alien, and his certificate of naturalization shall be issued to him in accordance therewith (34 Stat. 598; U. S. C., title 8, sec. 396; also 46 Stat. 1511).

[21] United States District Court, Eastern District New York, Petition No. 116952.

[22] This difference is found in almost all courts exercising jurisdiction over naturalization cases, where two or more judges have successive jurisdiction.

[23] *Tutun* v. *United States* (1926), 270 U. S. 576. "The United States may create rights in individuals against itself and provide only an administrative remedy * * *."

### ADMINISTRATION TAX PROGRAM

Mr. BARBOUR. Mr. President, I ask unanimous consent to have inserted, in full, in the RECORD an article which appears in the New York Times this morning carrying the statement or address by my friend and able colleague the junior Senator from Michigan [Mr. VANDENBERG], dated Washington, June 30, 1935, in connection with the tax program of the President recently messaged to the Congress.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times of June 30, 1935]

VANDENBERG ASKS A NEW INCOME TAX ON A WIDER BASIS—REPUBLICAN SENATOR INSISTS SUCH A MEASURE IS NEEDED TO PREVENT WILD INFLATION—OPPOSES ROOSEVELT PLAN—WOULD ASSESS, "NOT DESTROY", WEALTH—ASKS CORPORATION TAX AWAIT RECOVERY

WASHINGTON, June 30.—Demand for a tax bill which would broaden the base on income taxes and not be a measure designed as an "appeal to mass prejudice" nor "a mere sop to political prejudice" was voiced today by Senator VANDENBERG, of Michigan, a potential candidate for the Republican Presidential nomination.

In uniting with the 22 so-called "Senate Progressive Republicans and Democrats" who protested against the proposed administration bill, Senator VANDENBERG has aided the movement for a tax bill that would raise vast revenues as a step to balance the Budget. His attitude and that of other independent Republicans and Democrats aims at a tax bill that would not be an attempt to soak the rich, but one which would in the end raise sufficient revenues, along with present taxation, to prevent currency inflation. Objection also was made by Senator VANDENBERG to increases in the corporation tax at this time when business was convalescent.

Opposition to an increase in the taxes on the larger corporations while taxes of smaller businesses were reduced, as proposed in the tentative administration draft, was registered today by the National Association of Manufacturers, which asserted that such a tax plan would be an injustice to thousands of small stockholders in larger corporations and would place them at a disadvantage with those having investments in corporations assessed at a lower rate.

"If we are to have a new tax bill, let it be a real tax bill and not a mere political appeal to mass prejudice", Senator VANDENBERG said in a statement.

"Last week's administration proposals were a mere sop to political strategy. They would neither support the public credit by adequately overtaking our tragically mounting deficit nor 'redistribute wealth' pursuant to the demands of those whom the President would placate. Fortunately a flash of recurrent sanity interrupted the original program, which certainly implied a purpose to rewrite the basic tax laws of the Republic in 72 hours.

"Now that a bit of rational deliberation is to be dedicated to the task, let it be done effectively or not at all.

"I am one who bitterly opposes uncontrolled inflation. It is, in my judgment, the one calamity which we could not survive. The rate of public spending and public waste now going on leads ultimately either to inflation on the one hand or heavily increased taxation on the other. As between these alternatives I choose taxation.

PREFERS TAXATION TO INFLATION

"No amount of taxation could be as burdensome or confiscatory as an inflation spree. Therefore I am ready to support a new tax program, provided it is real and adequate and effective.

"This means, first, that rational economy must again dedicate itself to the pursuit of a balanced Budget as speedily as possible—because it will be only an added and final dissipation of the resources of our citizens if new tax revenues are poured into a bottomless well of incontinent spending. It will do no good to 'refill the barrel' if the bunghole remains wide open.

"Secondly, with a recurrent dedication to a balanced Budget—a dedication which, for a change, means what it says—the new tax program should raise enough money to do the job and not merely flirt with it. This manifestly means that the income-tax base must be broadened because all the incomes of all 'the rich' will not suffice to pay our mounting deficit. We must get the money. Inevitably millions of our citizens must contribute, each in proportion to his ability to pay. Incidentally, when this happens—and citizens realize that there is no Santa Claus—the popularity of loose public spending will suffer a desirable set-back.

"Thirdly, the tax program must be practical. I do not believe in using income taxes for social objectives. But I do believe in using inheritance taxes for social objectives. Nevertheless, we must be sure we do not destroy wealth in our efforts to redistribute it.

WARNS OF BREAK-UP OF FORTUNES

"There is a point beyond which the break-up of a large fortune may spell the break-up of an industry which produced it. There is no useful social objective in such a result if it adversely affects thousands of related employees.

"Fourthly, corporation taxes are business taxes. Convalescent private business is our hope for the future. Business must take its share of this burden; but it must not be driven to discouragement and despair. At the moment it may be better to emphasize taxation upon the individual after the earnings of business have been distributed to him.

"Finally, any such program must include the elimination of tax-exempt bond priviliges, because there never can be an equitable distribution of the tax burden so long as the exemptions open the back door for escape."

The statement of the National Association of Manufacturers described the proposed graduated tax on the net income of corporations as "unsound from whatever aspect it is considered" and as "an attack upon the welfare of millions of consumers and upon millions of thrifty people who have invested their savings in our business corporations."

"As an income-producing measure it is inadequate", the organization added. "Under the rate schedule suggested by the Senate Finance Committee it has been estimated that the graduated corporation income tax would raise between $40,000,000 and $100,000,000 additional revenue a year—an amount equal to the continuing Federal deficit for from only 1 to 2 weeks of the year.

"It is admittedly a proposal designed to facilitate redistribution of wealth; it is, in other words, a reform measure and not a tax measure. By adding new tax burdens, by proposing unsettlement of relationships between corporations and their stockholders, it is, in fact, an antirecovery measure.

"This is not a small problem involving only a small number of corporations with large incomes. The proposal affects millions of persons. A corporation is simply an aggregation of individuals who have invested in the same enterprise. There are nearly 10,000,000 registered owners of common stocks listed on the New York Stock Exchange and additional millions of owners of companies listed on other exchanges or not dealt in on any security exchange. Even allowing for duplications of stock holdings, there remain millions of Americans who are part owners of business corporations.

"There is a greater diffusion of ownership and wealth in the United States than in any other country. It is now proposed to levy higher taxes upon the corporation in which there is the greatest diffusion of ownership. The result would unquestionably tend toward a decreased number of small investors in large corporations, and thus toward increased concentration of wealth ownership—an objective contrary to the announced aims of its own sponsors.

"Corporations are not simply large pools of wealth; they are owned by great masses of individuals. The average individual investment in corporations is $2,700, with millions owning less. These investors have every right to expect and demand that the Government shall treat them fairly and without discrimination.

"As representatives of industrial management we point out that a graduated corporation income tax is unfair to millions of stockholders since the rate of tax suggested bears no relation to the percentage of profit earned on the investment, and since it taxes the millions of small investors in corporations having large incomes at a higher rate than either large or small investors in small corporations.

"A graduated corporation income tax is, moreover, a penalty on efficiency. It says, in substance, that whenever a corporation makes a sufficiently good product to attract customers and earns a substantial profit, it shall be taxed more than the corporation with less customer demand and smaller profits."

It is now apparent that the Ways and Means Committee, to which has been shifted the responsibility of writing the new tax bill, will be the object of strong appeals and arguments.

This committee will not begin hearings until next week, and many observers believe that a bill will emerge from its deliberations to produce revenues greatly in excess of the $340,000,000 estimated yield of the original administration measure.

Even some of the Progressive bloc are opposed to imposing a graduated tax on corporations at this time, and some Members of Congress say this tax, if adopted, may not be made operative until a year or 18 months after the other taxes are in effect.

PRESIDENT ROOSEVELT'S MESSAGE ON TAX METHODS AND POLICIES

Mr. NEELY. Mr. President, I ask unanimous consent to have printed in the RECORD an able address which the brilliant senior Senator from Colorado [Mr. COSTIGAN] delivered on June 27, 1935, over the National Broadcasting network on the subject, "President Roosevelt's Message on Tax Matters and Policies."

There being no objection, the address was ordered to be printed in the RECORD, as follows:

One week ago today President Roosevelt transmitted to Congress an epoch-marking message on tax methods and policies. His statement is an unexpected and refreshing departure from political platitudes. It is aptly and impressively adapted to urgent and immediate national problems. It is comprehensive in plan and philosophically true to the oldest and best traditions of self-governing America. In the judgment of progressive liberals, it instantly claimed and is fated to hold a foremost place among the remarkable state papers of our country. The message is its best interpreter. No summary can adequately, fairly, or with equal persuasiveness represent it, and available time permits me merely to indicate its major suggestions and significance. The message has been further dramatized by an effort in Congress, which is well advanced at this very hour, to write into law with little delay, though with moderation, a number of the President's leading suggestions.

President Roosevelt announced that his recommendations to Congress and the country "are based on the broad principle that if a government is to be prudent, its taxes must produce ample revenues without discouraging enterprise; and if it is to be just, it must distribute the burdens of taxes equitably."

Supplementing this confidence-inspiring assurance, the President declared:

"Our revenue laws have operated in many ways to the unfair advantage of the few, and they have done little to prevent an unjust concentration of wealth and economic power."

Continuing, he said:

"With the enactment of the income-tax law of 1913, the Federal Government began to apply effectively the widely accepted principle that taxes should be levied in proportion to ability to pay and in proportion to the benefits received. Income was wisely chosen as the measure of benefits and of ability to pay. This was and still is a wholesome guide for national policy. It should be retained as the governing principle of Federal taxation. * * * Taxation according to income is the most effective instrument yet devised to obtain just contribution from those best able to bear it and to avoid placing onerous burdens upon the mass of our people."

On this ample base of reasonable principles, President Roosevelt included in his message to Congress the following half dozen noteworthy recommendations:

First, he urges: "That in addition to the present estate taxes there should be levied an inheritance, succession, and legacy tax respect to all very large amounts, received by any one legatee or beneficiary; and to prevent, so far as possible, evasions of this tax, * * * the imposition of gift taxes suited to this end."

Second, he favors: "A definite increase in the taxes now levied upon very great individual net incomes."

Third, he advocates: "The substitution of a corporation income tax graduated according to the size of corporation income in place of the present uniform corporation income tax of 13¾ percent."

The President's interpretation of this recommendation reads as follows, quoting his own language:

"The rate for smaller corporations might well be reduced to 10¾ percent, and the rates graduated upward to a rate of 16¾ percent on net income in the case of the largest corporations, with such classifications of business enterprises as the public interest may suggest to the Congress."

Fourth, the President recommends: "A tax on dividends received by corporation * * * to prevent evasion of such graduated tax on corporate incomes through the device of numerous subsidiaries or affiliates, each of which might technically qualify as a small concern, even though all were in fact operated as a single organization."

Fifth, the President stresses the desirability of investigation with a view to "the simplification of our corporate structures through the elimination of unnecessary holding companies in all lines of business" and the discouragement of "unwieldy and unnecessary corporate surpluses"; and

Sixth, the President's final request is for "A constitutional amendment whereby the Federal Government will be permitted to tax the income on subsequently issued State and local securities and likewise for the taxation by State and local governments of future issues of Federal securities."

By and large we have here the most notable, best balanced, fundamentally just, and constructive tax program in our history, having in view the economic problems before the Nation. The recommendations are so consistent with American tax principle and practices that various leading Washington tax experts have welcomed the message, alike because of its aims and for its rational and underlying philosophy. Broadly speaking, the President seeks to equalize and make uniform the tax policies which since the ratification in 1913 of the sixteenth amendment to the Federal Constitution authorizing income taxes have become an indispensable and permanent part of our fiscal system.

It perhaps should be mentioned—especially in these times when the Supreme Court has been declaring recent Federal legislation unconstitutional—that our right to levy and collect income taxes as we are now doing was only secured by the adoption in 1913 by the States of a constitutional amendment after the Supreme Court had denied the practical exercise of that right under the Constitution as originally framed. I need scarcely add that without such Federal authority, under that constitutional amendment, it would be impossible for the Federal Government at this time, in any fair or reasonable way, to meet, through taxation, the Nation's unavoidable debts and current obligations. Income taxes, for instance, long ago outran our tariff revenues. Indeed, without such authority our Nation would today be financially impotent and demoralized.

Passing by certain technical aspects of the message, the public's vivid interest should first be drawn to the social objectives at which the President's proposed changes in fiscal policy are frankly directed. He mentions and reaffirms his public purposes. He subscribes to the growing conviction of thoughtful men and women that without Government control wealth and its concentration are increasingly dangerous to freedom and equality of opportunity for the people of this country. He insists that impressive gains will be recorded if the Nation uses taxation to decentralize excessively concentrated corporate power, the menace of which springs from the fact, as he says, that "size begets monopoly." Nor is he content with the implication that taxation should be used to check corporate growth when needlessly complex and industrial organizations when inefficiently overbuilt. He also justifies a far-reaching program of graduated taxation both on individual incomes and corporation net returns, because under our economic system, though energy and originality are occasionally rewarded in their own right, even in such cases, as he argues, luck and other advantages are usually promoted by government, which thereby largely and continuously contributes to the accumulation of our modern fortunes. It follows, as he suggests, that those on whom the Government thus confers economic power over employment and unemployment, and over far-reaching human happiness and unhappiness, must stand ready to respond to the Government's reasonable demands for appropriate taxes.

With similar analysis and insight, the President also emphasizes that community use of individual effort is far more the source of individual wealth than unassisted effort can possibly be, and that it is this silent partnership of the many to whom wealth does not accrue, to which are largely due the enormous financial returns received by individuals and corporations from mass production. The President's discussion also recites, what all of us know, that individual businesses furnish the basis for the Nation-wide markets which make possible the success of mass-production industries. From this he reasonably concludes that tax returns should be substantially increased in graduated form on the high net incomes of large industries and relatively reduced on the net returns of smaller businesses; also that, as a self-governing people, we are called upon to establish a sound, scientific, and more progressive tax system, designed to diminish the concentrated control of wealth in the hands of a relatively few individuals, who thereby wield excessive power over the employment and welfare of many others.

Nor are we left in doubt about other national ends to be served. Those business leaders and representatives of commercial organizations in America who for the past 2 years have been clamoring for balanced budgets can hardly fail to be impressed by the fact that the President specifically urges that increased returns on net incomes of the country's larger corporations be utilized to retire the national debt and to promote balanced national budgets. Incidentally, of course, as the President indicates, such use of swollen incomes, by lightening the average burdens, will contribute to quiet social unrest and any reasoned sense of governmental unfairness.

Surely little, if any, elaboration is needed of such obviously just public principles and policies. There is much authority for asserting that the decentralization of controlled wealth by relatively moderating the tax burdens of smaller corporations with smaller incomes and by driving needless and idle surpluses from their hiding places into the fields of active business will vitalize economic democracy. Such decentralization, if it can be brought about, offers fairer chances for smaller industrial units and for citizens of small means by distributing the immense competitive or monopolistic power that attaches, in part by an economic law of gravity, to accumulated fortunes. Such a program, too, redistributes benefits, if not wealth, by renewing our reservoir of Federal funds, to be drawn upon, if and when required, for the primary needs of public welfare. Whether the President's plan be labeled "share the wealth" "share the burden", as alternately described, it suffices for the average citizen that it promises wider economic justice and surer equality of opportunity under government.

The question has been publicly raised whether a policy of taxation, having definite social and economic objectives, is permitted under the Federal Constitution. Section 8 of article I of that document provides, in part:

"The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States."

Under that section uniform Federal tax policies which have the purpose and effect of producing revenue to pay the debts and meet the current obligations of the Government are hardly open to constitutional objection. It was declared by the Supreme Court of the United States in a leading case that "the fact that the statute * * * had a moral end in view, as well as the raising of revenue, presents no valid constitutional objection to its enactment."

The income-tax amendment to the Constitution assures the validity of the taxes on individual and corporate net returns; and we have the practice of years and authority of the Supreme Court in support of the constitutionality of estate and inheritance taxes. The enactment, therefore, of the President's program appears to fall safely within the bounds of constitutional authority. Corporations, as licensed beneficiaries of government; individuals, in proportion to their ability to pay and because of benefits they receive; estates and inheritances, because death eliminates ownership, except insofar as government cares to sanction transfers, are properly taxable under our Federal Constitution.

Those who contend that the new proposals are nonetheless unconstitutional doubtless are expressing theoretical, not legal, objections on the basis of assumed American traditions. Both facts and law are against them. They forget that our experimentation in this field has already covered a period of almost a quarter of a century. And certainly the incidental social and economic effects of a national tax program, particularly when consistent with political and economic liberty, cannot fairly be declared a departure from American traditions. Nothing can be more legitimate than a tax policy which produces substantial revenues and also tends to make certain that immense fortunes in this country, with their accompanying dictatorial economic powers, shall not be transmitted without guarding the general welfare; that the piling up of enormous fortunes by government favor shall not be encouraged; and that control of concentrated wealth in corporate forms shall not be left without effective regulations.

The ability of our Nation to survive the hurricanes on our economic seas is intimately associated with such fiscal policies. No government, faced as ours has been during the last 6 years by economic disaster, is really a nation if it lacks the power to collect adequate taxes to be used in the public interest. Since 1929 the lack of such authority would have permitted the starvation of millions of our citizens, with our Government impotently looking on. That inability would have robbed us of the power, through relief and employment on public works, to render first aid to a credit-stricken, exhausted, and all but paralyzed national economy. Indeed, balancing the Budget from such taxes should also be condemned by those who contend that legislation is invalidated when social consequences enter the scene. In other words, such consequences often flow from legislation, with or without legislative intent. We should at all times frankly acknowledge that social and economic consequences are inherent in most legislation. President Roosevelt, therefore, in recommending such tax revision, has rendered a public service by putting fairly before the Nation the great ends he has in view.

The country will wish to know how large a return may be expected by the Federal Treasury from the proposed additional taxes. Any answer must be speculative at present. Even the measure prepared for consideration by Congress is involved in uncertainties and is subject to change. Widely different estimates, ranging from a minimum of about $340,000,000 annually to a maximum of almost three times that amount, have been given publicity. Such variations necessarily—and particularly at the highest level—indicate indulgence in fanciful inaccuracies.

No one should be surprised if actual returns the first year are lower, not higher, than any present forecast. In any event, substantial additional tax returns will be assured by the adoption of the proposed legislation. These should also, eventually be capable of increase, and, of course, the issue of legislative principle, already discussed, is of first significance.

Concluding his message, the President touched a popular chord by recommending long-delayed submission of a constitutional amendment by Congress to the States for ratification. Such an amendment would eliminate hereafter issued Federal and State tax-exempt securities and would render them mutually subject to taxation. Half a dozen such proposed amendments, including one offered by me both at this and the preceding session, are now pending before the Judiciary Committee of the Senate. It is hoped that an adequate draft will be reported without delay for congressional approval.

President Roosevelt has thus repeated a recommendation which has been officially made in recent years by different administrations, regardless of partisan affiliations. All tax experts realize that the States and the Federal Government alike have provided in tax-exempt securities a retreat in which idle wealth hibernates. The tax potentialities in this field are large. On May 31 of this year wholly tax exempt Federal, State, and municipal securities, actually in the hands of the public in this country, amounted to $31,641,000,000. This does not take account of substantial amounts of outstanding partly tax exempt securities. The total figures necessarily vary from time to time with the retirement of old and the issue of new securities.

Here is a closed door which, if opened, will make available extensive revenues for Budget balancing, debt retirement, and other necessary purposes. We cannot afford to continue indifferent to such resources. We have traveled too far in our contest with economic disaster to deny that, as in war, we must be prepared to win through to recovery, even if other campaigns are the price of victory. We have spent liberally but must spend more. We have borrowed and will borrow more. Whether or not we put an end to tax-exempt securities, we must now begin to pay more fully, through income and other taxes, for expenditures made and to be made. It should also be said that with that objective, we must be prepared, not only to tax the country's largest incomes, but also to levy increased returns on relatively lower incomes, so far as necessary for the safety and well-being of America. In so doing, we shall increase deserved confidence in our Government's integrity as one valuable step toward a new era of more general prosperity.

One vital service of the President's message is its emphasis on our increasing concentration of wealth and the fact that we have in America powerful and limited groups of individuals who have benefited enormously under our laws and Government. We are almost forgetting that during the period of less than 2 years of our participation in the World War, we are said to have created, at least temporarily, more than 23,000 new American millionaires, and that in the 8 or 9 years after 1920 more than 11,000 new yearly incomes in excess of $100,000, including many exceeding $1,000,000, were revealed by our income-tax returns. A study of national income and its relation to purchasing power by W. I. King, as of 1926, disclosed in the previous 12 years a marked increase in the percentage of very large individual annual incomes. A recent examination of those returns indicates that in 1932 on the basis of income and values, about 40 of our wealthiest citizens controlled more than 2 percent of the total estimated wealth of our country.

The contrasted incomes—omitting the unemployed—of wage earners in our production system should not be ignored. The Committee on Economic Security reported this year that—

"In 1929, at the peak of the stock-market boom, the average per capita income of all salaried employees at work was only $1,475. Eighteen million persons, exclusive of farmers, had annual earnings of less than $1,000; 28,000,000, or nearly 70 percent, earnings of less than $1,500. The average earnings dropped from $1,475 in 1929 to $1,199, in 1932."

One cannot examine these and similar facts, keeping in mind the myriads of men and women who are dependent for chance employment on those who enjoy large incomes, without reaching the conclusion that such conditions give only haphazard promise of future industrial well-being.

The President has served our country well by thus calling attention to grave evils in the bodies politic and economic, and by indicating lawful and equitable methods for lessening those evils. We should join in defining fair rules for the profit game in a self-governing country for those who, through concentrated industrial and financial resources, may decree the economic fate of countless other human beings. Americans might be more content if those who wield autocratic authority always came to their control by proven genius. But life does not so discriminatingly reward, and an impartial government must at last shield against lost economic liberty, which draws political liberty after it, our average citizens who are the source of the strength of our Nation.

The American background of the President's message is worthy of special record. We often hear warnings on the consequences of concentrated corporate wealth and power. Perhaps our conviction will be strengthened if we turn back a century of the pages of history to the wisdom of Daniel Webster. Long before the Civil War the most noted expounder of our Constitution declared:

"A republican form of government rests not more on political constitutions, than on those laws which regulate the descent and transmission of property. * * *

"The true principle of a free and popular government would seem to be, so to construct it as to give to all, or at least to a very great majority, an interest in its preservation; * * *.

"The freest government, if it could exist, would not be long acceptable, if the tendency of the laws were to create a rapid accumulation of property in few hands, and to render the great mass of the population dependent and penniless."

Woodrow Wilson, 25 years ago, said:

"A modern corporation is an economic society, a little economic state—and not always little, even as compared with States. Many modern corporations wield revenues and command resources which no ancient state possessed, and which some modern bodies politic show no approach to in their budgets."

And, limiting ourselves to one more of many such impressive American views, Andrew Carnegie, as if discussing present tax problems, years ago in The Gospel of Wealth, wrote:

"The growing disposition to tax more and more heavily large estates left at death is a cheering indication of the growth of a salutary change in public opinion. * * * Of all forms of taxation, this seems to be the wisest. Men who continue hoarding great sums all their lives—the proper use of which for public ends would work good to the community from which it chiefly came—should be made to feel that the community, in the form of the State, cannot thus be deprived of its proper share. * * * By all means such taxes should be graduated, beginning at nothing upon moderate sums to dependents, and increasing rapidly as the amounts swell * * *."

How many thinking men and women any longer challenge such judgments? Who longer doubts that autocratic industry lessens the security of government, if permitted to usurp in the economic field the freedom, equality, and security which America's founders long ago assumed they had won for themselves and their descendants?

In conclusion, and by way of summary, the following features of the President's tax program commend it to the American people:

It rounds out and equalizes our tax structure.

It should bring in during the first 12 months substantial amounts of new and needed revenue.

It is well adapted, if and when necessary, to produce, under future rate adjustments, further and larger returns to the Federal Treasury.

It will aid in balancing the Nation's Budget.

It will help reduce our public debt.

It will tend to encourage smaller and more efficient business units and to discourage relatively large and inefficient corporate organizations.

It will serve to move needlessly unused and bulky corporation surpluses into investment, production, and employment.

It will promote earlier and more equitable distribution than at present of phenomenal fortunes.

It will tend to make American industry less autocratic and more democratic in form and essence.

It looks toward standards of traditional American equality and heightens our faith in the ability of popular government to rescue itself from monopolistic privileges and the power of concentrated wealth.

It is one answer of American statesmanship to Goldsmith's famous warning:

"Ill fares the land, to hastening ills a prey,
Where wealth accumulates, and men decay."

VALUE OF EDUCATION—ADDRESS BY POSTMASTER GENERAL FARLEY

Mr. COPELAND. Mr. President, a distinguished citizen of my county, the Honorable James A. Farley, made a notable address to the graduating class at the Stony Point, N. Y., High School on June 26. It seems to me that the address is so interesting and appealing and so important that it ought to be included in the RECORD, and I ask unanimous consent that it may be so printed.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

It has been my privilege during the past few years to address gatherings of every nature, large and small, East and West, and North and South. But I say to you in all frankness that I know of no occasion when I have had more satisfaction or more pleasure than the honor of speaking here tonight. Because, naturally, everyone likes to come back home.

I can recall full well the emotions that I felt when I graduated from this high school 30 years ago, and it gives me the greatest pleasure to greet here tonight one of my classmates of the class of 1905, the present principal of this high school, Miss Norma A. Bowers.

As I look over the list of graduates I note many familiar names, sons and daughters of intimate friends of a lifetime, and as I congratulate them, I congratulate the parents who made it possible for them to complete their education. I hope that they will go out into life in the same spirit and in the same commendable way as did their parents, equipped with the same solid foundations of education that were provided for us here at Stony Point. I well remember tonight, too, that part of my education which I received in the Grassy Point grade school before I attended school at Stony Point. In looking back over that span of years I can recall a hundred pleasant memories and hardly a single regret.

When a man returns to the town and the school where, years ago, he was given the privileges of education, he has, as you may well understand, mixed emotions. The events of the past come to him in a strange perspective; the troubles and the disappointments are forgotten or sink into insignificance; the pleasures and the successes loom large. I am keenly aware of that fact today, and so I am less disposed to dwell upon the memory of what happened in those days than upon the benefits of the education I was privileged to receive. I count it as my greatest fortune that the basic education that is given by the schools in this town was, while simple, wholesome, wise, and useful.

I have, in the years since, undertaken many tasks. I have been in business, and that experience taught me that education is indispensable to any business success. I have been in politics, and I have learned there that education makes for understanding and tolerance, and a love of freedom. I have held office in the Government, and there, too, I have learned that education is an indispensable tool of the people's servants.

In a very real sense, education is the symbol and the instrument of a democratic form of government. History teaches us that, without education among the people, government tends to degenerate into autocracy of the most cruel and selfish character. It is important to note that Thomas Jefferson wanted to be remembered not so much as a man who held public office, but as the man who laid the basis of an educational system in the State which had given him so many honors. In his Notes on Virginia, written in 1782, he set forth the principles on the basis of which his State might be intelligently and successfully governed. He placed high among the purposes which his State must achieve the development of education. His idea was to lay off the State into small districts, 5 or 6 miles square, and in each of them to establish a school for teaching reading, writing, and arithmetic. The pupils in this school were to be taught at the expense of the State for at least 3 years of their course. Of the pupils of these schools, the one who showed the best ability in each school and who, at the same time, came of parents too poor to pay for his education, was to be sent to a grammar school where he would be taught Greek, Latin, geography, and the higher branches of arithmetic. Of the boys thus sent to the higher school, the best were to be selected and were to continue for a further 6 years. Finally, the best ones of this selected group were to be sent on to college. The ultimate purpose of this plan was to base the education of the people upon the principles of ability, and to give, on the basis of ability, an opportunity for as much education as the State could offer, to the poorest boy in the community. In his old age, Jefferson planned and founded his University of Virginia to provide not only a place for the higher education of these children selected on the basis of ability, but a place designed to train teachers, lawyers, and statesmen.

This plan of basic education for all and of a continuation of the education not of all, but of those who best merit it, is essential to a free State and a free country. So long as the opportunity for an education remained the exclusive possession of those with much money, so long would our lawyers, doctors, officers of the Army, judges, and our statesmen come only from these more fortunate classes. Such a state of affairs is incompatible with a democracy. It was to insure the preservation of our democracy that free education was provided. I cannot do better than to quote Jefferson himself on this important point of how education is a means of protecting the liberty of the people.

"But of all the purposes of law none is more important, none more legitimate, than that of rendering the people the safe guardians of their own liberty. For this purpose the reading in the first stage, where they will receive their whole education, is proposed, as has been said, to be chiefly historical. History, by apprising them of the past, will enable them to judge of the future, it will avail them of the experience of other times and other nations, it will qualify them as judges of the actions and designs of men, it will enable them to know ambition under every disguise it may assume and, knowing it, to defeat its views. In every government on earth is some trace of human wickedness, some germ of corruption and degeneracy, which cunning will discover, and wickedness insensibly open, cultivate, and improve. Every government degenerates when trusted to the rulers of the people alone. The people themselves, therefore, are its only safe depositories. And to render even them safe, their minds must be improved to a certain degree. * * * The influence over government must be shared among all the people. If every individual which composes their mass participates in the ultimate authority, the government will be safe."

Thus viewed in the light in which Jefferson saw education, the schools of the country—public, private, and religious—become the mainspring and the defender of liberalism in government.

As President Roosevelt has so well said, a free government does not and cannot give to people all that they want, but it is not true to its fundamental purpose unless it gives to people all that they need; and the only sound way in which they can voice those needs and achieve their satisfaction is through the process of free education, free speech, and the free and untrammeled right to vote and hold office.

It is true that public education makes the masses of the people more and more conscious of differences of wealth and in opportunities. It makes them demand that these differences be eliminated so far as is humanly possible. In many countries of the world autocracy has been secure until the coming of education has made the people conscious of their own power and their own rights. Education has, therefore, been the basic force behind progressive changes in government and social life.

But education does not perform its full service to the people when it makes them merely want their rights. It must go beyond this and teach us not only the meaning of our rights but the meaning of the rights of others. I have certainly been in a position to know that it is impossible to give everyone everything he wants. As the chief of a political party, I am called upon much more often to say "no" than to say "yes." A very small part of my time is given to the happy duty of pleasing people. A much larger part of my time is given to disappointing them. I wish this were not so; and whenever I must tell someone that he cannot have what he wants I seek to show him the reasons why it is necessary to deny him what he seeks. That task is not always easy, but it is infinitely easier when I am dealing with men of sufficient vision to comprehend the necessities of the people as a whole. It is at this point that education performs its greatest task. Education must not only teach the people to demand their rights; it must teach them their duties and their responsibilities. Essentially a free government is a government in which self-denial and unselfishness become a habit of mind on the part of people. They must learn the fundamental fact that no one of us is secure except insofar as all of us are secure. This, I believe, is not only the objective of good education but of good government.

In this respect the task of educating people is not merely teaching them a lot of detailed and complex knowledge. Information is not wisdom. Information, after all, is not the most important thing that a man can possess in going about the daily duties of his life. He needs information for the particular job he is engaged in. This information can be brought to him under modern conditions by thousands of specialized books. He can, if his job involves the direction of many other people, depend largely upon others for the specific information that he must use. Anyone who expects to do a large job in the world must distinguish between information and wisdom. And the fundamentals that lie at the basis of all wisdom are the things that the public schools must seek to teach.

Essential to such wisdom is a sense of proportion, a sense of values, the ability to differentiate between things that matter and things that do not matter. Education, therefore, in its primary sense much teach us to respect the things that are deep, permanent, and abiding in human life. Education must enlighten us so that we can choose wisely in the great decisions a free people must make in conducting their government. It must give us a sense of our responsibility, of the importance of thinking of others.

My duties have taken me to all parts of this great country. I have met many thousands of people, and the most important thing I have learned from this is the fact that essentially true education tends to make people understand each other. This is because true education teaches people the similarities and the common interests that unite all the people. The more truly a man is educated the more truly simple will be his outlook on life. His sympathies will be broad, and he will find more easily the means of understanding others and of making others understand him. One does not make fundamentally different speeches in the North from the South, nor in the East from the West. Human beings are human beings and people are people.

Years ago Mr. Brand Whitlock, who was our heroic Minister to Belgium in the Great War, was asked by the mayor of his city, Toledo, Ohio, who was called "Golden Rule" Jones, to make a speech in a certain part of the city. Mr. Whitlock asked Mr. Jones what kind of people were going to be there, so that he could know what kind of speech to make. Mr. Jones in his answer taught Mr. Whitlock a great lesson. He said: "They are just good people, just folks. There is only one kind of people in the world."

Education is the means by which people of all walks of life find common ground, common interests in the face of all of our great human problems.

But education must do more than that. It must be a practical instrument of progress, aiming always to develop in students those capacities which, when applied to the tasks of government, make government more useful. That is why the present administration of government in this Nation has sought wherever possible to bring to its service well-trained men and women.

There was a time in our history when the holding of public office was not highly respected, because those who held public office were not, in all cases, worthy of respect. But the time has come when government must perform such difficult tasks that it must call to its service the best trained and the most competent public servants that can be found. A few years ago it was a commonplace to say that business was attracting the best brains in the country and that government must be content with those in the second rank. That time has now passed. Government must go out and compete with business in drawing to itself men of ability and capacity for large undertakings. This cannot be done by merely seizing upon men who have made a success in business, because that would mean that we had failed to recognize that the holding of public office is itself a means of education.

The President in Washington is constantly seeking to recruit to the Government service the best young men and women that are graduating from our institutions of learning. The time is rapidly coming when we shall in this country encourage young men and young women in schools to look forward to a career in government as well as to a career in business, the arts, and the professions. We have finally come to the point where we must discard the old idea that in a free government any man can hold any office. That simply is not true. Modern government requires specialists on every hand. It requires the best specialists that can be found. Despite all that can and will be said to the contrary, this principle is in the large the principle upon which this Government is now operating.

I want to be perfectly frank about this, because I well realize that many people will claim that ability and experience are not the fundamental considerations that enter into the selection of men and women for public office under our system of government. I myself have been criticized for some of the selections that I have made, and I have been willing to accept this with other criticism in good spirit when I have felt it to have been prompted by disinterested considerations of public policy. I am not willing, however, to accept without resentment the inference that when a man is under consideration for public office who has been a loyal supporter of the candidate of the party and his policies in an election he should be placed at a disadvantage for that reason as against one who has not served in that way. In my opinion we can find efficient, competent, and educated men who are at the same time loyal to the principles of the Government in which they will serve. This is what we have been seeking to do, and while mistakes are made just as they are made in every other line of endeavor the record shows that we have succeeded. The question of loyalty to the ideas and principles held by the head of this Government is fundamental in getting the right kind of service, for it does not matter how competent a man may be if his sympathies are not what is being done he will be a bad public servant.

This question of loyalty goes far beyond mere party regularity. It is the question of a man's fundamental belief in progressive and humane government, his belief that by the effort of government the conditions of human beings can be improved, and improved in the manner selected by the great leader who is the choice of the American people for the high office of President.

True education should teach this deep lesson of loyalty. If a man cannot be loyal to the work that he is performing or to the profession in which he is engaged he ought to leave it and try something else. One of the greatest moral lessons that was ever written was that which a man many years ago wrote on the picture of his favorite pet, a great English bulldog: "An ounce of loyalty is worth a pound of cleverness." This is a motto that can well be heeded in every walk of life, because no matter how great may be a man's ability or how profound his education he cannot do his job if he does not believe in it, and he cannot work for another, no matter how high or low his station may be, unless he believes in his leader and is loyal to him.

The motto of my graduating class back in 1905 was "labor conquers all." I have tried to take that lesson seriously in the years since I left school and to follow it consistently. As one goes through life the importance of this motto is more and more forcibly brought to one's attention. Some men and women are what might be termed "luckier" than others, but in the long run, it is hard work that makes it possible to meet success in every field of effort.

You, the graduates of this high school, need not be disturbed about success in life because you have graduated from a small high school. The history of this great democratic country shows that the road to opportunity is still open and that just as in the past, men and women who started from communities such as this have found lasting satisfaction and solid success, so is the way still open for such achievement.

I congratulate you, the graduates of 1935 of the Stony Point High School, and I congratulate your parents who have made this education possible. In the last analysis, however, you are the ones who must complete your own education. Others can give you the opportunity to achieve things in this world, but you are the ones who must adapt these opportunities to the conditions that you meet. It is your loyalty and your courage that make your education count in the world, not only to the end that you, yourselves, may succeed, but that your success may make the world in which you live a better place for others.

### NATIONAL AIRPORT

Mr. GIBSON. Mr. President, there is on the calendar of the Senate a bill providing for the construction and operation of a national airport. In connection with that bill I ask unanimous consent to have printed in the RECORD an editorial from the Washington Herald and an article and an editorial from the Washington Daily News.

There being no objection, the editorials and article were ordered to be printed in the RECORD, as follows:

[From the Washington Herald of July 1, 1935]

#### AN AIRPORT CRASH

Whatever chance there was of getting action on the projected model airport for the National Capital seems to have been effectively killed by the House.

It may seem strange that by passing a bill which apparently provides for action on the project the House could have doomed it, but that is one of the peculiarities of the government of the District of Columbia.

The bill passed by the House provides for setting up two successive commissions, one of which would select a site and the other of which would construct and operate the airport.

The procedure which would be set up is sort of like going around Robin Hood's barn, especially after half a dozen committees and commissions have already spent about 10 years selecting various sites and discarding them.

But the coup de grâce was given hopes for an airport when the House adopted an amendment to the bill providing that all of the expense of the airport should be borne by the District of Columbia, the government of which will not have 2 pennies to rub against each other at the end of the new fiscal year.

The House proclaimed that the half million residents of Washington must pay all the expense of providing an airport which would be an important unit in national defense and which would be used, even in peace time, largely for the business of the Federal Government.

A modern and adequate airport is certainly needed in the National Capital, but it is not needed only by the rank and file of our taxpayers.

It is needed far more by the Nation than by the city.

Common justice, therefore, would seem to demand that the Nation pay at least as much as the city for construction and maintenance of the port.

Such a bill as the House has passed fortunately stands little chance of passage in the Senate.

That body is far more likely to take a reasonable and just view of the situation and to pass the kind of airport bill that should be passed.

But the Senate is not likely to attempt to pass any kind of an airport bill during the current session, because of the botch which the House has made of that kind of legislation.

As a result it will probably be another year or two before airport legislation is passed and additional years before the port is ready for operation.

In the meantime anyone flying into the National Capital takes his life in his hands.

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[From the Washington Daily News of July 1, 1935]

#### SETTLEMENT SEEN FOR AIRPORT ROW—GIBSON BILL SEEMS TO BE FAIR AND TO SATISFY ALL SIDES

By Ernie Pyle

The old, old controversy over an airport for Washington has reared its ugly head again in Congress during the past few days.

The head is ugly, for one reason, because it is old. It has been appearing several times a year for nigh onto a generation now.

The men and women on the Hill have not been able to make much progress toward settling the controversy for the reason that there are two sides to the question.

The airport situation, in tabloid, is this:

Washington is one of the busiest air centers in the world. All commercial air traffic here uses Washington Airport, a privately owned field. The field is terrible, and only skillful piloting and a lot of luck have prevented bad accidents. Everybody who lands here says the field is a disgrace.

Both Congress and the city agree that Washington should have a modern field. The question is, Should the private field be bought and improved or should a new field be created at Gravelly Point, down the river, a mile from Highway Bridge?

That is the stumbling block. Local people and Congress have been arguing over that one for 10 years. Arguing and not getting anywhere. Here are the arguments:

##### AGAINST WASHINGTON AIRPORT

1. It is owned by New York interests, who have naturally lobbied a great deal for the sale of their field.
2. It is in Virginia, and no place to put Washington money.
3. It is unsafe, because of restricted size, nearby chimneys, and Arlington hills and towers.
4. The title is in dispute, and some day the Boundary Commission may find that it belongs to the Government anyway, so why buy it?
5. It has no seaplane facilities.

##### AGAINST GRAVELLY POINT

1. Too close to Army and Navy fields across the river.
2. More than a mile farther from city than Washington Airport, one of the "closest in" metropolitan airports in the world.
3. Would take too long to complete—from 3 to 5 years.
4. Estimated cost ($2,500,000) cannot be relied upon. Many think it would cost much more than this to dredge out the river and "make" enough land for the airport.
5. Would cost more than buying and improving Washington Airport. (Gravelly Point proponents claim it would cost less.)

In addition to these points of disagreement, there is the continual argument between the District and Congress as to who shall pay for it. Most of the bills in the past have had the District paying half and the Federal Government half.

##### THE GIBSON BILL

There is now in the Senate a bill, called the "Gibson bill", which many believe solves most of the points at issue.

The Gibson bill provides $2,500,000 for building Gravelly Point within 5 years. The United States would put up the money and the District pay half of it back without interest.

The bill also provides (and aviation people consider this very important) for the improving of Washington Airport while Gravelly Point is being built.

It would close Military Road, thus enabling Washington Airport and Hoover Fields to be thrown together into one big airport. It would also add the agricultural experimental farms, west of Hoover Field, to the whole area, making a landing field of about 218 acres.

##### A GUARANTY

This field would then be operated by the Washington Airport people until Gravelly Point was ready; or if they did not want to run it, they could lease it to a commission created by the bill, and the commission would run it. At any rate, Washington would be guaranteed a decent airport while Gravelly Point was being built.

Although the relative merits of Washington Airport and Gravelly Point will be argued long after we get an airline to the moon, the Gibson bill seems to be about the best that has been offered yet.

[From the Washington Daily News of July 1, 1935.]

STOP FIDDLING

Ten years ago we of the District started arguing among ourselves, and with Congress, over where we should put a municipal airport.

For the first few years the argument was very grave. Then as it dragged on and on, it began to get ridiculous. But now, as the years roll by and nothing, absolutely nothing but a lot of talk results, it is getting unpleasant.

The argument is simply: Shall it be Washington Airport or Gravelly Point?

Just to help settle the argument, we say Gravelly Point.

There is a lot for and against both locations. It seems to us about a toss-up between them. Neither will be perfect, and neither will be bad.

But either one is certainly better than nothing, and it is time something were done.

The Gibson bill, now in the Senate, is the best of the reams of airport bills that have been put before Congress.

It provides for an airport at Gravelly Point, and for putting Washington Airport in condition till Gravelly Point is ready.

It seems fair to everybody and, above all, it would settle the question. The Gibson bill should be passed.

We can't fiddle away forever, depending on luck to prevent a serious crash at our present municipal mudhole.

TRIBUTE TO JAMES MADISON

Mr. BYRD. Mr. President, June 28 was the ninety-ninth anniversary of the death of James Madison, fourth President of the United States and the father of the Constitution.

Madison was born in King George County, Va., and was buried at Montpelier, in Orange County, Va. I am proud of the distinction he enjoyed during his legislative and executive career, and liberty-loving people throughout the world honor and respect him for his eminent service in the Constitutional Convention at Philadelphia in 1787. The freedom we have since enjoyed under constitutional government has been purchased at too great a price to be soon forgotten.

A year or two ago a distinguished gathering assembled in the old hall of the House of Delegates in the State capitol at Richmond to pay homage to this great Virginian, the occasion being the unveiling of a marble bust presented to the State by one of his descendants. On this occasion Chief Justice Charles Evans Hughes delivered the principal address. In the course of his remarks he said:

It was the ideal of the fathers that our Government should be representative and responsible; that our institutions should provide unity and stability, with the limitation of national power to appropriate national ends and with the circumscribing of both Federal and State authority in order that a fair freedom of individual opportunity might be preserved. There is no indication that we desire to abandon this system in favor of any form of autocracy, whether contrived to promote efficiency or to establish class rule. With all the imperfections of our institutions we have not yielded to despair. * * * It was preeminently the political genius of Madison which has given us opportunity, and we shall profit in our use of it to the extent that we emulate his example in making reason, and not emotion, our guide.

Mr. President, I ask unanimous consent that the entire speech of Chief Justice Hughes be printed at this point in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

JAMES MADISON

Address by the Honorable Charles Evans Hughes

As we approach the two hundredth anniversary of the birth of Washington our thought is directed, not simply to his own incomparable career, but also to the essential collaboration in statecraft which crowned the success of revolution. We owe our institutions to the operation of two forces—the pressure for unity and national power which made possible a strong Republic, and a passion for individual liberty, which was jealous of strength and insistent upon the protection of what were regarded as fundamental rights. Two types of leadership appear reflecting the devotion of rare political genius to the one or the other of these aims. It is the unsurpassed distinction of Virginia, not only that from her soil sprang so many eminent statesmen of the formative period, but that she brought each of these types to the highest point of development, finding their historic illustration in George Washington and John Marshall, in Patrick Henry and Thomas Jefferson. Another personality, in whose honor we are met today, stands out as conspicuously exhibiting a blend of ideals and purposes, fitting him to receive the confidence of Washington and the intimate friendship of Jefferson, with a constructive ability and aptitude for conciliation which in the supreme test won for him the deserved and distinctive title of the Father of the Constitution.

James Madison began his public life in the Virginia Convention of 1776, at the age of 25, and continued it with but slight interruption until he left the Presidency, 41 years later, to enjoy the retirement of an experienced political philosopher. In the picture of that long public career there are lights and shades. In the effort to arrest attention by novel and sensational emphasis there is often observed a tendency to resort to biographical distortion by making a parade of mistakes and frailties. While historic accuracy is always desirable, a sense of proportion is quite as essential to a veracious narrative as familiarity with details. Much of the work of men in public life is inevitably concerned with issues and conflicts, which, although they seem to be of transcendent importance at the time, rapidly give place to other controversies and have but little permanent influence. Other labors are of a monumental character, revealing the genius of leadership and conferring lasting benefits. We are thinking today of such achievements.

I shall not abuse the privileges of this occasion by an attempt—futile, indeed, it would be—to make a comprehensive review of Madison's career, embracing his activities in the new government, as party leader in the Congress, as Secretary of State, and as President, and involving an examination of the strife of parties, the diplomatic difficulties culminating in war, the humiliations and victories of that war, and the circumstances of the ensuing peace. Important as are these events in the history of the period, their consideration should not be permitted to detract from our paramount interest in the outstanding work of Madison in laying the foundations of the Republic. In this brief tribute I present to you Madison in the distinction of his greatest service, as an architect of institutions and a defender of liberty.

Of the illustrious Virginians to whose public service the Nation is indebted, three were preeminent in establishing our Federal Constitution, Washington, Madison, and Marshall. Washington not only won opportunity by his military success, but made the Constitution possible by presiding at the Philadelphia Convention and giving to the issue of its labors the essential support of his great influence. "A confederation", John Quincy Adams said, "is not a country." And in the truest sense Washington became the Father of his Country as a Nation equipped with the requisite authority of national government. At a later day, Marshall made this authority secure by his judicial exposition of cardinal constitutional principles. But both the inspiring leadership of Washington and the juristic skill of Marshall depended on the development and formulation of the constitutional scheme. In that supremely important enterprise Madison had the leading part.

He was well equipped for the task by temperament, studies, and political experience. Cool, cautious, deliberative, he was capable of prolonged concentration in intellectual work, which resulted in convictions securely based in profound study and adequate reflection. His mental equilibrium was not upset by gusts of passion and he had no aptitude for attempts to sway others by tempestuous eloquence. He sought to convince, and he became formidable in debate because he was thorough in preparation and precise in statement. With his regard for the processes of reason, there was no acerbity in his disposition, and there was a notable absence of any assumption of superiority. Exceptionally modest, he was tolerant in spirit, temperate in speech, and conciliatory in action.

In his studies he was his own best preceptor, and he was driven by an insatiable desire for knowledge. When we reflect upon the slender scholastic opportunities of his day, we must not overlook the advantage of a student life unencumbered by a bewildering multiplicity of activities which absorb the energies of youth, too frequently at the expense of intellectual interests. Nor was the ambitious student embarrassed by a host of attractive courses and a superabundance of material leading to a dissipation of effort. We are told that Madison's favorite studies at Princeton were the history of the free states of antiquity and all subjects relating to government; and, despite the handicap of delicate health, his unremitting industry won for him the reputation of being the "deepest student" in college. Perhaps it was in the informal association of undergraduates in the American Whig Society, which he organized, that he found the most helpful discipline in the preparation of papers and in earnest debates upon government. After leaving college he continued his intellectual pursuits at home, and he brought to his public career a comprehensive knowledge of ancient and modern history which has been described as "quite unequaled among the Americans of the Revolutionary period."

With all his calmness and studiousness, he was not destitute of zeal. He had the zeal of a liberal mind. This became apparent at the very outset when, as a delegate to the State convention which framed the Constitution of Virginia, he became the champion of religious liberty, a cause to which he was devoted throughout his life. A deeply religious man, he wished religion to flourish in a free atmosphere, without leaning upon the support of government with the consequent dangers of governmental interference. Freedom of conscience in his view was a fundamental right, and it was his amendment which led to the substitution for the words "fullest toleration" the provision that "all men are equally entitled to the free exercise of religion according to the dictates of conscience." He would have gone even further than the convention by prohibiting emoluments and privileges on account of religion. Eight years later in the Virginia Legislature he determinedly opposed the assessment bill for the support of churches, and as the result of the response to his "Remonstrance" sent broadcast through the State the proposed resolution was defeated, Jefferson's bill of 1779 was revived and passed, and the cause of religious liberty in Virginia had a lasting triumph. Her

example was influential in other States, and Madison takes his place with Roger Williams and Thomas Jefferson in the front rank of those to whom we are indebted for the American conception of the essential freedom of the spirit from governmental license or restraint.

After his first brief term in the State legislature, Madison was sent in 1780 as a representative of Virginia to the Continental Congress, and his experience there gave him an intimate knowledge of the perils of independence in the absence of union. He put the case pithily in these words: "The close of the war brought no cure for the public embarrassments. The States, relieved from the pressure of foreign danger and flushed with the enjoyment of independent and sovereign power (instead of a diminished disposition to part with it), persevered in omissions and in measures incompatible with their relations to the Federal Government and with those among themselves." With his keen realization of pressing need, it was natural that Madison should have joined earnestly in the effort to "form a more perfect Union." In describing the genesis of the Federal Convention, Madison tells us of his own important part while not withholding the credit due to others who were seeking the same end. "The change in our Government", he said,[1] "like most other important improvements ought to be ascribed rather to a series of causes than to any particular and sudden one, and to the participation of many rather than to the efforts of a single agent. It is certain that the general idea of revising and enlarging the scope of the Federal authority, so as to answer the necessary purposes of the Union, grew up in many minds, and by natural degrees, during the experienced inefficacy of the old confederation. The discernment of General Hamilton must have rendered him an early patron of the idea. * * * In common with others, I derived from my service in the old Congress during the later stages of the Revolutionary War, a deep impression of the necessity of invigorating the Federal authority. I carried this impression with me into the Legislature of Virginia."

The fact of greatest importance is that out of Madison's efforts in that legislature grew the resolution in 1785 for the appointment of commissioners to meet at Annapolis "in order to form some plan for investing Congress with the regulation and taxation of commerce." Madison adds that "although the step taken by Virginia was followed by the greater number of the States, the attendance at Annapolis was so tardy and so deficient that nothing was done on the subject immediately committed to the meeting. The consultations took another turn." These resulted in the recommendation for the meeting in Philadelphia. As to this recommendation, Madison says, "The manner in which this idea rose into effect makes it impossible to say with whom it more particularly originated. I do not even recollect the member who first proposed it to the body. I have an indistinct impression that it received its first formal suggestion from Mr. Abraham Clark, of New Jersey. Mr. Hamilton was certainly the member who drafted the address." Madison then observes that the Legislature of Virginia was the first "that had an opportunity of taking up the recommendation, and the first that concurred in it. It was thought proper to express its concurrence in terms that would give the example as much weight and effect as possible; and with the same view to include in the deputation the highest characters in the State, such as the Governor and chancelor. The same policy led to the appointment of General Washington, who was put at the head of it."

The bill complying with the recommendation from Annapolis was written by Madison. This action was followed by appointments from other States, and finally, on February 21, 1787, the Congress passed what Madison called its "Recommendatory resolution", giving, in effect, its sanction to the project of a Federal convention to revise the Articles of Confederation. This removed the suspense which congressional inaction had created. Thus the labors of Madison at last found fruition. Without his sagacity and persistence there would have been no Federal Constitution.

It is pleasant to picture this quiet and studious young man of 36 as he takes his place with the distinguished Virginia delegation in that body of eminent men who were to frame the political structure of the new Nation. That he fully recognized the significance of the meeting, and his remarkable forethought, are apparent from the arrangement that he at once made to secure an appropriate record of its proceedings. "The curiosity I had felt", he said, "during my researches into the history of the most distinguished confederacies, particularly those of antiquity, and the deficiency I found in the means of satisfying it * * * determined me to preserve as far as I could an exact account of what might pass in the convention whilst executing its trust, with the magnitude of which I was duly impressed. * * * I chose a seat in front of the presiding member, with the other members on my right and left hands. In this favorable position for hearing all that passed, I noted in terms legible and in abbreviations and marks intelligible to myself what was read from the chair or spoken by the members. * * * It happened, also, that I was not absent a single day, nor more than a casual fraction of an hour in any day, so that I could not have lost a single speech unless a very short one."

It was not until 1840 that this Journal of Madison was published and to him we owe the most important document of the period. It is not the least of his services that he thus has given us the most direct approach to the intention of the makers of the Constitution.

But the calling of a convention and the reporting its proceedings, after all, derive their importance from the action which the convention takes. What was needed was not merely a feeling of urgent need, but a plan adequate to solve the most pressing problems and reasonable enough to triumph over the seriously divergent views of men and States. Leadership naturally fell to Virginia, which had first adopted the recommendation of the Annapolis Convention and appointed delegates. And that Virginia was ready to assume the responsibilities of leadership, and again to justify it, was undoubtedly due in the main to Madison. He had a plan. It was called the Virginia plan, and it was the first presented to the Federal Convention. It was fittingly presented by Edmund Randolph, the Governor of the State and the head of its delegation. While the plan was appropriately developed in consultation among the Virginia delegates, Madison has been recognized as its principal author. Randolph himself wrote, "Before my departure for the Convention, I believed that the confederation was not so eminently defective as it had been supposed." It was in the consultations which followed his arrival that Randolph reached the conclusion that a more thorough-going plan was needed, and with the knowledge of Madison's views, one can readily understand his share in producing the final conviction.

The Virginia plan was taken as a basis for the debates in the Convention. While many of its important provisions were altered in the process of making the Constitution, it had the root idea of national government operating directly upon the people and not simply upon the States, that is, as Madison explained, "national with regard to the operation of its powers", although limited in "the extent of its powers." The basic proposal of the Virginia plan was "that a national legislature, a national executive, and a national judiciary, should be established." In thus providing for national power, supreme within its sphere, for a national legislature which should make laws binding upon the people as a whole in the same manner as the laws of the State within its sphere bound the people of the State, the plan went to the heart of the existing evils. It is not extravagant to say, as John Fiske has said, that "this was the supreme act of creative statesmanship which made our country what it is", and that "it is to Madison we owe this grand and luminous conception of the two co-existing and harmonious spheres of government." Neither the important modifications of the plan, nor the compromises which were necessary to secure the adoption of the Constitution, disturbed this central principle, which today no less than heretofore makes possible the government of a vast territory with a distribution of power adapted to the satisfaction of both national and local needs. In this fundamental respect Madison stands forth as the chief architect of our political structure.

I cannot undertake to dwell upon the proceedings of the Convention, but Madison's contribution consisted not only in a plan but in his effective participation in the debates. He brought to the Convention not only exceptional learning but cogency in argument. He made 161 speeches—a number exceeded only by Gouverneur Morris and James Wilson. The impression made by Madison upon his colleagues is thus described by William Pierce, a delegate from Georgia: "Every person seems to acknowledge his greatness. He blends together the profound politician with the scholar. In the management of every great question he evidently took the lead in the Convention, and though he cannot be called an orator, he is a most agreeable, eloquent, and convincing speaker. From a spirit of industry and application which he possesses in a most eminent degree, he always comes forward the best-informed man of any point in debate. The affairs of the United States, he, perhaps, has the most correct knowledge of, of any man in the Nation."

Mr. Pierce also refers to Madison's "remarkable, sweet temper", and the Convention profited by his practical judgment as well as by his tenacity of conviction. One of the compromises of the Constitution was that relating to the apportionment of Representatives in the Congress on the basis of population, embracing the whole number of free persons and three-fifths of the slaves, was a contribution of Madison, following the clause of a proposal made by him, and adopted by the Continental Congress in 1783, as a recommendation for an amendment of the Articles of Confederation.

Despite the criticism to which this compromise was subsequently subjected, there can be no doubt that without it the formation of a national government with adequate authority would have been impossible. It should not, however, be overlooked that Madison stoutly opposed another necessary decision of the Convention as to the equality of the voice of the States in the Senate. He said that the Convention "was reduced to the alternative of either departing from justice in order to conciliate the smaller States and the minority of the people of the United States, or of displeasing them by justly gratifying the larger States and the majority of the people. He could not himself hesitate as to the option he ought to make. * * * If the principal States comprehending a majority of the people of the United States should concur in a just and judicious plan, he had the firmest hopes that all the other States would by degrees accede to it." But by a close vote, Madison's position on this crucial question was disapproved, and the decision went in favor of the equal suffrage of the States in the Senate.

While Madison's paramount purpose was to rescue the people from the perils of an existing condition bordering on anarchy, and to maintain justice between the States, he was also intent upon preserving the rights of the States. In his view, it was through the Union that the States themselves were to be preserved. His conception was of the needs of a great people, and as he put it, "the Federal and State Governments are in fact but different agents and trustees of the people, constituted with different powers, and designed for different purposes." Madison was seeking

[1] Letters to Noah Webster, Oct. 12, 1804; Mar. 10, 1826.

not to impair the necessary functions of State governments but by conserving the essential interests of national security and stability to make it possible for the people in their respective States to enjoy the advantages of the peaceful administration of their local affairs.

Madison very clearly recognized the necessity of providing for invalidating State legislation which might be repugnant to the Federal authority as granted by the Constitution. The Virginia plan proposed to confer upon the national legislature the power "to negative all laws passed by the several States contravening in the opinion of the national legislature the Articles of Union." In describing the action of the convention, Madison explained that "The obvious necessity of a control on the laws of the States, so far as they might violate the Constitution and laws of the United States, left no option but as to the mode. The modes presenting themselves were: (1) a veto of the passage of the State laws; (2) a congressional repeal of them; (3) a judicial annulment of them. The first, though extensively favored at the outset, was found, on discussion, liable to insuperable objections arising from the extent of country and the multiplicity of State laws. The second was not free from such as gave a preference to the third as now provided by the Constitution." And again, referring to what he termed the "supremacy of the judicial power" in this respect, Madison said, in one of his latest writings: "I have never ceased to think that this supremacy was a vital principle of the Constitution as it is a prominent feature in its text. * * * I have never been able to see, that without such a view of the subject the Constitution itself would be the supreme law of the land; or that the uniformity of the Federal authority throughout the parties to it could be preserved; or that without this uniformity anarchy and disunion could be prevented."

That was Madison's view of the essential function of the Supreme Court of the United States. It was very clearly expressed in a letter to Jefferson in 1823, when he sent to Jefferson a copy of his letters to Spencer Roane, a correspondence growing out of the decision in *Cohens* v. *Virginia*[3] holding that the Supreme Court had jurisdiction on a writ of error to a State court in a State criminal prosecution. Madison had there said: "The Gordian knot of the Constitution seems to lie in the problem of collision between the Federal and State powers, especially as eventually exercised by their respective tribunals. If the knot cannot be untied by the text of the Constitution, it ought not, certainly, to be cut by any political Alexander."

Without attempting to review the history or content of the Virginia resolutions of 1798, which Madison drafted, or the Kentucky resolutions of the same year, it is sufficient for the present purpose to say that when South Carolina in 1832 passed its nullification ordinance, Madison disclaimed any intention in preparing the Virginia resolutions to support what he called "the colossal heresy" of the nullifiers or to express disapproval of the jurisdiction of the Supreme Court in passing upon the validity of the legislation of the Congress. What he had in mind was a common protest by the States against Federal legislation deemed to be in excess of the power of Congress. As he said in his report on the Virginia resolutions: "The declarations in such cases are expressions of opinion, unaccompanied with any other effect than what they may produce on opinion by exciting reflection. The expositions of the judiciary, on the other hand, are carried into immediate effect by force. The former may lead to a change in the legislative expression of the general will—possibly, to a change in the opinion of the judiciary—the latter enforces the general will, whilst that will and that opinion continue unchanged." Madison believed that "the nullifying claims if reduced to practice, instead of being the conservative principle of the Constitution, would necessarily, and it may be said obviously, be a deadly poison."

The Constitution as adopted by the Convention did not conform in all respects to Madison's views, still less to those of Hamilton. But both, yielding to a conviction of the paramount necessity of ratification, united in a collaboration of luminous reasoning and persuasive argument which has no parallel in political literature. The papers of the Federalist are an enduring monument to the intellectual power and patriotic zeal of both Hamilton and Madison. Whatever their later differences, in the cause of the ratification of the Constitution they worked as one. And there was need of their best efforts. While Madison observed that "the case in Virginia seems to prove that the body of sober and steady people, even of the lower order, are tired of the vicissitudes, injustices, and follies which have so much characterized public measures, and are impatient for some change which promises stability and repose", the opponents of ratification were formidable. In Virginia the situation was critical. "The general and admiralty courts, with most of the bar", said Madison, "oppose the Constitution. * * * Mr. Henry is the great adversary who will render the event precarious." Madison thus had the opportunity of crowning his service in the Convention by his defense of its work. In the opposition along with Patrick Henry were found such antagonists as Richard Henry Lee, George Mason, James Monroe, and Benjamin Harrison. Madison had the advantage of precise and comprehensive knowledge of his subject.

Beveridge gives us a striking picture of Madison's appearance as he rose to speak: "The Chair recognized a slender, short-statured man of 37, wearing a handsome costume of blue and buff, with doubled straight collar and white ruffles on breast and at wrists. His hair, combed forward to conceal baldness, was powdered and fell behind in the long beribboned queue of fashion. He was so small that he could not be seen by all the Members; and his voice was so weak that only rarely could he be heard throughout the Hall. Such was James Madison as he stood, hat in hand and his notes in his hat, and began the first of those powerful speeches, the strength of which, in spite of poor reporting, has projected itself through more than a hundred years." With the decisive influence of Washington's support, the Constitution was ratified in the Convention by a slender majority. While New Hampshire's ratification had given the requisite nine State votes, failure in Virginia would probably have been followed by failure in New York, with most serious consequences.

Yet, even with that success, Madison's labors for our constitutional system were not ended. There was wide-spread dissatisfaction because of the absence of a bill of rights. Madison had not seen in the Constitution those serious dangers "which alarmed many respectable citizens", but he welcomed the opportunity to demonstrate anew his devotion to individual liberty. Accordingly, in the First Congress under the Constitution, he proposed the amendments which should satisfy "the public mind that their liberties will be perpetual." These had the provisions which are now found in substance in the first 10 amendments to the Constitution. In thus maintaining, as against interference by the Federal Government, the rights of freedom of conscience, of speech, and of the press, of trial by jury, and immunity from unreasonable searches and seizures, in providing the guaranty against deprivation of life, liberty, and property without due process of law, Madison had in mind protection against both legislature and executive, and for the maintenance of these guaranties he relied upon an independent judiciary. "If", said he, in proposing the amendments, "they are incorporated into the Constitution, independent tribunals will consider themselves in a peculiar manner the guardians of those rights; they will be an impenetrable bulwark against every assumption of power in the legislative or executive; they will be naturally led to resist every encroachment upon rights expressly stipulated for in the Constitution by the Declaration of Rights." Thus Madison, who had insisted upon adequate national power operating directly upon the people, and that the new constitutional government must be "founded on the people" through ratification in State conventions chosen in each State, justifying the inspiring words of the Preamble—"We the people of the United States"—evidenced his deepest conviction that the ultimate purpose of the Constitution was to maintain the security and the opportunity of the individual citizen.

Madison had read too widely and had thought too deeply to put his ultimate trust in any form of words, even if they were endowed with the solemnity of a constitution and were formulated and approved with the utmost deliberation. Political wisdom might erect the structure, but the result would depend upon the use that was made of it. Madison had no illusions as to the source of the dangers to the interests he had sought so earnestly to safeguard. Power could always be abused. "Wherever the real power in a government lies", he remarked in a letter to Jefferson in 1788, "there is the danger of oppression. In our governments the real power lies in the majority of the community, and the invasion of private rights is chiefly to be apprehended, not from acts of government contrary to the sense of its constituents, but from acts in which the government is the mere instrument of the major number of the constituents. * * * Wherever there is an interest and power to do wrong, wrong will generally be done, and not less readily by a powerful and interested party than by a powerful and interested prince."

In his preparation of the great Convention, Madison had voiced the perennial complaint of the multiplicity of laws. His comment upon this evil of his own time is not without an amusing aspect in the light of the conditions of our day. Said he, "As far as laws are necessary to mark with precision the duties of those who are to obey them, and to take from those who are to administer them a discretion which might be abused, their number is the price of liberty. As far as laws exceed this limit, they are a nuisance; a nuisance of the most pestilent kind. Try the codes of the several States by this test, and what a luxuriancy of legislation do they present. The short period of independency has filled as many pages as the century which preceded it. Every year, almost every session, adds a new volume!" But it was the injustice of the laws as he found them that gave him the greater anxiety. As he put it, "If the multiplicity and mutability of laws prove a want of wisdom, their injustice betrays a defect still more alarming; more alarming not merely because it is a greater evil in itself, but because it brings more into question the fundamental principle of republican government that the majority who rule in such governments are the safest guardians both of public good and private rights." And "the great desideratum in government" he thought to be "such a modification of the sovereignty as will render it sufficiently neutral between the different interests and factions, to control one part of the society from invading the rights of another, and at the same time sufficiently controlled itself, from setting up an interest adverse to that of the whole society."

The problem of securing a just and efficient government is far more difficult today than when Madison made these observations. It is the irony of the present situation, that in the hour of the apparent triumph of democracy, when the rule of peoples instead of monarchs was thought to have been made secure, there should be the most serious challenge of democratic ideals. The challenge is more fundamental than one to the particular forms of democratic or republican institutions. It is a challenge to the efficiency, wisdom, and justice of popular rule carried on through the instrumentalities of responsible legislators and administrators.

[3] 6 Wheat. 264.

Whether the attack is in the interest of the State conceived as the protector of the social interests of all the people, or it is motivated by class consciousness in a particular interest, there is common ground in denying the capacity of the people to make laws and to execute them through representatives freely chosen without dictatorship. For the delays and ineptitude of parliaments it is sought to substitute the promptitude and vigor of executive power, and self-constituted authorities assume the responsibility of supplying the intelligence which government by the people is said to lack.

The challenge is not simply to the democratic principle with respect to the source of authority in government, but to the ideals of liberty. For the alternative to democratic institutions is found in despotic power, whether or not exercised with benevolent intent. The final questions are the extent to which governmental coercion is to be permitted to proceed and who is to be allowed to exert it. It was the ideal of the fathers that our Government should be representative and responsible; that our institutions should provide unity and stability, with the limitation of national power to appropriate national ends and with the circumscribing of both Federal and State authority in order that a fair freedom of individual opportunity might be preserved.

There is no indication that we desire to abandon this system in favor of any form of autocracy, whether contrived to promote efficiency or to establish class rule. With all the imperfections of our institutions we have not yielded to despair. We desire to foster our collective interests, but we have not yet been persuaded that we should be the gainers in the end, either by subordinating all individual concerns to the wholly uncontrolled will of the majority or by submitting to any sort of dictatorship.

We cannot fail to realize, however, that our governmental system is most complex. It makes extraordinary demands upon intelligent political activity and upon capacity for self-restraint. We cannot save ourselves by worshiping the forms of our institutions if we fail to make them serve our just interests. Success in solving our problems lies in a wise application of Madison's controlling principle of the maintenance of a strong national government, together with the essential authority of the States over their local affairs, and with constant respect for those individual rights which experience and conscience teach us should be inviolable. It was preeminently the political genius of Madison which has given us opportunity, and we shall profit in our use of it to the extent that we emulate his example in making reason, and not emotion, our guide. We need leadership in thought even more than leadership in action. And to James Madison, who gave that leadership when it was needed most, we render our homage.

REMOVAL OF PREFERENCES AND PREJUDICES AGAINST PORTS

Mr. MOORE. Mr. President, I move that the Senate proceed to the immediate consideration of the bill (S. 1633) to amend the Interstate Commerce Act, as amended, and for other purposes.

The VICE PRESIDENT. The clerk will report the bill by title.

Mr. LONG. Mr. President, I object. I want to be heard before we take up the bill.

The VICE PRESIDENT. The Senator from Louisiana has not the floor and has no right to object to the bill being reported. The Senator has his rights and will get them, but merely objecting does not give them to him. The Senator from New Jersey has the floor and has submitted a motion. The clerk will report the bill by title.

The LEGISLATIVE CLERK. A bill (S. 1633) to amend the Interstate Commerce Act as amended, and for other purposes.

The VICE PRESIDENT. The Senator from New Jersey has the floor.

Mr. McNARY, Mr. COPELAND, and Mr. LONG addressed the Chair.

The VICE PRESIDENT. Does the Senator from New Jersey yield; and, if so, to whom?

Mr. MOORE. I should like to state the purpose of the bill before yielding.

Mr. McNARY. I was about to suggest that the Senator from New Jersey make a brief statement of the purpose of the bill before the motion is submitted to the Senate for a vote.

Mr. MOORE. Mr. President, the bill, which was introduced at the request of the Interstate Commerce Commission, proposes to amend paragraph (1) of section 3 of the act, which reads:

> It shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, * * * to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

This section has been a part of the law since 1887, and for more than 40 years the Commission entertained no doubt that the word "locality" as used in the section comprehended a port.

The Supreme Court, however, by a 5-to-4 decision, held that the word "locality" did not mean a port. All that the amendment undertakes to do is to insert the words "port", "gateway", and "transit point", so there will be no question as to their inclusion.

Mr. LONG. Mr. President——

Mr. MOORE. Will the Senator wait? The Senator from Louisiana wants to talk all the time. I desire to complete my statement before being interrupted.

Mr. LONG. I just wanted to ask the Senator to explain one point.

The VICE PRESIDENT. The Senator from New Jersey declines to yield.

Mr. MOORE. If the bill should become a law it would give opportunity for any port or any gateway or any transit point to appeal to the Interstate Commerce Commission when there is discrimination or prejudice against it. It gives the Commission the right to hear the appeal. We believe it is only just and proper that any State, any municipality, or any port should at least have the right to appeal to the Interstate Commerce Commission and have its case heard by the Commission. That is all the amendment would permit.

Mr. LONG. Mr. President——

Mr. MOORE. I yield to the Senator from Louisiana.

Mr. LONG. I thought the Senator had yielded the floor.

Mr. MOORE. No; I have not.

Mr. LONG. I merely want to ask the Senator a question. What the amendment really does is to annul two decisions of the Supreme Court of the United States. As a matter of fact, this is an appeal to Congress from two decisions of the Supreme Court of the United States. That is really what the amendment is, is it not?

Mr. MOORE. No; it would not annul the Supreme Court decision in any sense. It would simply give the right to a gateway or a town or a municipality to appeal to the Interstate Commerce Commission. The Supreme Court held that under the law as it was written a municipality or gateway or town had no right to appeal; that they could be discriminated against; that they could be unjustly treated; but that the law did not permit any port, gateway, or transit point to appeal to the Interstate Commerce Commission and ask for a decision or a determination of the discrimination or prejudices which such a complainant might allege existed.

Mr. BLACK. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Alabama?

Mr. MOORE. I yield.

Mr. BLACK. As I gather from the report some ports claim there has been discrimination against them by the railroads.

Mr. MOORE. That is true.

Mr. BLACK. The Supreme Court opinion, to which the Senator from Louisiana referred, deprives most of the localities in the country of the right which they had under the law to appeal to the Interstate Commerce Commission in order to have presented to the Commission alleged discriminations.

Mr. MOORE. That is correct.

Mr. BLACK. Unless the bill shall pass, ports which do not come within the definition prescribed by the Supreme Court will be deprived of the opportunity of having their cases heard before the Interstate Commerce Commission even though there might be rank discrimination against them.

Mr. MOORE. The Senator has stated it correctly. I might add that representatives of Oregon, Texas, Virginia, Maryland, Pennsylvania, Massachusetts, New Jersey, and New York appeared before the committee in favor of the amendment to the law which is proposed by the bill.

Mr. WALSH. Mr. President——

The VICE PRESIDENT. Does the Senator from New Jersey yield to the Senator from Massachusetts?

Mr. MOORE. I yield.

Mr. WALSH. As I understand the situation, the word "locality" in the original law was construed by the Inter-

state Commerce Commission to include "ports." That was the situation until 1929 when the Supreme Court by a 5-to-4 decision held that the word "locality" does not include the word "port." The object of the bill is to have the word "port" included as well as "locality" for the purpose of permitting the Commission to entertain complaints of undue or unreasonable preference or advantage to any port. It seems to me there can be no reasonable objection to a port, as well as a locality, person, company, corporation, or firm being permitted to make complaint to the Commission under the Interstate Commerce Act when it is unjustly treated by a railroad or other common carrier.

Mr. MOORE. That is a correct statement of the purpose of the bill.

Mr. WALSH. From 1887 to 1929 the Interstate Commerce Commission construed the term "locality" to be broad enough to include "port", and not until this decision of the Supreme Court was it assumed that "locality" did not include any place, including a port.

Mr. MOORE. The point was not raised before the Supreme Court by the attorneys, but was raised by the Court itself.

Mr. LEWIS. Mr. President, will the Senator yield?

Mr. MOORE. I yield.

Mr. LEWIS. I take the liberty to state that the subject was before the committee when I was complimented by being a member of the committee. I may say to the able Senator from New Jersey it was assumed that all he is contending for, and all that his bill now contends, had been the intent of the law, that such had always been the object; and it was something of a surprise to have the ports of the Lakes for which I speak excluded upon the theory that a port was not a locality within the meaning of the decision.

It is understood by us that the position taken by the Senator from New Jersey in his explanation is that what the bill proposes was intended to be the law originally, at the time the measure was passed, and all the time it was in effect. I take the liberty of saying that such was the viewpoint of those whom I have the honor in part to represent.

Mr. MOORE. That is correct, sir.

Mr. BORAH. Mr. President——

Mr. MOORE. I yield to the Senator from Idaho.

Mr. BORAH. As I understand this bill, it is not intended to do anything other than to make the statute speak as it was supposed to speak for a number of years.

Mr. MOORE. Yes, sir; that is the intention.

Mr. NORRIS. In other words, Mr. President, it is a bill which will have the effect of reversing a 5-to-4 decision of the Supreme Court. Is not that true?

Mr. MOORE. I should hardly say that. The Supreme Court held that they did not have power to act on this case because, in their estimation, the word "locality" did not include a port. Now it is proposed specifically to include "port", so that on another determination the Court may act. The bill does not provide that the Interstate Commerce Commission must discriminate against any port of the United States, but they can at least hear and determine the matter in the case of any port or city. Take, for instance, Baltimore, which is a port and also a locality.

Mr. NORRIS. What did the other four members of the Supreme Court say in dissenting in the 5-to-4 decision? Did they believe that the word "locality" included the word "port"?

Mr. MOORE. No, sir. I will read a brief extract from the dissenting opinion.

Mr. NORRIS. I do not think we ought hurriedly to reverse the effect of a 5-to-4 decision of the Supreme Court.

Mr. MOORE. We are not doing that, if the Senator please.

Mr. NORRIS. I hope not. I should not want to do such a thing.

Mr. MOORE. Mr. Justice Stone, speaking for the Chief Justice and for Justices Brandeis and Cardozo, said:

> I can find nothing in the purpose or history of the statute which suggests that it means any less than it says. This Court has often declared that the purpose of the all-embracing language of the statute was to suppress every form of unreasonable discrimination which it was within the power of Congress to condemn. It has said that discrimination was the principal thing aimed at, and "the purpose of Congress was to cut up by the roots every form of discrimination, favoritism, and inequality."

That is the point. They cannot cut out by the roots every form of discrimination, every form of prejudice, unless a port at least has the right to come before the Commission and state its case and have it determined. That is the purpose of this bill.

Mr. LONG. Mr. President, I hope the Members of the Senate will not become prejudiced because the Supreme Court has twice decided this case. Once the Supreme Court decided the case unanimously. There was not any ground for anybody to think the law was any such thing as the Senator contends.

Mr. LOGAN. Mr. President, will the Senator yield?

Mr. LONG. I yield to the Senator from Kentucky.

Mr. LOGAN. Is it not true that a good many years ago the Congress enacted a statute using the word "locality", and the Supreme Court held that "locality" did not include a port? There is no question that Congress has a right to amend the law so as to make it include a port, and it has nothing to do with reversing the decision of the Supreme Court.

Mr. LONG. Yes; it has.

Mr. LOGAN. It is accepting the decision of the Supreme Court, and then amending the law so as to include what the Supreme Court said it did not include.

Mr. LONG. No; the Senator does not understand. If he will listen to me a minute he will understand. It is broader than that.

Mr. LOGAN. I do not see how the Senator can contend that it is reversing the Supreme Court.

Mr. LONG. I will tell the Senator all about it if he will listen to me.

Mr. LOGAN. The Court simply held that the word "locality" did not include a port.

Mr. LONG. There was a decision before that. There were several points.

Mr. LOGAN. Is there any decision holding that Congress could not include a port?

Mr. LONG. Yes, sir.

Mr. LOGAN. I have not heard about it.

Mr. LONG. I will inform the Senator in just a moment.

Mr. LOGAN. And I do not believe there is.

Mr. LONG. Well, there is. The Constitution of the United States provides in express terms that the ports of one State shall not be preferred over the ports of another State. That is the Constitution of the United States.

We have been legislating without knowing, in some cases, a great deal about foreign questions. Here is what this case brings up:

A number of years ago the people of North America undertook to get the South American trade. That is one thing. The South American trade was largely being handled by countries like Germany and even Belgium and even England and France. We undertook to get the South American trade. Why were we not getting it? The economies were against North America getting that business. It could not be had through the ports at that time. We were unable to get it.

Here is what this case finally meant: There is the Texas & Pacific Railroad, which has only one port, the port of New Orleans. There is the Louisville & Nashville Railroad, which has only one port, the port of New Orleans. On the other hand, there is the Trinity & Brazos Valley Railroad, which has only one port, Houston-Galveston. Every one of those railroads and every one of those ports for the past 150 years has been protected under the Constitution of the United States through the provision for an equality of ports; so that if the Texas & Pacific Railroad, hauling for foreign commerce—not for domestic commerce—wishes to haul its commerce to its port, that railroad has as much right to take foreign commerce to the only port it serves as the Baltimore & Ohio Railroad has to take its commerce to the only port it serves. Had the law been otherwise, half the railroads of

the United States could not have carried their own freight to a port that they served. Not a railroad in America, beginning east of the Rocky Mountains, would have been able, as an ordinary proposition, to carry its commerce to its own port. If the New York Central went to the port of New York, it would have had to stop short and send by another line to Baltimore. If the Trinity & Brazos Valley went by a short line to Galveston, it would have had to stop and send by another line to Houston. If the Pennsylvania Railroad and the New York Central wanted to come into New York, perhaps they would have been made to send their traffic through such a port as Winnipeg.

So this matter finally reached the Supreme Court of the United States a number of years ago—30 or 40 years ago. The citation is given here. I shall give these citations after a while. In that case one of the regulations of the Interstate Commerce Commission undertook not to afflict a railroad but to afflict every farmer exporting wheat in America; and it did. What the Interstate Commerce Commission undertook to do cost every farmer in America from 1 to 5 cents a bushel. The farmers of Nebraska—and I have the figures to show it—the farmers of Oklahoma—and I have the figures to show it—and the farmers even of Texas itself were penalized from 1 cent to 3 cents to 5 cents per bushel because of the fact that the railroad lines serving those fields were not allowed to carry the commerce even on their own lines into ports lying on those railroads.

What is the necessity for this? The necessity is that there is what is known as a "balancing of cargo." If you take your produce from the wheat fields and the corn fields of the West to the port of Baltimore, or to the port of New Orleans, and dump the load to be exported, and haul the car back empty, somebody is paying twice the normal freight. In other words, if you are made to haul your commerce or your export crop from Kansas to the nearest port 10 miles closer or 40 miles closer, and after it has taken a trip of a thousand miles there is no import commerce to put into that empty box car which went from the interior to the port, that means 2 freight charges for 1 load; and the converse of that is true. If the ship which comes to New York or to Baltimore or to Galveston must come there loaded but go back empty, that means that ocean transportation must bear two costs instead of one.

Therefore Congress is now called upon to wreck more than all the merchant marines in the world could ever rebuild. We are called upon to tear up the only thing which brings any commerce at all to this country. We are called upon today to do more harm, in undertaking to disrupt and destroy the routes and economies of trade channels than all the appropriations Congress can possibly put back together in the next 20 years.

Now, let me give you the explanation.

There are coming from South America large quantities of tropical fruits. Those fruits have to be distributed in America within 24 to 48 hours from the time the ships are docked in the port of New Orleans. If those ships are to return without being practically empty, they must of necessity go to a port where there is an outbound cargo. Therefore, naturally the only port on the whole Gulf coast where tropical fruits like bananas could be brought and hastily and practicably and readily diffused and distributed into the interior of America was the port of New Orleans; and why? Because the fruit could be sent from New Orleans to Omaha, to St. Louis, to Chicago, and to Indiana within 24 to 30 hours' time at the most. That is no. 1.

Second. Further, the tramp steamer bringing that tropical fruit into New Orleans could find an outbound cargo from the port of New Orleans to Spain, or to South America, or to England, or to wherever else it might be destined.

Had there existed the practice now sought to be established, what would have been the result? The result would have been just what happened; they imposed an arbitrary rate, and as a result of that, all the wheat went to Galveston, Tex., because the Interstate Commerce Commission compelled the railroad lines to disrupt their entire haul and divert the traffic from the lines of the Texas & Pacific and the lines of the Missouri Pacific to a port that was entirely off their lines because the total rail distance was slightly shorter to Galveston than it was to New Orleans.

What was the consequence? Galveston did not have the ships, Galveston did not have the market, and the wheat and the corn stayed there and sprouted, and rotted, and the farmers lost millions and millions of dollars because there were no adequate facilities at the particular point, which happened to be a few miles nearer the interior, to the place of origination. As a result, millions of dollars were lost by the farmers being compelled to divert their crops to Galveston, Tex. They would have been penalized if they had sent the crops to a port where there were facilities for export, and where there were facilities for storing and for handling the crops.

Mr. President, a railroad line cannot be divided. We went into the West and we went into the South and railroads were built, so that the coal lines might take the coal from their fields and take it to a port, so that the grain fields might be served by railroads, and those fields needed a port. But now comes this new line of logic.

A railroad cannot take grain from the grain fields of Kansas into the port of Baltimore. A railroad cannot take grain into Port Arthur, Tex., it cannot take it into New Orleans, La., because Lake Charles, La., is 40 miles nearer the field, and therefore you have to dump it all when you get to Shreveport, La., or Texarkana, Ark.-Tex.; you have to unload it all, because the railroads are not to be allowed to equalize their rates, something that has been done under the Constitution of this country, and something that was upheld in the Supreme Court since this country was first created.

Mr. CLARK. Mr. President——

The PRESIDING OFFICER (Mr. BYRD in the chair). Does the Senator from Louisiana yield to the Senator from Missouri?

Mr. LONG. I yield.

Mr. CLARK. If I understand the Senator's argument, it amounts to this, that under the practice sought to be established by the bill, no consideration whatever is to be given to the advantages of export from one port as against another.

Mr. LONG. That is correct.

Mr. CLARK. In other words, whether a man wishes to or not, he has to send his products to the port which happens to be geographically nearer to him?

Mr. LONG. Yes.

Mr. CLARK. Irrespective of the fact that at another port there may be an outlet to foreign countries not to be found at the port to which he is compelled to send?

Mr. LONG. Yes. Not only that, but every dollar spent for waterways is thrown into the ash can, and not another dollar should be appropriated. Cancel the appropriation for dredging the Mississippi, because that is out; that is through, on the enactment of this measure, because Lake Charles—which we built; which is my own State—Lake Charles will have all the business which ought to go to Galveston and New Orleans, which are equipped to take care of it; Lake Charles will get it because it is a few miles nearer.

There is the port of Baltimore, but some small place will be a little nearer than Baltimore, and it will be preferred. They will get a spirit level and a compass, and they will go a hundred miles on the Pennsylvania, and 40 miles on the I. & G. N., and 10 miles on another railroad, and there will be a difference of a hundred miles, and then all the traffic will have to be dumped in a load, and all the ports which have been built up, and all the railroads which have been built up, and all the business which has been developed for a hundred years will have to be torn limb from limb.

Mr. BORAH. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BORAH. Do I understand it to be the Senator's contention that if this bill shall be enacted it will take the discretion away from the Interstate Commerce Commission to examine into the questions which the Senator is discussing?

Mr. LONG. No; it gives them power, and I will tell the Senator what the power is. They have a mileage scale of rates for import and export and interstate commerce. I

mean, if the Senator will permit me, that the Interstate Commerce Commission prescribes a mileage scale of rates, and the rate is highest to the point farthest away. That is what has been prescribed for import and export commerce, and that means that if a carload of cattle headed for South America is shipped over a railroad which goes to New Orleans, where there is a steamer waiting for it, if it is 50 miles or 100 miles nearer to another port, the shipment must be diverted from that railroad's own line to the port that is nearest to the interior.

Mr. BORAH. Notwithstanding the fact that there are no facilities there?

Mr. LONG. Yes. The corn and the wheat sprouted in Galveston, Tex., and the farmers lost every dollar they had in them, and notwithstanding that, if it had not been for the United States Supreme Court, that practice would have stood until today.

Let me cite an illustration to show what was done. The Federal Government came to New Orleans and got the people there to spend $41,000,000 on the port, and the railroads came there and they wanted to get South America's business. They said that it needed a Latin city to get the Latin business, so Latin New Orleans was sent out to get the business of Latin South America, and they got it.

There were more imports into New Orleans than there were exports from that port, and there was a balanced tonnage. A ship would load in Belgium and come to New Orleans with a cargo because they knew there would be outbound tonnage, and they knew there would be facilities there for handling their business.

The Interstate Commerce Commission said, "You cannot take that cargo to that port and have a return cargo, because we have ordered the return traffic to come from Morgan City, La., because it is a little bit nearer."

I have used that as an illustration. As a result, there can be no such thing as a waterway in the United States, and the opinion of the Interstate Commerce Commission in effect said that, irrespective of the fact that Congress had appropriated hundreds and thousands of millions of dollars to build up the waterways, none the less traffic has to be taken right out of the bed of the Mississippi River and sent over to a port that happens to be a little nearer to the river port than the particular place sought to be used.

Taken to its logical conclusion, it means that if the river, flowing around in a serpentine course, is a hundred miles farther at one point from its own port, a port which the river serves, then the distance necessary to be traveled in order to reach the Gulf coast or the Atlantic coast by a more direct rail route, you have to take the tonnage out of the boat that is on the river and load into railroad cars and send it to the nearest port. That is what it means. If this proposal is to be adopted, we have spent a lot of money here quite uselessly, we have absolutely thrown it away; billions of dollars of the people's money will be thrown away if this kind of thing is to be done.

Let me show what it means. I do not take the position that because a railroad is a railroad it should be torn up. There are railroads in favor of this practice, and there are railroads that are against it. I do not take the position that just because a railroad has a line it will improve conditions to blow it up. There is a line of thought in the United States to the effect that if you can find that anything does a railroad any good you ought to try to blow it up. There are some who feel that if you can take a canthook and a little dynamite and blow up a railroad, that is good business. I do not see any difference between legislative destruction of railroads and court destruction and anarchistic destruction of property. One is the same as the other to me.

Let me show what this means. I am sorry I have not a map. I have used illustrations from my part of the country because they explain what happens elsewhere.

Let us suppose that a railroad goes from St. Louis through Pittsburgh and through Philadelphia to New York. Under this bill that railroad cannot haul its goods through Pittsburgh by rail, it cannot haul its goods through Philadelphia by rail, it cannot haul its goods to the city of New York by rail. Why? Because there is nothing whatever to keep a tramp steamer from going to Philadelphia, and Philadelphia is 80 miles nearer inland than is New York City, and therefore, since the Interstate Commerce Commission cannot control the tramp steamer rate from Philadelphia to Liverpool, or from Philadelphia to Buenos Aires, none the less it does control the rate from St. Louis to Philadelphia, and St. Louis to New York, and it is cheaper to Philadelphia, and New York must be blown up as a port, and hundreds of millions of dollars which have been spent in this country are to be wiped out on the theory of the distance from points of inland shipment to ports.

Now, let me give another illustration. The only thing to do is to tear up the New York Central line from Philadelphia to New York, tear up the New York Central line from Albany to New York, tear it up because they will not be allowed to haul a pound of freight for export commerce under the pending bill. That is what the Supreme Court sought to prevent.

Mr. BLACK. Mr. President, will the Senator yield?

Mr. LONG. I yield for a question.

Mr. BLACK. The report states—I am not sufficiently familiar with its history to know the facts in the case—that for many years the law was exactly as it is said to be now.

Mr. LONG. That is not true, Mr. President.

Mr. BLACK. The Senator denies it is a fact that up to the time the Supreme Court rendered its opinion the present status was held to be the law?

Mr. LONG. Yes; I do.

Mr. BLACK. I will get those opinions.

Mr. LONG. The Senator can get those opinions. It was not so held. I am the man who brought this suit, I will state for the Senator's information. I know something about the case. I myself brought the lawsuit as the head of the department of the State of Louisiana which had jurisdiction over port matters. The first suit had been brought by the Texas & Pacific Railway. I had the last suit brought. I knew it was not the law, and it never had been the law, and the Commission never had imposed any such law on us. Perhaps they had enforced such a law against some other port, but when they imposed it on Louisiana we carried the question to the Supreme Court again, and it was held there not to be the law, and is not the law. I understand that a few other little ports were made to feel the effect of the law and two or three were put out of business. However, that is not the point. That does not change what I am saying. I desire to proceed.

Mr. President, I desire to say to my friend from Nebraska [Mr. NORRIS], and my friend from Utah [Mr. KING], and my friend from Alabama [Mr. BLACK], and others, that everything the Supreme Court does is not prima facie bad. If it had not been for the Supreme Court we would not have had a union of states. I know there is sentiment in this body that if the Supreme Court has decided a thing one way that is a mighty good reason to try to make the law the other way. If that be true, let us abolish the Court by constitutional processes. However, I wish to say that everything the Supreme Court does is not bad.

Mr. NORRIS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. NORRIS. Any intimation by the Senator that I believe in anything of that kind has no foundation.

Mr. LONG. I do not mean that, and I hope the Senator does not think I do. I am getting down to 5-to-4 decisions. Everything the Supreme Court does is not bad, even though it is done by a 5-to-4 decision. I was in the Senate and cast the deciding vote on the holding-company bill the other day. If my vote had gone the other way the "death sentence" would have been out of the bill. There are many people inside and outside the Senate who certainly do not think that any good can come out of the vote which I cast, but nonetheless my vote was the deciding vote on whether the bill went out of here with life in it or not.

I know that there is a prejudice here against 5-to-4 decisions; but if it had not been for this particular decision going against what had been the law it would have been a

9-to-0 decision. The decision was not 5 to 4 the first time the case came up. It was not decided on the ground of any congressional statute. It was decided on fundamental grounds that a man's property could not be taken without due process of law, and that one port of a State could not be deprived of the equality which it had a right to assert against the port of another State. That always has been the Constitution and always should be the law.

There is now an undertaking to legislate that out of the law. Endeavor has been made to legislate it out of the law probably on many other occasions, but what would be the consequence? Here is the Texas & Pacific Railroad. There is no passenger business on that railroad because we have paved highways paralleling the Texas & Pacific Railroad from Dallas and Fort Worth, Tex., to New Orleans, La. We have good roads there—better roads than in many other States in which I have been. I have ridden over the roads in Pennsylvania and Maryland. They are good highways. However, I wish to tell the Senate that the roads I have just spoken of, paralleling the Texas & Pacific, are better than the roads over which Senators are accustomed to travel, even in the Eastern States. They are wide, paved boulevards. They are straight; they do not go through populous centers; and therefore there is no such thing as a passenger business on the railroad lines which they parallel. Therefore the Texas & Pacific Railroad, leaving the wheat fields, leaving the cotton fields, leaving the corn fields of the West, when it arrives at Dallas and Fort Worth, Tex., strikes what is known as the "T. & B. V. Railroad", which serves the port of Galveston-Houston, which is only 200 miles away from another port, and it is 350 to 400 miles away from the port of New Orleans. Therefore the Texas & Pacific has to unload its traffic, and that railroad line which the Texas & Pacific has from Fort Worth into New Orleans is absolutely worthless for any purpose whatever.

I hope the Senator from Nebraska [Mr. NORRIS] appreciates the point I am making. The point I desire to make and which I desire to explain—and this is positively the law—is that if this bill were enacted into law and the law were held to be constitutional the Texas & Pacific Railroad, for the construction of which an immense amount of land was given by the Government so that the West might be served through the Mississippi Valley port of New Orleans would be absolutely worthless so far as one section of the line is concerned. There would not be anything to haul on its tracks from Fort Worth to New Orleans. Why? Because under this bill the Texas & Pacific would be obliged to dump its own traffic into the lap of the Texas & Brazos Valley, because it is 100 miles nearer to the port of Galveston than it is to New Orleans.

The Interstate Commerce Commission had previously issued such an order, and what happened? The wheat from Nebraska and the wheat from New Mexico and Arizona and Oklahoma, and the wheat from Kansas lay right there in Galveston until it sprouted. Galveston did not have any facilities for putting it into the bins. It did not have any inbound cargo bringing tramp steamers there to haul the wheat out. Why? Because there was no one sending bananas to Galveston, because it took 60 hours to distribute the carload of bananas from Galveston into the interior, whereas it only required 24 hours to distribute bananas from New Orleans into the interior. Therefore, there were no banks, there was no market, there were no storage facilities, there was nothing to take care of the traffic coming into Galveston, and there was nothing to take care of the traffic coming through Galveston. So what happened? The ships came there empty to get cargoes to take out, and the cost of transporting wheat from Galveston to foreign countries was two times as much as from New Orleans, because they could bring a loaded ship into New Orleans and take a loaded ship out. Therefore, the railroad charges into Galveston had to be correspondingly higher, which had to be absorbed by someone, because the box car that went from Omaha to New Orleans went back from New Orleans to Omaha loaded, but the box car that went from Omaha to Galveston loaded went back from Galveston to Omaha empty, because there was no tonnage in Galveston to fill the car that went from the interior to Galveston. Who paid the rate? The farmer paid it. He had to pay it, and he lost the amount represented by the difference in the rate in the amount which he received in the market for his commodities.

Who else paid the rate? The Commission by their ruling disrupted a large percentage of the commerce between South America and North America, due to the fact that they destroyed the business contracts, they destroyed the use of the ports, they destroyed the use of the waterways, they destroyed the use of mercantile contacts and developments and intercourse, and they destroyed the use of the facilities of the tramp steamer which came in loaded and went out loaded.

They destroyed the use of the box car, which went there loaded and came back loaded. They destroyed a large percentage of the commerce. The Interstate Commerce Commission itself had to whittle around with the thing, backing up on it, and never dared to put it into complete effect until finally, after they had messed around and destroyed so much of the business, they concluded to see if they could not destroy the balance of it, and that is when we had to go to the United States Supreme Court the second time, and the Supreme Court of the United States annulled the order of the Interstate Commerce Commission.

Some of my friends may feel different about that question than I do. I cannot conceive any interior merchant who for a moment would stand idly be if he understood what this issue meant. Let us say, for example, Mr. President, that the port of New Orleans was importing about 110 percent of its exports; let us assume that exports out of New Orleans were 100 tons, just to fix the basis, and that there were being imported into New Orleans 110 tons or 115 tons. I believe there is a greater disparity than that. Then, taking the exports out of Galveston at 100, let us assume that there were being imported into Galveston about 25 tons. I do not think the percentage of imports is so great. In other words, Galveston brought in a loaded boat every time it sent out about five boat loads of goods from the interior down there, but New Orleans was bringing in, excepting the river traffic, what was just about as much as it was exporting. Therefore there was a use for the Mississippi River, there was a use for the rails coming into New Orleans, and there was a use for the tramp steamer.

Do not forget, Mr. President, who is behind this bill from the standpoint of the interest of the steamship companies. I hope Senators will hear me, because so many of us have had no occasion to learn anything about this matter.

The steamship interest is in favor of this bill. It is the large controlling factor for this cause.

The little tramp steamer makes the rates. The greatest rate-reducing agency for commerce as it affects the farm sections is the tramp steamer. If I may be permitted to do so, I hope my friends will hear me tell them what a tramp steamer is. The tramp steamer may be found at almost every ocean port. It may be found at Liverpool; it may be found at Shanghai, China; it may be found in Buenos Aires; it may be anywhere. A tramp steamship, wherever it may be, is always looking for something to carry somewhere. It goes to the place where it can find a cargo to transport to a port where it can find a return cargo. A tramp steamship usually has no connections whatever except with the boss who is in charge of it. The only man who has anything to do with a tramp steamer is the man who owns it, and he is generally the captain of the ship. He runs the business; he carries the freight to whatever point he may be hired to haul it, and he tries to get a cargo to bring back. A tramp, therefore, is the ship which will carry the load at whatever it can carry it at a profit, and it keeps the rates down on the large lines regularly traveling between one port and another. It prevents them from establishing a monopoly, because, whenever we find a man with a cargo to send, he goes out and hunts for a tramp steamer and the tramp takes it to the place he wants to send it. That keeps foreign-commerce rates down. In other words, if we did not have the tramp steamer there would be nothing to keep the big liners from

charging anything they wanted to charge for carrying commodities between Liverpool and New York or between New Orleans and Madrid.

The tramp steamer must go to a port where it can find a cargo. The tramp steamer must be given a haul to a place where it is going to find something to haul away from there; otherwise it has got to charge double rates. Therefore a tramp steamer from Liverpool can take a cargo at a cheap rate to New Orleans; it can take a cargo at a cheap rate to New York; it can take a cargo at a cheap rate at those places because there is abundant traffic, and the tramp can get something to haul back. But a tramp steamer cannot take a cargo to Galveston, Tex., because 90 percent of the time there a return cargo cannot be found at Galveston, Tex., because there are no facilities for ordinary commodities there and consequently there is no distribution. They have no banking; they have no contacts by which the general run of commodities can be handled. Therefore the tramp steamer becomes an unimportant factor in the handling of transportation under this kind of proposed law proposing that no port may even be patronized by its own rail lines.

So, Mr. President, at this time I ask the Members of the Senate to consider more carefully before undertaking to take up a bill of this consequence in the closing, hurried, hurly-burly days of this session of Congress. I ask the Members of the Senate not to dump into the laps of an already tired and overworked body this complicated kind of measure, by the passage of which more harm may be done to our commerce than all our water expenditures can do good. Certainly, in view of our appropriations for rivers and harbors and other waterways, we ought not to enact a bill which will make useless everything we have spent.

As an example, the water routes are naturally longer than are rail routes. It is farther to go by water from Pittsburgh to New Orleans than it is to go by rail from Pittsburgh to New Orleans. Therefore, under the mileage system, the water route is killed; there can be no route. Why? Because, after figuring it out according to mathematics, it is a discrimination to allow the goods to float down the Mississippi River into the port of New Orleans if the mileage rate is prescribed; and it is and will be prescribed. Everything must go according to the mileage basis; and I challenge anyone to tell me how we will ever be able to transport by water routes where the distance is several hundred miles greater by water to one port when there is compulsion to go by rail to another port without practically destroying every dollar of money that has been spent by the Congress to establish inland waterways. I have never yet seen a man arise and undertake to explain how the Congress can consistently appropriate hundreds of millions of dollars, knowing that the routes to reach the ports served by the inland waterways are necessarily going to be longer, and at the same time compel a rate on a mileage basis whereby one port is given a discrimination, though it is a hundred miles farther away than another port that could be served from the locality from which the cargo is to be sent.

That is the case before the Senate today. There is not any explanation for that kind of monstrosity. What is the pretended explanation? It is that there is some little port over here somewhere that claims it is closer than another port, and therefore, being closer, it is entitled to a better rate.

I will give a little example of that. Jersey City says that it is closer than New York, and therefore Jersey City ought to have an advantage over New York.

Mr. MOORE. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. POPE in the chair). Does the Senator from Louisiana yield to the Senator from New Jersey?

Mr. LONG. I yield.

Mr. MOORE. The statement the Senator has just made is not correct.

Mr. LONG. I will ask the Senator in what respect it is not correct.

Mr. MOORE. I will refer to it in my own time.

Mr. LONG. It is just as I have said, as my friend from New Jersey will realize, I think, if he will listen. Jersey City, Mr. President, gets a rate, we will say, that is, maybe, a little higher than the New York rate. It ought to be higher than the New York rate. Why? Because New York has probably developed facilities for 150 years which Jersey City does not have. It is only natural that Jersey City shall hug up to New York, and as time goes, it will probably become a part of New York. But let me use another case so that my friend will not be offended, perhaps, at the comparison; and so I will leave out Jersey City and use a city in my State.

Lake Charles, La., we will say, says it ought to have a better rate than New Orleans. Why? Because by the Kansas City Southern Railroad from Texarkana, Ark.-Tex., it is a hundred miles closer to the port of Lake Charles, La., than it is to the port of New Orleans, La. So, therefore, just as in the case of Jersey City against New York City, Lake Charles says, "It has never done so as yet, but it will under a bill of this kind if it shall become a law—we want a better rate than New Orleans." Why? "We are entitled to it under the Interstate Commerce Commission ruling."

There is the L. & A. Railroad which goes from Texarkana, or near Texarkana, to New Orleans through Shreveport. There is the Texas & Pacific Railroad which goes to New Orleans through Shreveport; there is the Missouri Pacific Railroad which goes to New Orleans through Shreveport. All those railroads are important railroads. They do not go to Lake Charles, and those three railroads that go through to New Orleans when they reach Texarkana or Shreveport will have to dump their cargoes and let them go down the K. C. S. Railroad to Lake Charles, La., because Lake Charles is 106 miles nearer to water from Shreveport, La., than is New Orleans to Shreveport, La. In other words, if this is to be the law, we will have to blow up about 45 to 60 percent of the railroad lines in the United States, because, gentlemen of the Senate, if we bar railroads from foreign commerce, the day we say that the Texas Pacific cannot haul freight for foreign commerce, that the Missouri Pacific Line cannot haul freight for foreign commerce, and the L. & A. Railroad cannot haul freight for foreign commerce—and that is what would be done under the ruling that has been made by the Interstate Commerce Commission—whenever we say that those railroad lines cannot haul anything that is to be exported, then we the same as say that the railroads have got to be discontinued.

That is what the passage of this bill would mean. My illustrious friend from New Jersey is very new on this question, and it is the new men on this question we have all our trouble with. We do not have any trouble with anybody who has studied the question through the years; we have all our trouble with the new angles that are projected into this body. All of our troubles come from those who think that commerce can be built up overnight. Those who have studied this case for years have a different idea. Take, for instance, my friend from Alabama [Mr. BLACK], who was very much interested a few moments ago.

I know of a case in Alabama. There is in the State of Louisiana the railroad which I have been telling about, the Louisiana & Arkansas Railroad, that connected at Natchez, Miss., with what is known as the "Mississippi Central", which goes into the port of Mobile through railroads known as the "Gulf, Mobile & Northern" and the "Mobile & Ohio." Time after time has wheat gone all the way from Texas through Shreveport, through Natchez, into the port of Mobile when, under the bill for which the Senator from Alabama is contending, it would have had to go to Lake Charles, La. The port of Mobile would be dried up like a powder horn. There would not be any freight coming there at all. I could carry more freight in my shirt tail than the port of Mobile would get if this bill should become law. Remember what I am saying. Anybody who will take a map and look at it will find that the only export commerce the port of Mobile will ever be able to get will be what is raised below New Albany, Miss., on down the Mobile & Ohio, and not much of that. That is what they will get. They will get practically nothing.

As it is, the wheat farmer, the corn farmer, the cotton farmer of the West and the South can take his choice of any port through which he wants to ship. If his friend from South America has a tramp steamer coming to Mobile, he

can send his goods to Mobile, and the ship which comes there loaded will go out loaded and, therefore, can haul his goods cheaper in foreign commerce. On the contrary, if that man has to send his goods to Lake Charles, La., he probably knows no forwarding agent in Lake Charles; he does not know any banker in Lake Charles, and there is not a single wheat bin in Lake Charles to take the wheat if he ever got it there. It would have to lie there and sprout as it did at Galveston and as it did at Lake Charles at other times.

The final wind-up of the whole matter would be that the commerce would have to be scattered to many ports. There would not be one really big port. We would not have such a port as the port of New Orleans with its immense facilities. We would have a port very often where they could get a boat a mile nearer inland than a real port like New Orleans. We would have no such thing as a respectable port, and it would mean destroying, disrupting, and wrecking interstate and foreign commerce which has been coordinated and made a factor of the business of this country.

I want to hear my friend from New Jersey explain that point. He said that in his own time he would answer these points. My friend from Alabama [Mr. BLACK], I understood, said this was considered the law in some cases, but it was not the law down our way.

Mr. BLACK. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from Alabama?

Mr. LONG. I yield.

Mr. BLACK. The question I asked the Senator was whether or not the statement I am about to quote was true, and I understood him to say it was not. I refer to the following statement which appears in the report accompanying the bill:

> Until 1929 no doubt was ever entertained that the word "locality" was broad enough to include any place, including a port, and the Commission heard and decided many cases involving ports under that language.

I simply asked the Senator if that statement was correct, and I understood him to say it was not.

Mr. LONG. No; that statement is not exactly correct. The power of the Interstate Commerce Commission, whether it was on the ground of being a port or under the Constitution, was nevertheless questioned, and the point was upheld in the Galveston case.

Mr. BLACK. Does the Senator mean the 1933 decision?

Mr. LONG. Oh no; many years before that. It was in the case of Texas Pacific Railroad against Interstate Commerce Commission, at least 30 years ago, I should say. I know that is the decision I have in mind. I did not know the matter was coming up this morning or I should have had the decision with me. We had a case there many years ago. I do not believe it went up on the question of "port" being a locality. I think it was on the broader constitutional question, and if the bill should be passed we would still have the Constitution to hurdle before at least five of the judges of the Supreme Court who, I believe, would uphold what they once decided.

Mr. BLACK. The point I had in mind was that the Interstate Commerce Commission, according to my information then—and I have verified it since—had for years exercised this authority of regulation without question.

Mr. LONG. No; that is not correct. There was a case decided about 30 years ago—Texas Pacific Railroad against Interstate Commerce Commission. I have sent for that decision and will read it to the Senator.

Mr. BLACK. Do I understand the Senator is of the opinion—and I am not talking about the merits of the bill—that the Interstate Commerce Commission did not for years in a number of cases act on this law as though the particular amendment now proposed had been in effect?

Mr. LONG. They may have done so with respect to some localities, but not in our section of the country. On the other hand, they rendered a decision against the Texas Pacific Railroad, which was taken to the Supreme Court and reversed. From that time on for a number of years we never heard of it, and then came along another case in which the Commission rendered a 50-50 decision, and before we could get that up to the Supreme Court they came along with the last decision, and we brought that to the Supreme Court and knocked it all out.

Mr. BLACK. I was not talking about the merits of any particular decision. I was talking about the fact that they had accepted it and acted under it and had decided a large number of cases coming from various sections of the country.

Mr. LONG. They may have done so as applied to some localities, but not the southern part of the United States. There was a reason why they would have been hesitant about applying such a decision to the South. They ran into the internal waterway system of the country. That had to come. There has to come this fight with the internal waterway system. The Ohio River from Pittsburgh flows into the Mississippi River, and the Missouri River will some day go from beyond Kansas City down into St. Louis and again down the Mississippi River. There has to be some time when this fight has to be met. Apparently the Interstate Commerce Commission went into some of these territories where the internal-waterway question was not involved, and there never was much contest made about it and rendered some decisions probably that were not of such far-reaching consequence as the one they rendered against us.

But the internal-waterway problem has to be met. It has to be dealt with. There is a time coming when it will have to be met and disposed of. If we have the Missouri River from Kansas City, what is the result? Under the amendment to the act proposed by the bill we could not haul wheat from Kansas City by the Missouri River route into the Mississippi port of New Orleans. Notwithstanding the fact that the Missouri River runs into the Mississippi and the Mississippi runs to New Orleans, we could not haul wheat to New Orleans. Why? Because that same traffic could be hauled some hundreds of miles shorter into another port, and therefore the river never would be worth anything except to flood the people. That is all it will be worth.

The same thing is true as to other routes. We are trying to make the Red River navigable, but we will not be able to haul freight throughout the entire distance of the Red River because there is a point where we would reach the railroad line that is 150 miles closer to the Gulf than where the Red River touches the Gulf, and therefore that river becomes good for nothing except to flood the people of Texas and Louisiana as it has been doing for a number of years. That is what the whole thing means.

I hope my distinguished and learned and patriotic friend from the little nook of New Jersey, a sacred and beloved part of this land, will think about a little bit wider space and the wider consequences which may be involved. Hardly any of us can see beyond the borders of our own State in many cases, but I know our friend from New Jersey is a broader-minded man than that. I wish he would think about this matter in a broader aspect. As a matter of fact, I was going to meet with the committee more than I did. I went there one morning. I was unable to get to the subcommittee, and the first thing I knew the bill was reported out without a number of the members of the committee ever understanding the facts of the case. The record in this case is as thick as from where my hand is to the floor on which I stand with exhibits showing the effect of this kind of regulation and legislation.

Mr. LEWIS. Mr. President——

Mr. LONG. I yield to my friend from Illinois.

Mr. LEWIS. I wish to interrogate the Senator from Louisiana, in order to reach his conclusion, and, in doing so, with this query, to reveal my position.

I may say to the Senator that the State of Illinois has spent many millions for a waterway down through the State to the sea. It is the purpose of the West, I trust, through the city of Chicago, to ship its products by the waterway from the edge of the Lakes to the sea or the Gulf, and thus to transport them to South and Central America. It is my con-

tention that unless a provision such as that presented by the Senator from New Jersey [Mr. MOORE] in behalf of his committee shall prevail, the waterway cut through the State of Illinois, with its first port on the lake at the city of Chicago, will be perfectly useless, for the reason that though we had a port at the lake on a waterway passing through the river on to the Gulf, under the law as it now stands and under the decisions, New Orleans and Galveston, by virtue of having been previously constituted ports, will be treated as localities or as ports to the exclusion of the new port which we hope to establish at Chicago for the purpose of conveying the grain of the West and the shipments of the West on through the waterway to the Gulf and out to the sea, and on the sea to South America.

I ask my friend does he not realize that unless such a change should be made as suggested by the bill of the Senator from New Jersey, the new port of Chicago would be placed at a disadvantage and would be discriminated against, under the present law, completely to its destruction by Galveston and New Orleans?

Mr. LONG. That goes to show how complicated and dangerous this question is, for if the brilliant and talented mind of my friend from Illinois falls into that error, all of us can be expected to err. On the contrary, this particular bill would dry up the port of Chicago like a powderhorn. You would be fenced in from Milwaukee on the west and St. Louis would catch you on the south. You would never breathe the first breath of life. I can take my friend to his desk and lay out the maps and show the situation to him. I know the port of Chicago from the standpoint of the traffic on the Mississippi waterway and up through the valley of the Mississippi River; and, in connection with this case, every railroad out of Chicago, including the Illinois Central, said it meant destruction to their business if this thing went in. Go and ask the Illinois Central Railroad, and see if they do not tell you the same thing—that it would absolutely destroy the business of the Mississippi gateways, both of them. I know what I am talking about, and I can show my friend the condition.

Take, for instance, the West. Milwaukee will be shortly more inland to some of that western territory. St. Louis will hedge you in on another part of your territory. You will find that Chicago never will get its first chance to breathe, whereas, left alone, with the development of the Mississippi Valley and the Mississippi waterway, Chicago bids fair to be the biggest inland port in the world. The worst thing that could possibly happen is for Chicago to get itself tangled up with this particular kind of legislation which is going to fence it in with local boundary limits, so that if it is a little bit farther to get to Chicago with traffic, it makes no difference that the Mississippi River and the Chicago River have been joined up—no; nothing counts. It is a mere matter of the spirit level and the compass pointing out which, from each particular point, is the shortest route to water, and Chicago would be wrecked like all the rest of us.

Let me show you what they did with us. The people of this country and the United States Government representatives themselves came down there, and they had the State of Louisiana appropriate, not Federal money; we were not building it all with Federal money as we are now. We were not in those glorious days when we just put up something and the bill to Uncle Sam. They came down there long years before my time, and they got our people to invest $41,000,000 in a publicly owned port. They said, "The United States Government wants to get the business of Central and South America and other parts of the world, and New Orleans is the only practicable port, and we want a publicly owned port. Philadelphia is privately owned; Houston is privately owned; Galveston is privately owned; Mobile is privately owned; Savannah is privately owned; Baltimore is privately owned. They are all privately owned ports"; but they had us put up $41,000,000 in the State of Louisiana, and today we have built a port down there which is entirely owned by the people of the United States, through the State of Louisiana.

After we have spent our $41,000,000, and we have developed a commerce and we have developed a trade, it is a balanced traffic. A ship comes in loaded. The freight takes the steamboat. It goes to Chicago, it goes to Pittsburgh, it heads to St. Louis, it heads toward Kansas City. You come in there and you say, "Oh, no; we find out that this magnificent port, costing $41,000,000, is worthless." What are you going to do with these great big bins through which we accommodated trainloads and shiploads of wheat? What are you going to do with all these facilities and houses that we erected there to care for cotton and for corn? It is all worthless. You cannot come here with it, because we find that at a certain point your traffic can be diverted either from the water or from the rail lines, and we can always find a port that is a little bit nearer water than coming into your port. Therefore, there we are with $41,000,000 spent for facilities that have developed the port business of the whole world, that have developed the commerce of the United States; there we are with our banks, there we are with our bins, there we are with our ships, and because of the little geographical situation, nothing counts for anything. That is what we are getting into here.

Mr. KING. Mr. President——

Mr. LONG. I yield to the Senator from Utah.

Mr. KING. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MINTON in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Adams | Connally | King | Overton |
| Ashurst | Coolidge | La Follette | Pittman |
| Bachman | Copeland | Lewis | Pope |
| Bankhead | Dickinson | Logan | Radcliffe |
| Barbour | Dieterich | Lonergan | Reynolds |
| Barkley | Donahey | Long | Robinson |
| Bilbo | Duffy | McAdoo | Schall |
| Black | Fletcher | McCarran | Schwellenbach |
| Bone | George | McGill | Sheppard |
| Borah | Gerry | McKellar | Shipstead |
| Brown | Gibson | McNary | Smith |
| Bulkley | Glass | Maloney | Steiwer |
| Bulow | Gore | Metcalf | Thomas, Okla. |
| Burke | Guffey | Minton | Townsend |
| Byrd | Hale | Moore | Trammell |
| Byrnes | Harrison | Murphy | Truman |
| Capper | Hatch | Murray | Tydings |
| Caraway | Hayden | Neely | Wagner |
| Carey | Holt | Norbeck | Walsh |
| Chavez | Johnson | Norris | Wheeler |
| Clark | Keyes | O'Mahoney | White |

The PRESIDING OFFICER. Eighty-four Senators having answered to their names, there is a quorum present.

Mr. LONG. Mr. President, I have before me the decision of the Supreme Court of the United States in the case of Texas & Pacific Railway Co. against Interstate Commerce Commission, decided in 1896. I said it was decided 30 or 40 years ago. On reflection, I came to the conclusion that evidently it could not have been that long ago, but I find that the decision was rendered in 1896. For 40 years this has been the law. I desire to read from the decision. The Court divided 7 to 2. I said the decision was unanimous, and I beg the pardon of the Senate for that error. The decision was by 7 to 2. It was rendered in 1896, as I have stated, Mr. Justice Shiras writing the opinion.

I first read from the statement of the case:

> This was an appeal from a decree of the United States Circuit Court of Appeals of the Second Circuit. * * *
>
> The original bill of complaint was brought by the Interstate Commerce Commission, created by virtue of an act of Congress, entitled "an act to regulate commerce", * * * against the Texas & Pacific Railway Co., a corporation chartered and existing under the laws of the United States, having its principal office at New York City.
>
> The object of the bill was to compel the defendant company to obey an order of the Interstate Commerce Commission, made on January 29, 1891, whereby the said defendant was ordered to "forthwith cease and desist from carrying any article of imported traffic shipped from any foreign port through any port of entry of the United States, or any port of entry in a foreign country adjacent to the United States, upon through bills of lading destined to any place within the United States, at any other than upon the inland tariff covering other freight from such port of entry to such place of destination."

In other words, this case involved an order of the Interstate Commerce Commission which prohibited any railroad from transporting any foreign commerce at other than the scale of rates for domestic commerce.

Now I read the language of the Court on the main point in the case:

We come now to the main question of the case and that is whether the Commission erred in making the order of January 29, 1891, in not taking into consideration the ocean competition as constituting a dissimilar condition, and in holding that no circumstances and conditions which exist beyond the seaboard of the United States could be legitimately regarded by them for the purpose of justifying the difference between imports and domestic traffic.

The answer of the Texas & Pacific Railway Co. to the petition of the New York Board of Trade and Transportation before the Interstate Commerce Commission, and the answer of said company to the petition of the Commission filed in the circuit court, alleged that rates for transportation of commodities from Liverpool and London, England, to San Francisco, Calif., are in effect fixed and controlled by the competition of sailing vessels for the entire distance;

And that is so today.

by steamships and sailing vessels in connection with railroads across the Isthmus of Panama; by steamships and sailing vessels from Europe to New Orleans, connecting these under through arrangements with the Southern Pacific Co. to San Francisco.

That, unless the defendant company charges substantially the rates specified in its answer, it would be prevented, by reason of competition aforesaid, from engaging in the carrying and transportation of property and import traffic from Liverpool and London to San Francisco, and would lose the revenue derived by it therefrom.

In other words, if they were compelled, they said, to charge this scale of rates, they would not get any of the business; and they would not get any of the business under the pending bill. The same question is before us here. It has hardly been colored enough even to make one distinguishable from the other, and after 40 years they have given life to a brand new effort. My friend the Senator from New Jersey is hardly 40 years old. Forty years ago they bred up another generation, which comes here now with this question. We have to fight it out in every generation, and when my friend and myself shall have passed from this body, there will be another man, 40 years from today, to argue this question, which was before the Supreme Court of the United States in 1896. I read further:

Which is considerable and important and valuable to said company: That the rates charged by it are not to the prejudice or disadvantage of New Orleans, and work no injury to that community, because if said company is prevented from participating in said traffic, such traffic would move via the other routes and lines aforesaid without benefit to New Orleans, but on the contrary, to its disadvantage: That the foreign or import traffic is upon orders by persons, firms, and corporations in San Francisco and vicinity buying direct of first hands in London, Liverpool, and other European markets; and if the order of the Commission should be carried into effect it would not result in discontinuance of that practice or in inducing them to buy in New Orleans in any event.

I shall skip the various other reasons given in the answer of the railroad company, and get down to what the court said as its opinion.

These and other uncontroverted facts that appear in this record would seem to constitute "circumstances and conditions" worthy of consideration, when carriers are charged with being guilty of unjust discrimination or of giving unreasonable and undue preference or advantage to any person or locality.

But we understand the view of the Commission to have been that it was not competent for the Commission to consider such facts—that it was shut up by the terms of the act of Congress to consider only such "circumstances and conditions" as pertained to the articles of traffic after they had reached and been delivered at a port of the United States or Canada.

Yet later the Interstate Commerce Commission, under some kind of amendment, took exactly the same position. The Interstate Commerce Commission, which is arguing today for the change in the law, took the position that traffic conditions are to have no effect whatever, but that a mileage scale should apply, and that when there is a difference of a number of miles between one port and another port there must be a differential under any conditions or circumstances.

There were the ships which came into the port of New Orleans, there were the ships which came into the port of Baltimore, and the ships which came into the port of New York, and the ships that came into San Francisco laden with tonnage inbound and found outbound tonnage to take the place of inbound cargo which was unloaded in New Orleans or those other ports for the return trip of the ship to South America or to continental Europe. Notwithstanding that condition, the Interstate Commerce Commission said, "Oh, no; the commerce cannot move to New Orleans; it cannot go there where an empty vessel awaits it."

I continue reading from the Supreme Court decision:

It is proper that we should give the view of the Commission in its own words:

Then it gives the views of the Commission. I am going to skip the views of the Commission, because they are not very good—that is, the Supreme Court did not hold them to be very good. Here is what it said:

It is obvious, therefore, that the Commission, in formulating the order of January 29, 1891, acted upon that view of the meaning of the statute which is expressed in the foregoing passages.

We have, therefore, to deal only with a question of law, and that is: What is the true construction, in respect to the matters involved in the present controversy, of the act to regulate commerce? If the construction put upon the act by the Commission was right, then the order was lawful; otherwise it was not.

Before we consider the phraseology of the statute it may be well to advert to the causes which induced its enactment. They chiefly grew out of the use of railroads as the principal modern instrumentality of commerce. While shippers of merchandise are under no legal necessity to use railroads, they are so practically. The demand for speedy and prompt movement virtually forbids the employment of slow and old-fashioned methods of transportation, at least in the case of the more valuable articles of traffic. At the same time the immense outlay of money required to build and maintain railroads, and the necessity of resorting, in securing the rights-of-way, to the power of eminent domain, in effect disable individual merchants and shippers from themselves providing such means of carriage. From the very nature of the case, therefore, railroads are monopolies, and the evils that usually accompany monopolies soon begin to show themselves, and were the cause of loud complaints.

Now I skip over.

The scope or purpose of the act is, as declared in its title, to regulate commerce. It would, therefore, in advance of an examination of the text of the act, be reasonable to anticipate that the legislation would cover, or have regard to, the entire field of foreign and interstate commerce, and that its scheme of regulation would not be restricted to a partial treatment of the subject. So, too, it could not be readily supposed that Congress intended, when regulating such commerce, to interfere with and interrupt, much less destroy, sources of trade—

I hope that this particular part of the decision of 1896 will receive some notice from some of my colleagues.

So, too, it could not be readily supposed that Congress intended, when regulating such commerce, to interfere with and interrupt, much less destroy, sources of trade and commerce already existing.

Yet, Mr. President, that is just what they did. The Supreme Court of the United States said it could not be supposed that Congress or the Interstate Commerce Commission would have any idea of passing a law or making a decision the effect of which would be to destroy sources of trade and contracts then existing. However, that is what they say they want to do. They assert that Congress ought to amend the Interstate Commerce Act so as to enable every mileage scale of rates to go into effect, and, in spite of the fact that the Supreme Court said that it would not be reasonable to infer that Congress expected to allow them to do any such thing, to destroy that very commerce.

I continue reading:

nor to overlook the property rights of those who had invested money in the railroads of the country, nor to disregard the interests of the consumers, to furnish whom with merchandise is one of the principal objects of all systems of transportation.

Then the Court goes on to say:

Having thus included in its scope the entire commerce of the United States, foreign and interstate, and subjected to its regulations all carriers engaged in the transportation of passengers or property, by whatever instrumentalities of shipment or carriage, the section proceeds to declare that "all charges made for any service rendered or to be rendered, in the transportation of passengers or property as aforesaid or in connection therewith, or for the receiving, delivering, storage, or handling of such property shall be reasonable and just."

Did they do that? Did they undertake to make these rates reasonable and just? On the contrary, notwithstanding the fact that the railroads which were hauling their goods into the port of New Orleans and into the port of Baltimore showed that they made a better return from that

traffic, that their earnings were better because of the fact that they had a balanced cargo to and from that port than did the other railroads going to a port which had no inbound commerce; notwithstanding the fact that New Orleans was making money from that kind of business, and notwithstanding the fact that the other lines serving the other ports were not making money from that kind of business, the Interstate Commerce Commission raised the rate into New Orleans. They did not have any reason at all for doing so. In order to keep the business from going to New Orleans they compelled the increase of the rate to New Orleans. They will do the same thing to Baltimore, they will do the same thing to Norfolk, they will do the same thing to Savannah, and there never will be another export shipment out of a port in Florida so long as time lasts. Remember what I am saying: They will absolutely wipe the lower Atlantic seacoast as clean as a whistle, and they will wipe nearly all the Gulf coast as clean as a whistle.

Mr. President, such legislative monstrosities as this come before Congress for consideration! Senators have sat here on the floor of the Senate and voted for years and years to try to develop, however serpentine the course may be, a route by water from Kansas City and from Pittsburgh down the Mississippi Valley into New Orleans. Yet we have brought in here another bill making provisions to put in effect a spirit level and a compass system of mileage rates.

Mr. President, what has happened? The people of Texas have been among the most bitter opponents of this measure, but notwithstanding the fact that people in some parts of Texas have urged in favor of such legislation at one time or another, until they got caught in their own mess, Galveston was urging the same thing; and, lo and behold, they got the full breath of it against Houston, and then Galveston decided they had picked up a pretty bad thing.

Whoever gets hold of this thing gets burned by it. My friend the Senator from New Jersey [Mr. MOORE] will drop this thing some day like a hot coal when he finds out how it will burn up the very business which he is trying to build up for the great ports of New Jersey. Those behind this measure actually insist on destroying a business which is profitable. They insist that notwithstanding the fact that the railroad makes money on hauling stuff into one port and loses money on hauling it into another port, the railroad should raise the rates to the port in which it is making its money. Such a rate-making schedule as this has never been heard of before on the face of the earth.

Mr. President, wherever traffic wants to go, where it is profitable to go, where it is convenient to go, where it helps everyone by going and where it hurts no one by going, that is where the traffic ought to be allowed to go. But, oh, no! the Supreme Court of the United States is wrong two times in its decisions! Twice the Supreme Court of the United States did not know what it was talking about. Profitable business? That ought not to be allowed to cut any figure at all. The old, moth-eaten decision of the Supreme Court of the United States held that way, and Congress has to do something to hit the Supreme Court in its face. God pity the man who comes to Congress with a United States Supreme Court opinion in his favor! It is a dangerous thing, I tell you right now. When a decision is rendered by the United States Supreme Court there is an element in this country which starts out to see if it cannot pass some law to undo it. It is bound to be a bad business or else the Supreme Court of the United States would not decide in its favor.

How terrible in this particular case that the Supreme Court of the United States laid down a little rule that so long as a business was profitable, and so long as men had their business built up, they should not be disturbed by the ipse dixits and the whims and caprices of various and sundry destructive regulating agencies which somebody might accidentally set up in order to give one an advantage over somebody else. The Supreme Court said in this opinion—I just read it here—that the Interstate Commerce Commission should not be allowed to destroy commercial contacts.

Let me give one illustration. There are the Vaccaros, of the city of New Orleans, if I might mention them. They are Latins. They understand the Latin population of Honduras and of Nicaragua. They understand the Latins. As a result of that fact, those Latins have been induced to join in concerns that try to develop business with Latin Central America and Latin South America. They have their Latin banks; they have their Latin railroads; they have their Latin mercantile stores; they have their Latin-operated railway lines; and they make a perfect contact through the Latin city of New Orleans, where their steamship lines are coordinated with the railroads and with the banks. As a consequence, hundreds of thousands of dollars—yea, millions on top of millions of dollars—of goods from Chicago and New York and Pittsburgh and St. Louis today are sold in Central and South America, due to the fact that there is a perfectly balanced import and export business existing at New Orleans through those Latin contacts.

However, up comes the Interstate Commerce Commission and says, "Oh, no; we cannot allow that to happen; you cannot bring bananas to the port of New Orleans any more, Mr. Vaccaro." He asks why, and says, "If I cannot bring bananas to the port of New Orleans, I cannot bring them in at all." The Interstate Commerce Commission says, "No, no; you have got to take those bananas to Lake Charles or to Galveston." Mr. Vaccaro says, "I cannot do that; it takes 48 or 60 hours to distribute bananas through the gateway of Lake Charles and through the gateway of Galveston, Tex., to the important central points of the West and the Midwest and the Atlantic States, whereas I can distribute them in from 20, 24, or 40 hours out of the port of New Orleans, because arrangements have been built up there, the business is there, contracts are there, the express connections have been established through a constantly building up trade, growing and spreading, to which many men have attached themselves during the course of 25 or 30 years." "Oh, no", the Interstate Commerce Commission says; "we will not let you take those bananas to New Orleans. If you do, you will not have a single thing for your empty ships to haul out of New Orleans when you try to go back to Honduras or Nicaragua or to the other countries to the south."

What has been the result? Bananas have reached such a price that in America today it costs twice to buy bananas compared to what it used to cost, due to the Interstate Commerce Commission, and today every child in America who goes to a fruit stand to buy a banana has got the Interstate Commerce Commission to thank for doubling the price of bananas in the United States. That is what they did.

That is one thing. Is that all? No. Here is a wheat farmer in Kansas or a corn farmer in Iowa. The corn farmer says, "I want to send my corn", or the wheat farmer says, "I want to send my wheat to Argentina. I want to send it down the Mississippi Valley. The railroad gives me a good rate and the boat line gives me a good rate; I will take my choice as to which one I will use, and I will send my product down to New Orleans and there will be a ship there to take my wheat to South America the minute it reaches there, or to continental Europe, or wherever I may want to ship it." What does the Interstate Commerce Commission say? "Oh, no, Mr. Wheat Farmer; we will not let your wheat go to the place where there is a ship waiting to carry it to South America; we will not let your wheat go to a port where there are bins to take care of it and to give it the proper handling in transit; no, we will not do it, because we have looked up the map, and, according to the spirit level and the compass, the rail-route distance to New Orleans is 100 miles farther than it is to Galveston or Houston, Tex., and this time you have got to go there." They did go there; their wheat remained there, with no bins to put it in and no way to handle it. As a result, it sprouted and became absolutely worthless and useless, with the steamships tied up in New Orleans waiting to haul the grain, and the bins there were empty, while Galveston had no way of sending it out because there were no ships coming into Galveston loaded with anything to send out, for it is not feasible to distribute them into inland America out of Galveston, Tex. Yet the Interstate Commerce Commission comes back here with this monstrous, destructive policy and

tries to put it in the law after the Supreme Court of the United States has twice knocked it out.

Mr. President, do you want to know why we lost some of our wheat business? Do you want to know why we lost some of our meat business? I will tell you. The Interstate Commerce Commission destroyed more foreign commerce in 5 or 6 or 7 years' time than all the "good will" emissaries of the United States put together could make up in the same length of time. Foreign countries take their wheat from the country that will sell it to them cheapest and deliver it to them cheapest, and when a 5-cent-a-bushel extra charge was imposed, in order that no wheat might go through a port that could make delivery to them, they found their wheat somewhere else, since that 5-cent additional charge was material to the cost. Therefore America lost the business. That is what we are trying to prevent having done here.

Mr. President, have we not changed enough things? Shall we go back and add to what has already been done to destroy these ports? It seems to me enough of these things have been changed.

Now I read from the decision of the Court:

> Proceeding to the second section, we learn that its terms forbid any common carrier, subject to the provisions of the act, from charging, demanding, collecting, or receiving "from any person or persons a greater or less compensation for any service rendered or to be rendered, in the transportation of passengers or property, subject to the provisions of the act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions", and declares that disregard of such prohibition shall be deemed "unjust discrimination", and unlawful.
>
> Here, again, it is observable that this section contemplates that there shall be a tribunal capable of determining whether, in given cases, the services rendered are "like and contemporaneous", whether the respective traffic is of a "like kind", and whether the transportation is under "substantially similar circumstances and conditions."
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> The third section makes it "unlawful for any common carrier subject to the provisions of the act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality to any undue or unreasonable prejudice or disadvantage in any respect whatever." It also provides that every such common carrier shall afford "all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property to and from their respective lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines."
>
> The fourth section makes it unlawful for any such common carrier to "charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar cicumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier to charge and receive as great compensation for a shorter as for a longer distance."

Let me digress right there to say that the day the Congress provides that the foreign commerce of this country has to be subjected to the long and short haul clause, that very day such arid States of the West as Idaho, Arizona, New Mexico, Nevada, and other expansive States, where one may travel for hundreds of miles, will never be able to sell a copper cent's worth of wheat or of corn or of anything else in a foreign country. They will have to put every one of their farms close to some port. The day we say that the States of this country cannot secure for themselves and for their people and that the railroad lines cannot secure for themselves and for those whom they serve, as the Constitution guarantees, equality of the ports, the day we undertake to establish a condition of that kind, we not only destroy water competition, we not only destroy water intercourse, we not only destroy port after port, but we say to these wide open-spaced States, "You can never expect to sell another dime's worth of goods in foreign commerce." Why? Because only the wheatfield and only the cornfield that is within a few hundred miles distant from a port will escape a mileage differential that will make it impossible for them to engage in any business. As it has been up until this time, transportation advantages have been kept in such shape that the people of the State of my friend from Arizona can send their commerce into a port in Florida and have about as good a rate as could be obtained to a nearby port from a nearer wheat field. The day that we begin to chop this thing up, block by block, inch by inch, and forbid the equality of ports, then that will be the day we ought to send for Jefferson Davis and say, "Come back; we made a mistake; we have got to divide this country up."

Senators need not question the result; they will destroy this country economically as certain as they do such a thing. If they want to get hold of some agency which knows how to destroy things, let them pick the Interstate Commerce Commission, because they have the best record along that line of any agency we have, and they would come nearer doing it than any other instrumentality. The day we do it, the day we say to Florida "You are too far away; you have only a bathing resort; your water is not fit for anything except to wash in"; the day we say to Arizona, "Stay over there; your land is good for nothing but for a man to bathe in the sunlight"; the day we begin to divide this country, inch by inch, and lot by lot, and block by block, so that when a man gets 200 yards away from a port he has got to double up on his charges and when he gets 400 miles away he has got to double up on them again, that day will be ruination. There is a railroad line that says "We are willing to haul this business; we can make money on hauling it; we want to haul the commodities raised on our line"; but, the Commission says, "Oh, no; you cannot do that; we have established a mileage system of rates which affords a preference for those things nearer to ports and only those things nearer to ports."

There will not be anything in the country to develop except what is around the rim of the coast line. That is where the population will have to move and practice intensive cultivation, as Belgium does, in order to survive.

My friends had better be thinking carefully about this kind of measure. It is a serious thing they are attempting to do. The judges of the Supreme Court are not nearly the fossils some Senators think they are. The Supreme Court of the United States has been trying to enforce the Constitution and keep a union of States, and it has done a pretty good job of it.

If Senators look at all the reasons for the distress that has been afflicting this country, they will probably find the other tribunals and the communities chargeable with their part of it, but my opinion is they will find less of it chargeable to the Supreme Court of the United States than to any other agency we have or ever have had. They have tried to point out that this is a Union of 48 States; that the Constitution protects each and every one of those States from having economic isolation foisted upon it by rules and regulations of bureaucrats and commissions which have been created. Constantly proposals have come back to Congress in the effort to have Congress annul what the Supreme Court of the United States has held for the protection of the States, standing as the great bulwark of freedom which unites the 48 sovereign and far-flung States of the Union.

Let me read further to show how sound is this decision. I am sorry the senior Senator from Nebraska [Mr. NORRIS] is not here. We would soon have to abandon Nebraska if this bill should be passed. The people could not stay there very long. They are an inland State. They do not even have mountains in Nebraska. As I said, I am very sorry I have not a map of the United States to display on the wall of the Senate Chamber. If I had a large map of the United States here I should be glad to show my friend from Illinois [Mr. LEWIS], interpreting the law as the Interstate Commerce Commission interpreted it when they claimed it was the law, that it would absolutely knock the existence out of inland ports like Chicago, located as it is at the head of the Mississippi Valley.

The Illinois Central Railroad, I remember as well as if it were yesterday, came down to New Orleans and used every ounce of their power to aid us, much as we had been separated in our fights in the country on the matter of railroad versus waterway. Notwithstanding, when this fight came on,

though it was in one sense a waterway fight against inland railroads, the Illinois Central and the Missouri Pacific Railroads came down there and said that it means practically the laying idle of thousands of miles of profitable railroad lines if this kind of policy were to be adopted.

Who is at the head of this movement? Narrow minds which would kill the goose that lays the golden egg, the foreign interests which have been advocating this kind of proposal during all the years. Narrow minds who want to destroy the tramp steamers because they are independents and rate cutters that keep the foreign commerce rates down.

Then again one little city looks at another city. For instance, here is a little town like Morgan City, La., with 1,000 to 5,000 people. It looks up and sees, by the railway line and by the river route, that it is 100 miles nearer the Gulf of Mexico than is the port of New Orleans and therefore it says, "All the business ought to come our way", and all they would have to do is to apply the Interstate Commerce Commission order and the business would have to go there because it has to be on the mileage system of rates. Then, they would begin to try to build up a little port. About the time Morgan City would get its port built up to "frying size", up would bob Lake Charles and say, "We are 40 miles nearer than Morgan City, so we should have the business." Just about that time they would plow up another little slough of some kind 40 miles farther up the country and it would claim it was 40 miles closer to the interior than Lake Charles and it would take the business. Nobody would ever be able to develop and entrench a foreign commerce business or be able to build up and maintain it in the United States if this kind of thing were allowed to continue.

I call on any Senator here to make denial of my assertion. If I have made an erroneous statement I should like to have a denial. I think the Supreme Court supported my contention in pretty strong language. It said:

> In the present case no complaint seems to have been made.

There was a complaint made later. Some of my friends here have disputed Chief Justice Hughes' logic in the Shreveport case. My friend the Senator from Idaho [Mr. BORAH] does not agree with it, as I understood him to say when he was voting on confirming the nomination of Chief Justice Hughes. I understand that some of the other Senators do not agree with it.

How much further are we going with such proposals as are contained in this bill? The Shreveport rate case did permit the Interstate Commerce Commission to step over State lines. Where it was said that the intrastate rates were a burden upon interstate commerce or a discrimination against interstate commerce, the Interstate Commerce Commission was allowed to go inside of the State and wipe out whatever rates the local public service and railroad commissions had made and put in a rate system of their own. In my opinion the Supreme Court went a long way when it did that. In my heart of hearts I never have believed that decision was correct, but it is the law, and I yield to it, as I must, whether I want to or not.

What did the Commission finally do? The Interstate Commerce Commission is always reaching out and wiping out State lines, always reaching out to destroy the 48 sovereign States. They did not even stop to bother with State boards or commissions, but proceeded to order a State-wide system of rates on the ground that it would be discriminatory to permit anything else. They got to the point where there was actually a case where the Interstate Commerce Commission was fixing rates from a point in one State to points in other States and proceeded to order that the same mileage scale of rates should obtain within the boundaries of some of the States without giving the State commission even the right to look into the matter and say whether it wanted them or not or even to argue about it thereafter.

They have stepped over the State lines until they have about wiped out every vestige of power the State railroad commissions ever had.

When I heard my friend from Illinois [Mr. LEWIS] on the floor of the Senate one day recommending that we abolish the Interstate Commerce Commission, I said "Amen!" I am one of the men who sat right near the Senator from Illinois and said "Amen" to his line of logic urging that we should abolish the Interstate Commerce Commission. If there ever has been an institution that I could challenge any man on the floor of the Senate or anywhere else to show anything good it has ever done, it is the Interstate Commerce Commission.

Mr. COPELAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Louisiana yield to the Senator from New York?

Mr. LONG. I yield.

Mr. COPELAND. There is about to be presented a bill which would largely increase the power of the Interstate Commerce Commission.

Mr. LONG. We have one of them here now which the Senator from New Jersey is trying to have taken up for consideration.

Mr. COPELAND. There is another one proposing to increase the powers of the Interstate Commerce Commission and to give them full authority over fixing the rates of steamship lines, intercoastal rates, and coastal rates.

Mr. LONG. Yes; I understand that.

I served on a State railroad commission for 10 or 11 years of my life. Find for me any good that the Interstate Commerce Commission ever did for anybody! That is a bold statement to make, but I should like to see the man who can tell me any good the Interstate Commerce Commission have ever done for anybody. They have never made a rate reduction in their lives. Time after time we would go before them where there would be a petition against us or where we would have one against somebody else to correct an unjust system of rates. The Interstate Commerce Commission never did reduce our rates. Sometimes they would raise the other man's rates, and the next time they would not reduce the other man's rates, but would raise our rates to correct the discrimination. It has been a constant process of adding increase on increase, and after they have gotten the increases to the point now in existence, they have thrown about the common carriers such impossible regulations, such impossible rules, that there is nothing left of the railroads but rust and wreckage, all due to the work of the Interstate Commerce Commission.

The Interstate Commerce Commission have destroyed the finest network of transportation ever known to the world. Who is responsible for it but the Interstate Commerce Commission? They have had absolutely unlimited control over the railroads, and they have left them there with rust and wreckage and ruin as a relic of what the Interstate Commerce Commission have done; and now they are reaching out to get hold of something else. That is all that the Interstate Commerce Commission ever have done.

I am telling you God's eternal truth. Do you want to save the railroads of the United States today? The first thing you do, you turn them loose from the Interstate Commerce Commission; and they will come nearer coming out than in any other way you ever thought of.

Now I will read further from this decision:

> In the present case no complaint seems to have been made before the Commission—

They finally got them to complain. They finally went out on a foraging expedition, encouraging communities to bring cases before them, like this bill. Here is a bill that is brought at the instance of the Interstate Commerce Commission, so we are given to understand. This is a bill that the Interstate Commerce Commission wants. The Interstate Commerce Commission has been defeated in the courts on two occasions, and therefore it has finally come to Congress asking Congress to empower it with something that is destructive—

> We shall assume, in the disposition of the present case, that a valid complaint may be made before the Commission, by such trade organizations, based on a mode or manner of treating import traffic by a defendant company, without disclosing or containing charges of specific acts of discrimination or undue preference, resulting in loss or damage to individual persons, corporations, or associations.
>
> We do not wish to be understood as implying that it would be competent for the Commission, without a complaint made before it, and without a hearing, to subject common carriers to penalties. It

is also obvious that if the Commission does have the power, of its own motion, to promulgate general decrees or orders which thereby become rules of action to common carriers, such exercise of power must be confined to the obvious purposes and directions of the statute. Congress has not seen fit to grant legislative powers to the Commission.

With these provisions of the act and these general principles in mind, we now come to consider the case in hand.

After an investigation made by the Commission on a complaint against the Texas & Pacific Railway Co. and other companies by the boards of trade above mentioned, the result reached was the order of the Commission made on January 29, 1891, a disregard of which was complained of by the Commission in its bill or petition filed in the circuit court of the United States.

The Texas & Pacific Railway Co., a corporation created by laws of the United States, and also possessed of certain grants from the State of Texas, owns a railroad extending from the city of New Orleans, through the State of Texas, to El Paso, where it connects with the railroad of the Southern Pacific Co., the two roads forming a through route to San Francisco. The Texas & Pacific Railway Co. has likewise connections with other railroads and steamers, forming through freight lines to Memphis, St. Louis, and other points on the Missouri River and elsewhere.

The defendant company admitted that, as a scheme or mode of obtaining foreign traffic, it had agencies by which, and by the use of through bills of lading, it secured shipments of merchandise from Liverpool and London, and other European ports, to San Francisco and to the other inland points named. It alleged that, in order to get this traffic, it was necessary to give through rates from the places of shipment to the places of final destination, and that in fixing said rates it was controlled by an ocean competition by sailing and steam vessels by way of the isthmus and around the Horn, and also to some extent, by a competition through the Canada route to the Pacific coast. These rates, so fixed and controlled, left to the defendant company and to the Southern Pacific Co., as their share of the charges made and collected, less than the local charges of said companies in transporting similar merchandise from New Orleans to San Francisco, and so, too, as to foreign merchandise carried to other inland points.

In other words, foreign commerce was being hauled cheaper than domestic commerce, and always has been and always will be. The carriers always will haul foreign commerce cheaper than they will domestic commerce. Why? Because the Interstate Commerce Commission was not regulating it. That is why. If the Interstate Commerce Commission had been regulating it, foreign commerce would have been paying just as much as domestic commerce.

The defendant further alleged that unless it used said means to get such traffic the merchandise to the Pacific coast would, none of it, reach New Orleans, but would go by the other means of transportation.

In other words, there is your case again. They say, "If you make us take this stuff by the shortest route it means that it will go over the fewest possible miles of steel rails within the United States until it strikes the steamship at San Francisco, and then it will go around through the Panama Canal", or over the Isthmus of Panama, as the case was then, "and use very little American rails."

We have always had it in our minds—and I want my friends just to think of this for a moment—that it was a good idea to give employment to labor; that the more miles of railroad a box car or a train went over, that many more men were given work, that many more men made crossties, that many more men drove spikes, that many more men made the rails out at the steel mills in Pittsburgh, that many more men laid the track, that many more section hands kept it up, that many more trainmen, that many more yard men, engineers, and conductors, and on up to the men in the counting houses, all got more business. The more miles a box cars travels, that many more men are employed and get an opportunity to earn the money to buy something to eat. But "Oh, no," says the Interstate Commerce Commission, "we have got to have something to keep the rail lines from hauling too far. We have got to take these box cars off these rail lines. We have got to make them move just as few miles as possible."

"Why," they said, "do you mind that railroad being used, if, in using it, it lessens the cost of transportation; if, in using it, it gives the farmer a better market; if, in using it, it cheapens the commodities we get from foreign countries? Do you mind that railroad being used?" "Yes; we mind its being used. We do not want anything used except the particular mile of track that is nearest to the place where we can load our commerce on a steamship, where there are just as few men employed as possible. Even though it increases the cost of the goods, even though it lessens the market, even though it destroys the business that has been created, nothing must be hauled if it can possibly be avoided."

In what circles we are traveling in this country! In what circles we are traveling! Here we go and lend money to the Reading Railroad. We go and lend, out of the Treasury of the United States Government, millions and millions of dollars to the Reading Railroad. Why? Because the business of the Reading Railroad is not enough to pay the cost of operating; but today we come and say to the Reading Railroad, "We are going to junk half your line because it is serving a commercial route that is longer than it ought to be if you reach the nearest port with the commerce you are handling." Notwithstanding the fact that it cheapens the commerce, notwithstanding the fact that it lessens the cost of goods, notwithstanding the fact that it employs men, none the less they want to stamp the remaining remnants of life out of the railroad system and the ports that are today commercially profitable, or at least are surviving.

The company that brought this suit said:

That neither the community of New Orleans, nor any merchant or shipper thereof, was injured or made complaint; that the traffic thus secured was remunerative to the railway company and was obviously beneficial to the consumers at the places of destination, who were thus enabled to get their goods at lower rates than would prevail if this custom of through rates was destroyed.

And that is something else. They admitted that it was obviously beneficial to the consumers at the points of destination. Nonetheless, they persisted in their course.

As we have already stated, the Commission did not charge or find that the local rates charged by the defendant company were unreasonable, nor did they find that any complaint was made by the city of New Orleans or by any person or organization there doing business.

They never did. In the last case they did not, either. They did the same thing. We have embarked on a course where the Supreme Court of the United States lays down what is the law, and we go out and build up communities and build up a country and build up thousands of businesses on the faith of what is the law; and then, after we have gone out and built them up, they come back, and the Supreme Court, still a divided court, says it is the law again; and then we come to Congress and tear the shreds loose this time, so that what has been the law for 40 years and longer than 40 years, considerations to which businesses were entitled, which all our courts have said they would guarantee them, and always have, shall nonetheless be no longer existent because the ipse dixit and the quick fancy whim of the changing legislative mind condemns to destruction and to torture and to annihilation, without a hearing, every business which has been built up on the faith and credit of Congress and the lawmakers and the Supreme Court of the United States. No; it does not make any difference, the court says here; the Commission took the position that it did not make any difference whether or not the rate was reasonable. That does not figure. "We are out here to clear up things. We are out here to blow this thing out of the water, and see just where it might land if we were to get our hands on it."

It reminds me of—well, I will not say it, because I desire to be courteous to the Interstate Commerce Commission. I used to practice before it, and I had to allege a feigned respect for it. I might have to go back there to make a living some day, and I wish to be able to speak to them.

These rates, so fixed and controlled, left to the defendant company and to the Southern Pacific Co.—

And, by the way, the Southern Pacific says this thing is a wreckage. This thing was fought by the Southern Pacific Railroad. With all the radicalism of which I have been accused, and with all of our effort to protect the waterway system, in a large part of this fight, nonetheless, we had the Southern Pacific Railroad fighting with us.

It is said this proposal is positively destructive. Notwithstanding the fact that in this particular case the Southern Pacific Railroad Co. served both the port of Galveston and the port of New Orleans, and would have gotten the business either way the goods went, nonetheless the Southern Pacific

Railroad Co. joined in this case, because it meant wreckage to the railroads and transportation and foreign commerce of the United States.

The Commission justified its action wholly upon the construction put by it on the act to regulate commerce, as forbidding the Commission to consider the "circumstances and conditions" attendant upon the foreign traffic as such "circumstances and conditions" as they are directed in the act to consider. The Commission thought it was constrained by the act to regard foreign and domestic traffic as like kinds of traffic under substantially similar circumstances and conditions.

Mr. President, if there ever was a thing on earth that would convince the Senate to kill this bill, this ought to be enough to do it. The Commission says: "No; we have to have the foreign business of America regarded in identically the same light as domestic business."

What if Uruguay were selling to Paraguay or Paraguay were selling to Brazil and an American business man wanted to get the business that Uruguay was going to get or Paraguay was going to get, suppose we had the goods, and needed to dispose of them, and could sell them more profitably than we could keep them.

According to the Interstate Commerce Commission, the verdict would be, "Oh, no; no rail line can make a rate. We do not control the rate that prevails from Paraguay or Uruguay or from Uruguay to Argentina"; but, according to the Interstate Commerce Commission, no rail line or shipping line that is connected with a rail line which receives domestic business can cut the cloth to meet the foreign competition that drove them out of existence, according to the evidence.

What did they mean to do? They sit over there just as complaisant, they sit over there with three or four college professors—I have been before them many times—they sit over there working out a rate schedule.

They take a red pencil, a blue pencil, and a black pencil, and they get behind a board with about two or three pairs of bifocal glasses, they sit around there and mark, they write, and they finally come out with a system of rates that is to regulate all the commerce from China down to Chile. They come out of there with a string of schedules, men who would not know a vanilla bean if they saw one, who would not know a rhinoceros from a horse, they come out ready to regulate every commodity on every mile of every river and stream, foreign and domestic, coastwise, international, interstate, intrastate—nothing on God's living earth is beyond one of those mugwumps of the "brain trust" on the Interstate Commerce Commission. And they were not just created by this administration. They have been there since the year of the foundation of the Commission, wrecking and ruining the transportation system of this country just as fast and just as certainly as it was in their power to do it.

They want more authority. They have been tampering with the old machine. They have been taking out the spark plugs and it does not run very well, so they come back for more authority. They take the engine out and it does not run much better and they come back and say, "We need more power." Now they have come back, after running the railroads with the spark plugs gone, the engine out, the chassis down, and the wheels all off, and they want a little bit more authority over the railroads to see if they cannot complete the job. They have just about done them up, but they want a little more authority to complete the job.

Instead of that I wish my friend the Senator from Illinois [Mr. LEWIS] would offer the bill he has been threatening to introduce ever since I have been here, and abolish this Commission. If he will introduce that bill, he will get my vote, and also the votes of several others I know of. That is what ought to be done instead of talking about giving them authority to complete the wreckage.

I read further:

The Commission justified its action wholly upon the construction put by it on the act to regulate commerce as forbidding the Commission to consider the "circumstances and conditions" attendant upon the foreign traffic as such "circumstances and conditions" as they are directed in the act to consider. The Commission thought it was constrained by the act to regard foreign and domestic traffic as like kinds of traffic under substantially similar circumstances and conditions, and that the action of the defendant company in procuring through traffic that would, except for the through rates, not reach the port of New Orleans, and in taking its pro rata share of such rates, was an act of "unjust discrimination" within the meaning of the act.

In so construing the act we think the Commission erred.

There are not many of my colleagues present, but I hope some of them will read this language of the Supreme Court. They say this again, hoping, I suppose, that the country would notice what they were saying. They say this again:

As we have already said, it could not be supposed that Congress, in regulating commerce, would intend to forbid or destroy an existing branch of commerce, of value to the common carriers and to the consumers within the United States.

The Supreme Court said that they would not for a moment think that the Congress of the United States would intend any such thing. Yet that is exactly what they say they are doing. The Supreme Court of the United States says that Congress is a sensible body; that Congress wants all the business that has been built up preserved; that Congress does not want to destroy anything; that Congress wants to build more business. That is the position they took in the matter.

I continue the reading:

So far from finding such language, we read the act in question to direct the Commission, when asked to find a common carrier guilty of a disregard of the act, to take into consideration all the facts of the given case—among which are to be considered the welfare and advantage of the common carrier and of the great body of the citizens of the United States who constitute the consumers and recipients of the merchandise carried—and that the attention of the Commission is not to be confined to the advantage of shippers and merchants who deal at or near the ports of the United States in articles of domestic production.

In other words, the only way to get foreign commerce is to meet foreign conditions. The only way to cheapen the foreign commodities that come into this country, and the only way to get a price for the export commodities sent out of this country, is to allow the box car that goes to the port loaded with domestic traffic to come back loaded with foreign traffic, so that the box car does not have just a one-way haul but has a two-way haul.

Mr. BYRD. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURKE in the chair). The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

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| Adams | Connally | King | Overton |
| Ashurst | Coolidge | La Follette | Pittman |
| Bachman | Copeland | Lewis | Pope |
| Bankhead | Dickinson | Logan | Radcliffe |
| Barbour | Dieterich | Lonergan | Reynolds |
| Barkley | Donahey | Long | Robinson |
| Bilbo | Duffy | McAdoo | Schall |
| Black | Fletcher | McCarran | Schwellenbach |
| Bone | George | McGill | Sheppard |
| Borah | Gerry | McKellar | Shipstead |
| Brown | Gibson | McNary | Smith |
| Bulkley | Glass | Maloney | Steiwer |
| Bulow | Gore | Metcalf | Thomas, Okla. |
| Burke | Guffey | Minton | Townsend |
| Byrd | Hale | Moore | Trammell |
| Byrnes | Harrison | Murphy | Truman |
| Capper | Hatch | Murray | Tydings |
| Caraway | Hayden | Neely | Wagner |
| Carey | Holt | Norbeck | Walsh |
| Chavez | Johnson | Norris | Wheeler |
| Clark | Keyes | O'Mahoney | White |

Mr. LEWIS. I announce the absence of the Senator from North Carolina [Mr. BAILEY], the Senator from Colorado [Mr. COSTIGAN], and the Senator from Utah [Mr. THOMAS] on important public business.

The PRESIDING OFFICER. Eighty-four Senators having answered to their names, a quorum is present.

Mr. LONG. Mr. President, one or two of my colleagues who were not here before are now in the Senate Chamber. For their benefit, I will state the effect of this bill.

If a merchant or a farmer desiring to ship goods or products out of this country, undertakes to ship them on a railroad which goes to a port where he can ship them by a ship which is equipped to carry them, and can do it cheaply, under the provisions of this bill such farmer or merchant cannot ship his goods in that way, even though the railroad has equalized the rates. He cannot ship by that route; but at whatever point on that railroad line there is another railroad leading to a port which is nearer

than the other port, even though it has no ships coming there, even though it has no facilities, even though it has no banking houses—in spite of all that he has to unload his produce from the particular railroad on which it is going to a port where there is a ready ship, a ship with a low ocean rate, and let it go to whatever other port there is which is nearer, whether there is a ship there or not, whether there is a facility there or not, on the usual mileage scale of rates for the long-and-short haul which the Interstate Commerce Commission prescribes. Even though that destroys the market for the American who raises wheat or corn or meat, even though it wrecks his market, even though he is trying to do business with a man in Brazil and the man in Brazil is about to buy from a man in Argentina or a man in Liverpool, even though the American can undersell him and the American shipper can overtransport him, none the less, under this particular theory of law, claimed by the Interstate Commerce Commission, the American would be helpless and could not meet that competition.

If I may describe the situation further, let me say that formerly there was a great deal of wheat business done from Kansas and Oklahoma with South America. Those States shipped their wheat through New Orleans; it was handled in transit; it was placed in a marketable shape when it reached New Orleans; the railroads had given a very cheap rate to the farmers of the Middle West to the port of New Orleans. Why? Because enough import traffic came to New Orleans so that the railroad box car which hauled the wheat to New Orleans could haul South American products from New Orleans back, and the car being loaded both ways the railroad could haul them for half the cost or but little above half the cost which otherwise would have been possible. But suddenly the Interstate Commerce Commission decided that the railroad ought not to be allowed to haul that foreign commerce so cheaply, and they ordered the railroad to haul the grain to another port or to pay a large penalty for hauling it to the port of New Orleans. As a result the wheat was forced to go to another port which could not handle it. That raised the cost of the wheat; it raised the cost of its transportation. As a result, a large volume of the wheat business formerly done by Oklahoma and Kansas with South America has never come back; and when the depression caught us those States lost a great deal more of it than they had previously lost.

We went to court with this question. The first case was decided in 1896, and the Supreme Court said it was illegal for the Interstate Commerce Commission so to act. Notwithstanding, however, the decision of the Supreme Court, the Commission waited for 30 or 35 years and then issued another such order. Again the Supreme Court of the United States held it to be illegal, and now they are back with a proposed act to Congress trying to undo the two decisions of the Supreme Court of the United States.

If I may mention a particular case, I will take the case, say, of the State of Nevada and the States near to Nevada, Colorado and Idaho, where, I take it, considerable crops of potatoes and some wheat are raised. Those States are situated far away from any port, but due to the fact that the railroads serving that particular territory have been allowed to compete with railroads serving other territory, the potatoes and the wheat from Idaho and Nevada and Colorado are transported at a price which enables the producer in normal years to meet the competition of foreign countries in selling to consumers in South America or England. However, whenever they put this ban up and require that the products of Nevada and Colorado and Idaho be transported on a mileage basis, they double, they treble, and they quadruple the charges for transporting that produce from Idaho, Colorado, and Nevada to a port. Why? Because they place it on a mileage scale of rates which not only takes away from the railroads the business, but takes it into a port where the train that is loaded with wheat will come back empty, and therefore there will be a double cost. Likewise the steamship that ordinarily comes to the port to which the railroad is meant to carry the wheat must come in there empty in order to take back a load; so that the foreign steamship must come in unloaded most of the time, if it has to seek a port where there is no inbound traffic, and the foreign export commerce, intended to meet that from America, must go to a port where a steamship naturally is burdened with a double cost, because it has for two trips a load only one way. The same thing is true in the case of inland commerce.

If I may explain further, all through this country we have always had the competition of the port of Winnipeg, Canada. Canadians have operated to some extent at a disadvantage. There are lands in Canada just as productive for the purposes of planting and harvesting wheat as there are in the United States, but the Canadians never could meet the competition of America, for the American wheat farmer sold his wheat in Central America and South America; but the minute the Interstate Commerce Commission got to tricking and fixing these ports they raised the cost and laid burdens against the traffic until today they are harvesting acre after acre of wheat in Canada that formerly they could not sell at all in competition with the American wheat farmer. The American wheat business has been steadily decreasing; the Canadian wheat business has been steadily increasing ever since the Interstate Commerce Commission have been manipulating the port system and the schedules of rates to be charged for foreign commerce. That is the conclusion one might have expected.

I do not know how many more examples I would have to cite to convince my friends of the soundness of my contention.

However, the great trouble is that in the East some little immediate situation, some little immediate trouble arises; a few people in the East get into a row among themselves. Newark wants what Jersey City has and Jersey City wants what New York has; and they would inflict upon this country a destructive set of laws and rules of this long-and-short haul by which all our vast wide-open spaces would be done an injury from which they could never recover. Why have the waterway system? Why not let us couple with this kind of legislation some provision to do away with the waterways?

I wish to read further from the Supreme Court decision. I have been reading from the decision, but I want my friends to listen again. According to the decision of the Supreme Court of the United States, this bill would still be unconstitutional. According to the Supreme Court of 1896—and its decision was by a vote of 7 to 2—this bill is still illegal. I read from the Court's decision in One Hundred and Sixty-second United States at page 218:

> And as we have already said, it could not be supposed that Congress, in regulating commerce, would intend to forbid or destroy an existing branch of commerce, of value to the common carriers and to the consumers within the United States. Clearly, express language must be used in the act to justify such a supposition.

In other words, said this decision of the Supreme Court of the United States, they would not presume for a moment that the Congress of the United States would ever let the Interstate Commerce Commission destroy the established routes of traffic and of commerce which had been built up between South America and New York or between England and New Orleans or between Central America and New Orleans. The Court said in the San Francisco case that they would not for a moment presume that the Congress of the United States, unless it said so in language from which it could be inferred without the slightest doubt, intended to permit the Interstate Commerce Commission to impose a rate which would destroy commerce existing between one port of this country and a foreign country. They said that; and yet when I travel through this country and see my friends they say, "Look here, I do not understand the situation; we used to get 3 bananas for a nickel; our children used to buy them at fruit stands, 3 bananas for a nickel or 4 bananas for a nickel. What is the reason that today bananas sell all the way from 30 to 50 cents a dozen?" I could not explain to them, but there was only one answer. The transportation costs had been doubled; the coordinated system under which the business was operated from the

time the banana bunch was cut from the tree to the time the banana was sold on the fruit stand had been broken up; there had been a refusal to allow a balanced traffic to go through one port in order that it might meet similar traffic coming from foreign countries. I could not tell them, in language they could understand, that what had been done to disrupt that business was nothing on earth except the particularly unnecessary burden that had been put on it by the Interstate Commerce Commission, whose action the Supreme Court had annulled, and which it is now sought to rewrite into the law.

I might give another example. I cannot explain to the farmer of the West who asks me, "What is the trouble? Why is it that I cannot send my wheat to the countries where it used to go? At the port there always used to be a ship waiting for that wheat; it used to be put in marketable order while in transit; they used to load it on the ship; I never had a care about it; and I got a good price for my wheat down there, but, notwithstanding the good price, I undersold the foreign countries and got the business just the same."

I could not tell him in language he could understand that the reason was that the Interstate Commerce Commission had imposed several cents a bushel excess charges upon the privilege and right of that farmer to send his wheat into and through a port to where there was a ship prepared to handle it. That is what I would have had to tell him if I could make him understand it at all. When the Supreme Court of the United States reversed the Interstate Commerce Commission the second time I thought that ended the matter, but it did not end anything at all. Right back again they came wanting to penalize commerce between the States.

I read on from this decision. This is the decision of the October term 1895:

> So far from finding such language—

The Court had said they would not presume there would be language in the act which would allow one branch of the Government to destroy established commerce that was of value to the country. I want the Senate to remember there never was any such commerce until they got to sending it through New Orleans. There has not been any since. There would be if we could stop the Interstate Commerce Commission from tinkering with it. We would be able to get the business back. The other ports did not get it. They ruined our business. They thought they were going to get it, but all they did was to ruin our business. They stopped anybody from selling anything, but they did not get any of it themselves. They ruined the business because the American exporter could not meet the competition. They put him out of business.

The Court said:

> We will not suppose that Congress will authorize the Interstate Commerce Commission to do any such thing as that.

Then they continued with this language:

> So far from finding such language, we read the act in question to direct the Commission, when asked to find a common carrier guilty of a disregard of the act, to take into consideration all the facts of the given case—among which are to be considered the welfare and advantage of the common carrier—

That is one thing. They said, "Consider what this will do to the railroads. How do you know it will not put the railroad out of business? We are not going to let you do that", said the Court. "We are not going to let you lay these lines of steel rail idle and let them rust. We are not going to have that."

Then the Court continued:

> Among the things to be considered are the welfare and advantage of the common carrier, and of the great body of the citizens of the United States who constitute the consumers and recipients of merchandise carried.

In other words, "we are not going to allow you to raise these prices of foods and commodities that may be imported." We import many different kinds of food and commodities from the foreign countries, and the reason they can be imported here so cheaply is that the railroads are allowed to haul them cheaper and the ships are allowed to balance their traffic.

> The attention of the Commission is not to be confined to the advantage of shippers and merchants who deal at or near the ports of the United States, in articles of domestic production. A good deal of the latter likewise are entitled to be considered, but we cannot concede that the Commission is shut up by the terms of this act to some meager claims of one class of communities. We think that Congress has here pointed out that, in considering questions of this sort, the Commission is not only to consider the wishes and interests of the shippers and merchants of large cities, but to consider also the desire and advantage of the carriers in securing special forms of traffic, and the interest of the public that the carriers should secure that traffic, rather than abandon it, or not attempt to secure it.

There is the interest the public has in the carriers getting business. The public needs to have the railroads sustained. The public needs to have the railroads serve it at the lowest possible cost. The public needs to have the railroads send its goods to the port which can give them the most expeditious exportation possible. The public needs to have a balanced traffic.

> It is self-evident that many cases may and do arise where, although the object of the carriers is to secure the traffic for their own purposes and upon their own lines, yet, nevertheless the fact that they seek, by the charges they make, to secure it, operates in the interest of the public.

That is true in this case as the Court finds in this decision.

> Moreover, it must not be overlooked that this legislation is experimental.

Again I say this is still in the field of experiment. There is only one difference between the bill now and the legislation then. The Interstate Commerce Commission, to see what good it could do the railroads, was once an experiment which might turn out to be good or bad, but after 40 years of experimenting the question no longer is in the realm of doubt. No longer future events are necessary to determine what the Interstate Commerce Commission can do with the railroads. The fact is there is not one of them paying its operating costs. The fact is that nearly all of them, with very few exceptions, are in receivership or bankruptcy or near one or the other, and that is another milepost.

The fact that the railroads are today unable to compete with other forms of transportation, the fact that they are bonded and held down and no longer considered a safe investment, is the result of 40 years of experimenting about which the United States Supreme Court speaks. We no longer have to delve into any field of experimentation if our hindsight is as good as our foresight. We know what the Interstate Commerce Commission has done for the railroads and we know what it is apt to do to them in the future.

Now the Commission wants to get their hands on the waterways. Not only do they want to get their hands on the waterways, but they want to be authorized to see that the waterways never get a chance to thrive. They want through this bill to be able to say, "Here are places on the Missouri River and on the Mississippi River and on the Colorado River," if it ever gets to be that kind of a river, "and here are places on the Ohio River." They want to say, "This point in Ohio is only so many miles from New Orleans by water." We will say it is a thousand miles. But they say, "It is true that they can take this freight down the waterway to New Orleans, but the rail lines want to meet the competition so they can take it by rail down to New Orleans for 10 cents a hundred pounds." None the less we find there is a port in Ohio where it costs but 25 cents to take the same traffic by rail. We find that to be a discrimination and therefore we provide and hold that they have to charge 40 cents to carry the freight to New Orleans in order to force it to be carried to some other port."

Do they help the Ohio port? No! They keep the Ohio port from doing business. But whenever they impose upon that freight an extra charge, they make idle thousands of men who would be employed in the business of carrying the commerce, and they destroy the commerce to the other ports without ever reviving it.

Mr. LEWIS. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. SCHWELLENBACH in the chair). Does the Senator from Louisiana yield to the Senator from Illinois?

Mr. LONG. I yield.

Mr. LEWIS. I should like again to submit to the Senator from Louisiana the interrogatory to which he has not had opportunity to reply, and that is, under the present existing law and the practice of the Interstate Commerce Commission and under the decision read by the able Senator, if a waterway shall be cut through the State of Illinois from the Lakes to the Gulf——

Mr. LONG. There has been.

Mr. LEWIS. We have cut it, but alas, an obstruction has arisen about which the Senator knows because in the matter of this waterway his State has been cooperative. I again put the interrogatory:

Suppose there shall be a port at the city of Chicago, as I trust there shall be, so that vessels from many ports of the world coming across the Atlantic may find their way to my imperial city. Under the present law, if we had a port at Chicago, under present circumstances that port could be ignored and a preference given to Galveston, Tex., or the splendid and what might be called "oriental city" of my friend, New Orleans. There is no way under present conditions by which we can enforce any consideration to the port of Chicago or the port that was created on the waterway cut through the State of Illinois to serve the West.

I ask the able Senator from Louisiana, is it not true that under present conditions a great disadvantage arises to the port of the city of Chicago, while under the amendment to the law tendered by the Senator from New Jersey [Mr. MOORE] it would be promptly remedied and the port of Chicago put on an equality with New Orleans and Galveston?

Mr. LONG. On the contrary, the port of Chicago would never breathe the first breath of life, as I have previously explained. It is a baby that would never utter its first cry.

Mr. LEWIS. Will the Senator state what is the reason?

Mr. LONG. I will give the Senator the reason. It is no trouble at all to give it—because the port of Chicago would be hemmed in in an interior way where it would never get the traffic. To begin with, it would be headed off from the West by Milwaukee, which would be one port which would be on the mileage basis, and it would be nearer to the western traffic than Chicago would be. Chicago would be headed off from the South by St. Louis. It would be headed off from the East by a dozen other ports, and Chicago would never know how to breathe under a mileage system of port rates. But if they are permitted to balance transportation across the ports, Chicago sits at the head of the Mississippi Valley waterway and the Mississippi Valley railroad gateway, and by the balanced traffic which it has to New Orleans, where there is an absolute coordination and equality of imports as against exports, Chicago would blossom like the rose as a port; otherwise, no; and I am not alone in that, as I previously explained to the Senator. I am not alone in that.

When we were having this fight, maintaining it as a waterway fight, notwithstanding the fact that there were Chicago railroads like the Illinois Central, and St. Louis railroads like the Missouri Pacific, that were opposed to our waterway program, nonetheless they saw that the advantages to that valley and to the waterways and to the railways would be destroyed by this kind of legislation on the long and short haul basis, by which you must prefer the nearest port, and they joined in, and they are in this case now, as far as they can be heard, fighting against it. How would Chicago ever get any business? Chicago is not the nearest port to anything. It is an inland port at that, and it is only the fact that it utilizes the natural advantages of the ports on the coast that gives it its place, which will be immense if there is not legislation of this kind to interfere with it.

This question is one upon which even those of us who have attempted to study it are slightly informed. It is a very deep question.

Many, many years ago I used to labor considerably with the authorities of the city of Chicago, and they regarded this kind of a venture with every premonition of destruction with which they could possibly look upon it; but today it has been beaten down for a great many years. The administration of Chicago has changed hands, and other political influences are in control of it that have had only a year or two at the most to study it and know little or nothing about it; but if the administrations were there today that were there during the past 30 years they would be here with arms to fight the kind of legislation proposed in this bill.

Mr. LEWIS. Mr. President, with the consent of the able Senator, I beg that he will allow me to intrude upon him this observation:

It fell to me to be one of those who fought in the State of Illinois for the waterway, $20,000,000 having been voted at the outset, followed with subsequent appropriations, for the purpose of creating a port for the city of Chicago and a waterway leading to the very excellent city of my able friend from Louisiana, New Orleans. I call his attention to the fact that the subject matter had to be discussed and very thoroughly examined, and I deplore to say it was made a political issue in my State, in which I participated.

We are of the opinion, I am of the judgment, that if the Interstate Commerce Commission is to continue to have the power which has been exercised of passing upon rates and practically controlling all avenues of transportation, unless some discretion is vested in them by which the port at Chicago shall be put upon an equality with the ports upon the same sea, those who previously had the privilege and are enjoying the particular advantage would continue it; and we should have no way in the world to announce our rights, to assert them, or to divide the benefits. I ask my friend, is not that the exact situation?

Mr. LONG. No, sir; unfortunately, it is not. I wish what the Senator says could be remotely possible. It is not even within hailing distance of being so.

Here is the fact, if I may divert for just a moment:

I went to Chicago a number of years ago, shortly after Mr. William Hale Thompson, who was quite a waterway man, was mayor. Mr. Thompson had not been mayor there for a year or so. At that time His Honor Mr. Cermak was mayor. I approached Mr. Cermak about one of the waterway problems. Formerly, when I went to Chicago and approached one of the officials there, I was exploring into a field that they knew all about. They could tell you every car and every signal, and our interests were identical. I approached Mr. Cermak. He rather hooted at the idea of talking about a waterway. He not only hooted at the idea but my recollection is that he said to me, "Oh, yes; they have some kind of a ditch around here that somebody has been talking about but I have seen no waterway"; and I did not undertake to broach the waterway matter very much further, along about that time, with Mr. Cermak. Shortly after that I intended to see him again, but, unfortunately, his life had been taken.

We used to work together, however, on this whole matter, Chicago and New Orleans worked together. We held our flood-control conference in Chicago in 1927. We worked hand in hand. We would meet in Chicago one week and we would meet in New Orleans the other week. Several hundred of us would go from city to city. Sometime we would meet in St. Louis. We were all together and we looked upon this kind of long- and short-haul proposition of trying to interject something that would impose a stopgap to ports as being the most destructive kind of a thing; and there was not an interest that I know of in Chicago, private or public, railroad or waterway, or any other kind that did not look upon this with disfavor and help us in the fight.

This is not the first time that we made the fight. We made this fight back in 1926. I was here before the Interstate Commerce Commission at that time. That was 9 years ago. I have been in this fight now for 9 years that I remember, and there was a case here 40 years ago, 30 years before my time, in this matter. This thing has been going on for 40 years.

What did the Interstate Commerce Commission do? Here is what they have done: The only thing the Interstate Commerce Commission can do is to say that port rates must be

on the commodity-mileage basis—the first 5 miles, so many cents for lard, so many cents for oats, so many cents for corn; from 5 to 10 miles, so much; from 10 to 30, 30 to 50, 50 to 75, so much. They put you on a mileage scale of rates; and when you go on a mileage scale of rates you will not have the port of Chicago, you will not have the port of New Orleans; you will have 400 little old ports all up and down the coast.

Mr. LEWIS. Mr. President——

Mr. LONG. I yield to my friend from Illinois.

Mr. LEWIS. I may say to the Senator, if he does not feel it is intruding too much of my own personality, that I was the corporation counsel of Chicago, and for a while its acting mayor, from time to time while this question was very much alive. Subsequently, I had the usual fate that falls to a Democrat in Illinois of running for Governor and being defeated; but one of the issues in that controversy was the very waterway to which my friend alludes. He is quite correct in stating that New Orleans cooperated with Chicago in many instances and in many contests; but I have always understood, and only now am in error, or announced to be in error, if the able Senator is correct—I have always understood, sir, that New Orleans joined with Chicago in her opposition to the privileges granted to two or three different ports to monopolize the privileges, and we were for the opening of ports wherever they were necessary to accommodate the waterway and increase the prospects of the trade of the great West moving out to the Atlantic coast wherever it could find a legitimate port.

Mr. LONG. That is correct. The Senator is like I am. This question, Mr. President, is one you have to keep up with pretty closely. It is like the law; it is a very jealous companion that must be wooed constantly to be understood. I was not anticipating this matter coming up today, or I should have been more prepared with these data; but here is something that we all relied upon all through this waterway development, if I can find it. It is the article of the Constitution which relates to ports, which we have always relied upon to try to keep from being bothered with it. All we have wanted was to be let alone. If we could get the Government's appropriation in the development of the waterway, we would be let alone; but here is our case:

We will take, for instance, Kansas City, Mo. Kansas City, Mo., comes over the Missouri River into an arm, a kind of an L-shape, down to New Orleans. The Missouri River comes into the Mississippi at right angles. Of course, it is elevated going northwest, but it comes from Kansas City into the Mississippi at right angles, and then comes on down to New Orleans. Commerce not only comes by water down there, but the commerce is cheapened by rail, because railroads meet the water competition; but it is many more miles to come from Kansas City by the water route into New Orleans than it is to go from Kansas City by the Kansas City Southern Railroad to Port Arthur, Tex. I should say, just guessing from what I know, that it is probably 100 miles or more shorter from Kansas City to Port Arthur, Tex., by the Kansas City Southern Railroad; or perhaps it is still shorter than that to another port, Lake Charles. It is still shorter to Lake Charles, La., than it is to go from Kansas City to St. Louis and New Orleans.

You would, therefore, kill the waterway route, you would wreck the waterway route, for what reason? Somebody at Galveston would bring a discrimination case, and there would be a mileage system of rates, and you would say, "Hold on! We are being discriminated against. We are one-hundred-and-some-odd miles closer to Kansas City", or, we will say, Port Arthur, or, rather, Lake Charles which brings the case. "We are being discriminated against. It is a hundred miles shorter from Kansas City to Lake Charles than it is from Kansas City around this route to New Orleans. We therefore demand our business. We are being unjustly discriminated against under the long and short haul clause, or under the mileage schedule of rates"; and what would be the result? Kansas City would not send 1 pound of freight for foreign export down the Mississippi and Missouri River Valleys—not a pound. Under the Interstate Commerce order it would have to go all-rail to the nearest port claiming the business. The whole business would therefore be destroyed. So, instead of lowering the cost, the result would be what it always was, it would not lower the cost, it would increase the cost of carrying by the other route, but the other charges would remain the same, and gradually become more burdensome, because there is not a balanced traffic as long as business is taken away from a port which imports somewhere near as much as it exports and that business is given to a port which exports three or four or five or six times as much as it imports. That means that three-fourths or five-sixths of the ships that come there and get business have to come empty because there is not an import business.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. CLARK. Unless there is two-way traffic from any port, the effect is to impose double freight charges on both exports and imports.

Mr. LONG. That is exactly so. That is what I have been trying to get over to the Senate; unless there is balanced traffic at a port a double charge is imposed, and the measure sought to be taken up was written for no other purpose in the world but to force the transportation through the ports where there was not a balanced traffic. It is necessary to double the cost unless there is a balanced traffic.

Anyone knows that when a ship comes into a port empty it costs just about twice as much to bring that ship into port as it does to bring it in loaded with goods. Anyone knows that it costs about as much to bring an empty box car back from a port as to bring that box car back loaded with goods. Therefore, anyone knows that a system of laws which compels traffic to go to a port where a ship comes empty means double transportation costs on goods sent to foreign countries, and any system of laws that forces box cars on railroads to come out empty forces double inland transportation costs on the commodities which go into the interior of the country.

Mr. President, that is our case. If every Member of the United States Senate understood the case, the fact to which I have just alluded would be enough to defeat the bill to start with. It would never go another step if it were understood by the Members of this body that in the long run, as the Supreme Court of the United States said, the one-hundred-and-twenty-odd millions of consumers have the first demand upon the calls of the Government. They have the first right to be considered, and we put an undue burden on them if we impose upon the commodities which they have to sell a burden which makes them unable to meet foreign competition, when we take out of the price they have to get for their goods something they have a right to take themselves, and when, in consequence of that, we impose upon them an added cost on the tropical or foreign goods they are to use just because of this freight differential which some insist upon imposing. To whom is this action to do any good? Who is to get any benefit from it? Nobody. On the contrary, if a railroad can haul a thousand miles and then haul a thousand miles back, and employ labor and employ mechanics and use coal and use oil, when every mile of that railroad is supporting a train that is moving, more men are hired, and that much more good is done. But it is said: "No; we have to stop the rails from being used. We do not want a thousand-mile haul on a railroad any more. No; we do not longer want a railroad hauling goods a thousand miles. We do not want to hear the locomotives whistling as they pass through town after town and State after State. We do not want to see the flagman on top of the train directing it. No. If they are 50 miles nearer a port or a hundred miles nearer a port, we want the traffic to move the very shortest distance possible."

"Oh, no; you are making us pay more to move it a short distance, when, if you would let us balance the traffic of Uruguay, Paraguay, England, France, Germany, China, Japan, India, Egypt, the Philippines, and everywhere else, it would make goods cheaper."

"No; that is not according to what we want to do. We have to reach in and take every connection and every fiber of commerce and business that has been established, and the more stable it is, the more necessary it is that we tear the sinews away from the bone and the scalp away from the skull and start this thing out with something that suits us. It suits us to do this."

If the business of the American people had to depend upon the changing whims and practices of the Interstate Commerce Commission, there would be very little left of business.

Mr. President, this is the provision of the Constitution with reference to ports which I have been seeking:

> No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

Yet what is the theory of this bill? We will take as an example a port which has a big business coming through it. The distance to the port is a little bit greater than the distance to another port; but the railroad makes more money hauling into that port than by hauling into some other port. The business is profitable. The railroad wants it. Yet the Interstate Commerce Commission prefers another port on the ground that the distance is shorter by a mile to that other port. Notwithstanding the fact that the rates are not unreasonable, that the rates are not confiscatory, notwithstanding the fact that the business is profitable, that it has been built up for a hundred years or more, they sound the doom of a port of my State.

New Orleans is a port of my State. It has been built at the cost of many millions of dollars. Forty-one million dollars has been spent in building the port of New Orleans with State money. Our bonds are owned by people all over the United States. Our bonds are out, backed by the faith and credit of Louisiana, and when they are backed by the faith and credit of Louisiana, they have on them what is worth something. The State of Louisiana is not only a State which pays its own debts but it makes its subdivisions pay their debts. We do not stand for them going into bankruptcy. So we have forty millions of dollars of bonds outstanding, and we have been carrying them out of earnings of the port. You come along and say, "What is the business of this port?"

We say, "Senator, we get so many bushels of wheat."

"Well, we are not going to let you have that next year. There is a port that is a little closer than you to that wheat field; so we are going to give them that wheat."

But we say, "Senator, that wheat can come down the Mississippi River and the Missouri River, and it can meet tonnage here, and get more expeditious exportation. Certainly you would not destroy that."

"Oh, yes."

"What are you going to leave us?"

"You have so much cotton."

"Yes, we have some cotton."

"We are not going to let you have that. The cotton fields are a hundred miles nearer to Lake Charles than they are to New Orleans, so that is out."

"What is the next business? We have iron and steel which come from Pittsburgh down the Ohio River and down the Mississippi River."

"We are not going to let you have that. We find that by a mileage system of rates we can move that iron and steel from Pittsburgh to Philadelphia by rail, and it is only 200 miles from Pittsburgh to Philadelphia, and therefore you cannot have that. So that is out. What other kind of business have you?"

"About the only other kind of business we have is what we get out of the textile mills. We get certain business out of them, largely through the Mississippi River."

"That is not going to work. There are several little ports down there that are a lot nearer to the sea than you are, and we must impose a burden."

Therefore, if this nefarious, iniquitous bill shall go through Congress now, it is just the same as though you took fire and burned down and destroyed the port of New Orleans, and ravaged the Mississippi Valley while you were doing it.

They came down and said to us, "We want you to build bins, large bins, capable of taking care of all the surplus wheat crop that may be sent here for export. Let there be no such thing as a private port. Let it be owned by the people, and have no railroad, have no private interest, owning this port. Let us have New Orleans the one port at the mouth of the Mississippi River, situated on the Gulf, or within close proximity to the Gulf. Let us have one port that not only accommodates the inland-waterway traffic but accommodates the seaboard traffic. Let us have one port here publicly owned."

We did that, at the request of the United States. The port of New Orleans completed what had been recommended by Robert Fulton. Robert Fulton was employed by Mr. Dearborn, Secretary of War, before he built the first steamboat, and was sent down to prospect and to see what ought to be done. Among the things he recommended was that the United States should provide at New Orleans an industrial canal, which he built, joining Lake Pontchartrain with the Mississippi River.

One hundred years later the United States Government, in the stress of war, asked the State of Louisiana to lend her credit and to complete the construction of that port; and the State of Louisiana spent twenty-one and a half million dollars in addition to the nineteen and a half million dollars previously spent, and completed for the use of the people of the United States a publicly owned port. The United States asked Louisiana to build it, and Louisiana built the port. However, the bonds of the United States are not outstanding for that port.

Mr. President, there is only one publicly owned port in the world—or, rather, I will say in America, for there may be some other such ports in the world, but I do not know of any—there is only one port in America today which is publicly owned, accommodating both the interior and exterior commerce by water, and that is the port of New Orleans. However, that can be taken out of the picture. Let us forget it. The harm which is done the port is infinitesimal compared with the harm which is done to the interior.

Did the wheat farmers appear and protest in this case? They appeared here, and they protested against this kind of a bill. The farmers of the midwestern territory protested against it; and they showed in this case, I think, or they showed in others in which I participated, that as the result of this kind of regulation more wheat is being planted in Canada, more wheat is being exported from Canada, and less wheat is being planted and less wheat is being exported from the United States.

When we allowed these ships to come and go, the Canadian wheat fields could not compete with the American wheat fields. There was a time when commerce was so regulated, or rather not regulated, that it flowed evenly out of the western wheat fields, largely through the port of New Orleans, and some through the port of New York and other ports, and was sold in South America and in Europe. With the adoption of these regulations farmers continued year after year to abandon wheat farms in western and northern United States and began to buy land and open up wheat fields in Canada, as a result of which Canada year after year raises more wheat, and year after year exports more wheat, taking the place of the wheat which the United States used to raise and which the United States used to export.

It is a funny thing, Mr. President, when we stop to think about these matters, that land over in Canada on which as good wheat is raised and sometime better wheat than that raised in the United States used to sell for a price so much lower than land in the United States that the prices could not be compared. We began to impose these restraints, and as the result the wheat fields of America have suffered, because of their inability to meet the competition, notwithstanding that—

> No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

That provision appears in article I of our Constitution.

Mr. President, I have been reading from the first Supreme Court decision. I have only a few pages more of it to read.

There was a dissenting opinion by Mr. Justice Harlan and by Mr. Justice Brown. I shall content myself with trying to finish reading the main decision.

We think that Congress has here pointed out that, in considering questions of this sort, the Commission is not only to consider the wishes and interests of the shippers and merchants of large cities, but to consider also the desire and advantage of the carriers in securing special forms of traffic, and the interest of the public that the carriers should secure that traffic, rather than abandon it, or not attempt to secure it. It is self-evident that many cases may and do arise where, although the object of the carriers is to secure the traffic for their own purposes and upon their own lines, yet, nevertheless, the very fact that they seek, by the charges they make, to secure it, operates in the interests of the public.

And, as I said a minute ago, this is one that did operate in the interest of the public.

Moreover, it must not be overlooked that this legislation is experimental. Even in construing the terms of a statute, courts must take notice of the history of legislation, and, out of different possible constructions, select and apply the one that best comports with the genius of our institutions and, therefore, most likely to have been the construction intended by the law-making power. Commerce, in its largest sense, must be deemed to be one of the most important subjects of legislation, and an intention to promote and facilitate it, and not to hamper or destroy it, is naturally to be attributed to Congress.

That would certainly be the import of what has been done with our waterway development. When we are building intercoastal canals from New Orleans to Houston, Tex., and when we are developing our waterways, even to the extent of the survey which has been made of the gigantic $9,000,000,000 plan recently furnished to this Congress by the War Department, certainly in the light of those developments we should hold this language to be pretty reasonable today.

The very terms of the statute, that charges must be reasonable, that discrimination must not be unjust, and that preference or advantage to any particular person, firm, corporation, or locality must not be undue or unreasonable, necessarily imply that strict uniformity is not to be enforced—

But they did enforce it. Every line of this decision has been set at naught by the efforts for this kind of legislation by the Interstate Commerce Commission, and by an order which they rendered in the teeth of this law 30 years later. Every line of it!—

but that all circumstances and conditions which reasonable men would regard as affecting the welfare of the carrying companies, and of the producers, shippers, and consumers, should be considered by a tribunal appointed to carry into effect and enforce the provisions of the act.

Mr. President, I can read the rest of the decision, and I am very anxious that it should be read. If any Senator objects to the clerk reading it, I shall read it myself. However, I should like to have the clerk read the remaining few pages. I comment as I go along reading it, and therefore take up more time. If there is no objection, I ask that the clerk read the next few pages, down to the beginning of the dissenting opinion.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The Chief Clerk read as follows:

The principal purpose of the second section is to prevent unjust discrimination between shippers. It implies that, in deciding whether differences in charges, in given cases, were or were not unjust, there must be a consideration of the several questions whether the services rendered were "like and contemporaneous", whether the kinds of traffic were "like", whether the transportation was effected under "substantially similar circumstances and conditions." To answer such questions, in any case coming before the Commission, requires an investigation into the facts; and we think that Congress must have intended that whatever would be regarded by common carriers, apart from the operation of the statute, as matters which warranted differences in charges, ought to be considered in forming a judgment whether such differences were or were not "unjust." Some charges might be unjust to shippers, others might be unjust to the carriers. The rights and interests of both must, under the terms of the act, be regarded by the Commission.

The third section forbids any undue or unreasonable preference or advantage in favor of any person, company, firm, corporation, or locality; and as there is nothing in the act which defines what shall be held to be due or undue, reasonable or unreasonable, such questions are questions not of law, but of fact. The mere circumstance that there is, in a given case, a preference or an advantage does not of itself show that such perference or advantage is undue or unreasonable within the meaning of the act. Hence it follows that before the Commission can adjudge a common carrier to have acted unlawfully, it must ascertain the facts; and here again we think it evident that those facts and matters which carriers, apart from any question arising under the statute, would treat as calling, in given cases, for a preference or advantage, are facts and matters which must be considered by the Commission in forming its judgment whether such preference or advantage is undue or unreasonable. When the section says that no locality shall be subjected to any undue or unreasonable prejudice or disadvantage in any respect whatsoever, it does not mean that the Commission is to regard only the welfare of the locality or community where the traffic originates, or where the goods are shipped on the cars. The welfare of the locality to which the goods are sent is also, under the terms and spirit of the act, to enter into the question.

The same observations are applicable to the fourth section, or the so-called "long and short haul provision", and it is unnecessary to repeat them.

The only argument, urged in favor of the view of the Commission, that is drawn from the language of the statute, is found in those provisions of the statute that make it obligatory on the common carriers to publish their rates, and to file with the Commission copies of joint tariffs of rates or charges over continuous lines or routes operated by more than one common carrier; and it is said that the place at which it would seem that joint rates should be published for the information of shippers would be at the place of origin of the freight, and that this cannot be done, or be compelled to be done, in foreign ports.

The force of this contention is well perceived. Room is left for the application of these provisions to traffic originating within the limits of the United States, even if, for any reason, they are not practically applicable to traffic originating elsewhere. Nor does it appear that the Commission may not compel all common carriers within the reach of their jurisdiction to publish such rates, and to furnish the Commission with all statements or reports prescribed by the statute. Nor was there any allegation, evidence, or finding, in the present case, that the Texas & Pacific Railway Co. has failed to file with the Commission copies of its joint tariffs, showing the joint rates from English ports to San Francisco, nor that the company has failed to make public such joint rates in such manner as the Commission may have directed.

Another position taken by the Commission in its report, and defended in the briefs of counsel, is that it is the duty of the Commission to so construe the act to regulate commerce as to make it practically cooperate with what is assumed to be the policy of the tariff laws. This view is thus stated in the report:

"One paramount purpose of the act to regulate commerce, manifest in all its provisions, is to give to all dealers and shippers the same rates for similar services rendered by the carrier in transporting similar freight over its line. Now, it is apparent from the evidence in this case that many American manufacturers, dealers, and localities in almost every line of manufacture and business are the competitors of foreign manufacturers, dealers, and localities for supplying the wants of American consumers at interior places in the United States, and that under domestic bills of lading they seek to require from American carriers like service as their foreign competitors in order to place their manufactured goods, property, and merchandise with interior consumers. The act to regulate commerce secures them this right. To deprive them of it by any course of transportation business or device is to violate the statute" (4 I. C. C. Rept. 514, 515).

Our reading of the act does not disclose any purpose or intention, on the part of Congress, to thereby reinforce the provisions of the tariff laws. These laws differ wholly in their objects from the law to regulate commerce. Their main purpose is to collect revenues with which to meet the expenditures of the Government, and those of their provisions, whereby Congress seeks to so adjust rates as to protect American manufacturers and producers from competition by foreign low-priced labor, operate equally in all parts of the country.

The effort of the Commission, by a rigid general order, to deprive the inland consumers of the advantage of through rates, and to thus give an advantage to the traders and manufacturers of the large seaboard cities seems to create the very mischief which it was one of the objects of the act to remedy.

Similar legislation by the Parliament of England may render it profitable to examine some of the decisions of the courts of that country construing its provisions.

In fact, the second section of our act was modeled upon section 90 of the English "Railway Clauses Consolidation Act" of 1845, known as the "equality clause", and the third section of our act was modeled upon the second section of the English "Act for the Better Regulation of the Traffic on Railways and Canals" of July 10, 1854, and the eleventh section of the act of July 21, 1873, entitled "An act to make better provision for the carrying into effect the Railway and Canal Traffic Act, 1854, and for other purposes, connected therewith."

One of the first cases that arose under the act of 1854 was that of *Hozier* v. *The Caledonian Railway* (1 Nev. & Mac. Railway Cases, 27; S. C. 17 Sess. Cas. 302; 24 Law Times, 339), where Hozier filed a petition against the railway company, alleging that he was aggrieved by being charged 9 shillings for traveling between Motherwell and Edinburgh, a distance of 43 miles, while passengers traveling in the same train and in the class of carriage between Glasgow and Edinburgh were charged only 2 shillings, which was

alleged to amount to an undue and unreasonable preference. But the petition was dismissed, and the court, by Lord Curriehill, said: "The only case stated in the petition is that passengers passing from Glasgow to Edinburgh are carried at a cheaper aggregate rate than passengers from Motherwell to either of these places. Now that is an advantage, no doubt, to those passengers traveling between Edinburgh and Glasgow. But is it an unfair advantage over other passengers traveling between intermediate stations? The complainer must satisfy us that there is something unfair or unreasonable in what he complains of, in order to warrant any interference. Now, I have read the statement in the petition and I have listened to the argument in support of it to find what there is unreasonable in giving that advantage to through passengers. What disadvantage do Motherwell passengers suffer by this? I think that no answer was given to this, except that there was none. This petitioner's complaint may be likened to that of the laborer who, having worked all day, complained that others who had worked less received a penny like himself."

The case of *Foreman* v. *Great Eastern Railway Co.* (2 Nev. & Mac. 202) was decided by the English railway commissioners in 1875. The facts were that the complainants imported coal, in their own ships, from points in the north of England to Great Yarmouth, and forwarded the coal to various stations on the defendants' railway, between Great Yarmouth and Peterborough. The complaint was that the defendants' rates for carrying coal from Yarmouth to stations in the interior, at which complainants dealt, were unreasonably greater than the rates charged in the opposite direction, from Peterborough to such stations; and that such difference in rates was made by the defendants for the purpose of favoring the carriage of coal from the interior as against coal brought to Yarmouth by sea, and carried thence into the interior over the defendants' railway. The commissioners found that it was true that the defendants did carry coal from the interior to London, Yarmouth, and other seaports on their line at exceptionally low rates, but that this was done for the purpose of meeting the competition existing at those places. It appeared that the rate from Peterborough to Thetford, 51 miles, was 4 shillings, while the rate from Peterborough to Yarmouth, 100 miles, was only 3 shillings. The commissioners said, "As, however, the complainants do not, as far as their trade in Yarmouth itself is concerned, use the Great Eastern Railway at all, the company cannot be said to prefer other traffic to theirs; nor does the traffic act prevent a railway company from having special rates of charge to a terminus to which traffic can be carried by other routes or other modes of carriage with which theirs is in competition."

In *Harris* v. *Cockermouth Railway* (1 Nev. & Mac. 97; S. C. 3 C. B. (N. S.) 693), the court held it to be an undue preference for a railway company to concede to the owner of a colliery a lower rate than to the owners of other collieries, from the same point of departure to the same point of arrival, merely because the person favored had threatened to build a railway for his coal, and to divert his traffic from defendant's railway. But Chief Justice Cockburn said: "I quite agree that this court has intimated, if not absolutely decided, that a company is entitled to take into consideration any circumstances, either of a general or of a local character, in considering the rate of charge which they will impose upon any particular traffic. * * * As, for instance, in respect of terminal traffic, there might be competition with another railway; and in respect to terminal traffic as distinguished from intermediate traffic, it might well be that they could afford to carry goods over the whole line cheaper, or proportionately so, than they could over an intermediate part of the line."

In the case of *Budd* v. *London & Northwestern Railway Co.* (4 Eng. Ry. and Canal Traffic Cases, 393), and in *London & Northwestern Railway* v. *Evershed* (3 App. Cas. 1029), it was held that it was not competent for the railway company to make discriminations between persons shipping from the same point of departure to the same point of arrival, but, even in those cases, it was conceded that there might be circumstances of competition which might be considered. At any rate, those cases have been much modified, if not fully overruled by the later cases—particularly in *Denaby Main Colliery Co.* v. *Manchester, Sheffield & Lincolnshire Railway Co.* (11 App. Cas. 97), and in *Phipps* v. *London & Northwestern Railway* (2 Q. B. D., 1892, 229, 236).

The latter was the case of an application under the Railway and Canal Traffic Acts for an order enjoining the defendants to desist from giving an undue preference to the owners of Butlins and Islip furnaces, and from subjecting the traffic of the complainants to an undue preference in the matter of the rates charged for the conveyance of coal, coke, and pig-iron traffic; and also for an order enjoining the defendants to desist from giving an unreasonable preference or advantage to the owners of Butlins and Islip furnaces and the traffic therefrom by making an allowance of 4 pence per ton in respect of coal, coke, and pig iron conveyed for them by the defendants. The sidings of the Duston furnaces, belonging to the complainants, were situated on the London & Northwestern Railway, at a distance of about 60 miles from Great Bridge, one of the pig-iron markets to the westward. The sidings of the Butlins and Islip furnaces were situated on the same railway to the east of the Duston furnaces, and a distance from the pig-iron market as to Butlins of about 71 miles and as to Islip of about 82 miles. Duston had only access to the London & Northwestern, but Butlins and Islip had access not only to the London & Northwestern but also to the Midland Railway. The London & Northwestern Co., which carried the Butlins pig iron 11 miles farther and the Islip pig iron 22 miles farther than the Duston pig iron, charged Butlins 0.95 pence per mile and Islip 0.84 pence per mile, while they charged Duston 1.05 pence per mile, so that the total charge per ton of pig iron from Duston to the western markets was 5 shillings 2 pence, while the total charge per ton from either Butlins or Islip was 5 shillings 8 pence.

When the case was before the railway commissioners, it was said by Wills, J.: "It is complained that although along the London & Northwestern Railway every ton of pig iron, every ton of coal, and every ton of coke travels a longer distance in order to reach Islip than in order to reach the applicant's premises, the charge that is put upon it, although greater than the charge which is put upon the traffic which goes to the applicant's premises, is not sufficiently greater to represent the increased distance. * * * I first observe that these are, in my judgment, eminently practical questions; and if this court once attempts the hopeless task of dealing with questions of this kind with any approach to mathematical accuracy, and tries to introduce a precision which is unattainable in commercial and practical matters, it would do infinite mischief and no good. * * * It seems to me that we must take into account the fact that at Butlins and Islip there is an effective competition with the Midland. Although effective competition with another railway company or canal company will not of itself justify a preference, which is otherwise quite beyond the mark, yet still it is not a circumstance that can be thrown out of the question, and I think there is abundance of authority for that. It follows also, I think, from the view which I am disposed to take of these, being eminently practical questions, that you must give due consideration to the commercial necessities of the companies as a matter to be thrown in along with the others. * * * I wish emphatically to be considered as not having attempted to lay down any principles with regard to this question of undue preference or as to the grounds upon which I have decided it. In my judgment, undue preference is a question of fact in each case."

The railway commissioners refused to interfere, and the case was appealed. Lord Herschell stated the case and said:

"This application is made under the second section of the Railway and Canal Traffic Act, 1854, which provides that 'no railway company shall make or give any undue or unreasonable preference or advantage to or in favor of any particular person or company, or any particular description of traffic, in any respect whatever, nor shall any such company subject any particular person or company, or particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatever.'

"The question, therefore, which the tribunal, whether it be the court or the commissioners, before whom such a question comes, has to determine is whether an undue preference or advantage is being given, or whether the one party is being unduly prejudiced or put to a disadvantage as compared with the other. I think it is clear that the section implies that there may be a preference and that it does not make every inequality of charge an undue preference.

"Of course, if the circumstances so differ that the difference of charge is in exact conformity with the difference of circumstances, there would be no preference at all. But, as has been pointed out before, what the section provides is that there shall not be an undue or unreasonable preference or prejudice. And it cannot be doubted that whether in particular instances there has been an undue or unreasonable prejudice or preference is a question of fact. In *Palmer* v. *London & Southwestern Railway Co.* (L. R. 1 C. P. 593), Chief Justice Erle said: 'I beg to say that the argument from authority seems to me to be without conclusive force in guiding the exercise of this jurisdiction; the question whether undue prejudice has been caused being a question of fact depending on the matters proved in each case.'

"In *Denaby Main Colliery Co.* v. *Manchester, etc., Railway Co.* (3 Railway and Canal Traffic Cases, 426), when it was before the court of appeals on an appeal arising out of the proceedings before the railway commissioners, Lord Selborne, then Lord Chancellor, said: 'The defendants gave a decided, distinct, and great advantage, as it appears to me, to the distant collieries. That may be due or undue, reasonable or unreasonable; but, under these circumstances, is not the reasonableness a question of fact? Is it not a question of fact and not of law whether such a preference is due or undue? Unless you can point to some other law which defines what shall be held to be reasonable or unreasonable, it must be and is a mere question not of law but of fact.'

"The Lord Chancellor there points out that the mere circumstance that there is an advantage does not of itself show that it is an undue preference within the meaning of the act, and, further, that whether there be such undue preference or advantage is a question of fact, and of fact alone, of the act of 1854. No rule is given to guide the court or the tribunal in the determination of cases or applications made under this second section. The conclusion is one of fact to be arrived at, looking at the matter broadly and applying common sense to the facts that are proved. I quite agree with Mr. Justice Wills that it is impossible to exercise a jurisdiction, such as is conferred by this section, by any process of mere mathematical or arithmetical calculation. When you have a variety of circumstances differing in the one case from the other, you cannot say that a difference of circumstances represents or is equivalent to such a fraction of a penny difference of charge in the one case as compared with the other.

A much broader view must be taken, and it would be hopeless to attempt to decide a case by any attempted calculation. I should say that the decision must be arrived at broadly and fairly, by looking at all the circumstances of the case, that is, looking at all the circumstances which are proper to be looked at; because, of course, the very question in this case is whether a particular circumstance ought or ought not to be considered; but keeping in view all the circumstances which may legitimately be

taken into consideration, then it becomes a mere question of fact. * * * Now, there is no doubt that in coming to their determination the court below did have regard to competition between the Midland and the Northwestern, and the situation of these two furnaces which rendered such competition inevitable. If the appellants can make out that, in point of law, that is a consideration which cannot be permitted to have any influence at all, that those circumstances must be rigidly excluded from consideration, and that they are not circumstances legitimately to be considered, no doubt they establish that the court below has erred in point of law. But it is necessary for them to go as far as that in order to make any way with this appeal, because once admit that to any extent, for any purpose, the question of competition can be allowed to enter in, whether the court has given too much weight to it or too little, becomes a question of fact and not of law. The point is undoubtedly a very important one. * * *

"As I have already observed, the second section of the act of 1854 does not afford to the tribunal any kind of guide as to what is undue or unreasonable. It is left entirely to the judgment of the court on a review of the circumstances. Can we say that the local situation of one trader as compared with another which enables him, by having two competing routes, to enforce upon the carrier by either of these routes a certain amount of compliance with his demands which would be impossible if he did not enjoy that advantage is not among the circumstances which may be taken into consideration? I am looking at the question now as between trader and trader. It is said that it is unfair to the trader who is nearer the market that he should not enjoy the full benefit of the advantage to be derived from his geographical situation at a point on the railway nearer the market than his fellow trader who trades at a point more distant; but I cannot see, looking at the matter as between the two traders, why the advantageous position of the one trader in having his works so placed that he has two competitive routes is not as much a circumstance to be taken into consideration as the geographical position of the other trader, who, though he has not the advantage of competition, is situated at a point on the line geographically nearer the market. Why the local situation in regard to its proximity to the market is to be the only consideration to be taken into account in dealing with the matter as a matter of what is reasonable and right as between the two traders I cannot understand.

"Of course, if you are to exclude this from consideration altogether, the result must inevitably be to deprive the trader who has the two competing routes of a certain amount of the advantages which he derives from that favorite position of his works. All that I have to say is that I cannot find anything in the act which indicates that when you are left at large, for you are left at large, as to whether as between two traders the company is showing an undue and unreasonable preference to the one as compared with the other, you are to leave out that circumstance any more than any other circumstance which would affect men's minds. * * * One class of cases, unquestionably intended to be covered by the section, is that in which traffic from a distance, of a character that competes with the traffic nearer the market, is charged low rates, because unless such low rates were charged, it would not come into the market at all. It is certain, unless some such principle as that were adopted, a large town would necessarily have its food supply greatly raised in price. So that, although the object of the company is simply to get the traffic, the public have an interest in their getting the traffic and allowing the carriage at a rate which will render that traffic possible, and so bring the goods at a cheaper rate, and one which makes it possible for those at a greater distance to compete with those situate nearer to it. * * * I cannot but think that a lower rate which is charged from a more distant point by reason of a competing route which exists thence is one of the cases which may be taken into account under those provisions, and which would fall within the terms of the enactment.

"Suppose that to insist on absolutely equal rates would practically exclude one of the two railways from the traffic, it is obvious that these members of the public who are in the neighborhood where they can have the benefit of this competition, would be prejudiced by any such proceedings. And further, inasmuch as competition undoubtedly tends to diminution of charges, and the charge of carriage is one which ultimately falls upon the consumer, it is obvious that the public have an interest in the proceedings under this act of Parliament not being so used as to destroy a traffic which can never be secured but by some such reduction of charge, and the destruction of which would be prejudicial to the public by tending to increase prices."

The learned judge then proceeded to discuss the authorities, and pointed out that the case of *Budd* v. *London & Northwestern Railway Co.* and Evershade's case, are no longer law, so far as the second section of the act of 1854 is concerned.

Lindley and Kay, Lord Justices, gave concurring opinions, and the conclusion of the court was that the Commissioners did not err in taking into consideration the fact that there was a competing line together with all the other facts of the case, and in holding that a preference or advantage thence arising was not undue or unreasonable.

The precise question now before us has never been decided in the American cases, but there are several in which somewhat analogous questions have been considered.

*Atchison, Topeka & Santa Fe Railroad* v. *Denver & New Orleans Railroad* (110 U. S. 667) was a case arising under a provision of the constitution of the State of Colorado which declares "that all individuals, associations, and corporations shall have equal rights to have persons and property transported over any railroad in this State, and no undue or unreasonable discrimination shall be made in charges or facilities for transportation of freight or passengers within the State, and no railroad company shall give any preference to individuals, associations, or corporations in furnishing cars or motive power." This court held that under this constitutional provision a railroad company which had made provisions with a connecting road for the transaction of joint business at an established union junction was not required to make similar provisions with a rival connecting line at another near point on its line, and that the constitutional provision is not violated by refusing to give to a connecting road the same arrangement as to through rates which are given to another connecting line, unless the conditions as to the service are substantially alike in both cases.

The sixth section of the act of Congress of July 1, 1862, relative to the Union Pacific Railroad Co. provided that the Government shall at all times have the preference in the use of the railroad "at fair and reasonable rates of compensation, not to exceed the amount paid by private parties for the same kind of service." In the case of *Union Pacific Railway* v. *United States* (117 U. S. 355) it was, in effect, held that the service rendered by a railway company in transporting local passengers from one point on its line to another is not identical with the service rendered in transporting through passengers over the same rails.

A petition was filed before the Interstate Commerce Commission by the Pittsburgh, Cincinnati & St. Louis Railway Co. against the Baltimore & Ohio Railroad Co., seeking to compel the latter company to withdraw from its lines of road, upon which business competition with that of the petitioner was transacted, the so-called "party rates", and to decline to give such rates in the future—also for an order requiring said company to discontinue the practice of selling excursion tickets at less than the regular rate. The cause was heard before the Commission, which held the so-called "party rate" tickets, insofar as they were sold for lower rates for each member of a party of 10 or more than contemporaneously charged for the transportation of single passengers between the same points, constituted unjust discrimination and were therefore illegal. The defendant company refusing to obey the mandate of the Commission, the latter filed a bill in the Circuit Court of the United States for the Southern District of Ohio, asking that the defendant be enjoined from continuing in its violation of the order of the Commission. The circuit court dismissed the bill.

Some of the observations made by Jackson, circuit judge, may well be cited. Forty-three Federal Reporter, 37: "Subject to the two leading prohibitions that their charges shall not be unjust or unreasonable, and that they shall not unjustly discriminate, so as to give undue preference or advantage, or subject to undue prejudice or disadvantage persons or traffic similarly circumstanced, the act to regulate commerce leaves common carriers as they were at the common law, free to make special contracts looking to the increase of their business, to classify their traffic, to adjust and apportion their rates so as to meet the necessities of commerce, and generally to manage their important interests upon the same principles which are regarded as sound and adopted in other trades and pursuits. Conceding the same terms of contract to all persons equally, may not the carrier adopt both wholesale and retail rates for its transportation service?" Again: "The English cases establish the rule that, in passing upon the question of undue or unreasonable preference or disadvantage, it is not only legitimate but proper to take into consideration, besides the mere differences in charges, various elements, such as the convenience of the public, the fair interests of the carrier, the relative quantities or volume of the traffic involved, the relative cost of the services and profit to the company, and the situation and circumstances of the respective customers with reference to each other as competitive or otherwise."

The case was brought to this court and the judgment of the circuit court dismissing the bill was affirmed. *Interstate Commerce Commission* v. *Baltimore & Ohio Railroad* (145 U. S. 263). The court, through Mr. Justice Brown, cited with approval passages from the opinion of Judge Jackson in the court below, and among other things said, "It is not all discriminations or preferences that fall within the inhibition of the statute; only such as are unjust and unreasonable."

Again, speaking of the sale of a ticket for a number of passengers at a less rate than for a single passenger, it was said: "It does not operate to the prejudice of the single passenger, who cannot be said to be injured by the fact that another is able, in a particular instance, to travel at a less rate than he. If it operates injuriously to anyone it is to the rival road, which has not adopted corresponding rates, but, as before observed, it was not the design of the act to stifle competition, nor is there any legal injustice in one person procuring a particular service cheaper than another. * * * If these tickets were withdrawn the defendant road would lose a large amount of travel, and the single-trip passenger would gain absolutely nothing."

The conclusions that we draw from the history and language of the act, and from the decisions of our own and the English courts, are mainly these: That the purpose of the act is to promote and facilitate commerce by the adoption of regulations to make charges for transportation just and reasonable, and to forbid undue and unreasonable preferences or discriminations: That, in passing upon questions arising under the act, the tribunal ap-

pointed to enforce its provisions, whether the Commission or the courts, is empowered to fully consider all the circumstances and conditions that reasonably apply to the situation, and that, in the exercise of its jurisdiction, the tribunal may and should consider the legitimate interests as well of the carrying companies as of the traders and shippers, and in considering whether any particular locality is subjected to an undue preference or disadvantage the welfare of the communities occupying the localities where the goods are delivered is to be considered as well as that of the communities which are in the locality of the place of shipment: That among the circumstances and conditions to be considered, as well in the case of traffic originating in foreign ports as in the case of traffic originating within the limits of the United States, competition that affects rates should be considered, and in deciding whether rates and charges made at a low rate to secure foreign freights which would otherwise go by other competitive routes are or are not undue and unjust, the fair interests of the carrier companies and the welfare of the community which is to receive and consume the commodities are to be considered: That if the Commission instead of confining its action to redressing, on complaint made by some particular person, firm, corporation, or locality, some specific disregard by common carriers of provisions of the act, proposes to promulgate general orders, which thereby become rules of action to the carrying companies, the spirit and letter of the act require that such orders should have in view the purpose of promoting and facilitating commerce, and the welfare of all to be affected, as well the carriers as the traders and consumers of the country.

It may be said that it would be impossible for the Commission to frame a general order if it were necessary to enter upon so wide a field of investigation, and if all interests that are liable to be affected were to be considered. This criticism, if well founded, would go to show that such orders are instances of general legislation, requiring an exercise of the law-making power, and that the general orders made by the Commission in March 1889 and January 1891 instead of being regulations calculated to promote commerce and enforce the express provisions of the act, are themselves laws of wide import, destroying some branches of commerce that have long existed, and undertaking to change the laws and customs of transportation in the promotion of what is supposed to be public policy.

This is manifest from the facts furnished us in the report and findings of the Commission, attached as an exhibit to the bill filed in the circuit court.

It is stated in that report that the Illinois Central Railroad Co., one of the respondents in the proceeding before the Commission, averred in its answer that it was constrained, by its obedience to the order of March 1889, to decline to take for shipment any import traffic, and, to its great detriment, to refrain from the business, for the reason that to meet the action of the competing lines it would have to make a less rate on the import than on the domestic traffic.

Upon this disclosure that their order had resulted in depriving that company of a valuable part of its traffic (to say nothing of its necessary effect in increasing the charges to be finally paid by the consumers), the Commission in its report naively remarks: "This lets the Illinois Central Railway Co. out" (4 Interstate Com. Com. Rep. 458).

We also learn from the same source that there was competent evidence adduced before the Commission, on the part of the Pennsylvania Railroad Co., that since that company, in obedience to the order of March 1889, has charged the full inland rate on the import traffic, the road's business in that particular has considerably fallen off—that the steamship lines have never assented to the road's charging its full inland rates, and have been making demands on the road for a proper division of the through rate—that if it were definitely determined that the road was not at liberty to charge less than the full inland rate, the result would be that it would effectually close every steamship line sailing to and from Baltimore and Philadelphia.

The Commission did not find it necessary to consider this evidence, because the Pennsylvania Railroad Co. was before it in the attitude of having obeyed the order.

We do not refer to these matters for the purpose of indicating what conclusions ought to have been reached by the Commission or by the courts below in respect to what were proper rates to be charged by the Texas & Pacific Railway Co. That was a question of fact, and if the inquiry had been conducted on a proper basis we should not have felt inclined to review conclusions so reached. But we mention them to show that there manifestly was error in excluding facts and circumstances that ought to have been considered, and that this error arose out of a misconception of the purpose and meaning of the act.

The circuit court held that the order of January 29, 1891, was a lawful order, and enjoined the defendant company from carrying any article of import traffic shipped from any foreign port through any port of entry in the United States, or any port of entry in a foreign country adjacent to the United States, upon through bills of lading, and destined to any place within the United States, upon any other than the published inland tariff covering the transportation of other freight of like kind over its line from such port of entry to such place of destination, or from charging or accepting for its share of through rates upon imported traffic a lower sum than it charges or receives for domestic traffic of like kind to the same destination from the point at which the imported traffic enters the country.

In treating the facts of the case the court says: "It must be conceded as true, for the purposes of the present case, that the rates for the transportation of traffic from Liverpool and London to San Francisco are, in effect, fixed and controlled by the competition of sailing vessels between these ports, and also by the competition of steamships and sailing vessels in connection with railroads across the Isthmus of Panama, none of which are in any respect subject to the act to regulate commerce. It must also be conceded that the favorable rates given to the foreign traffic are, for reasons to which it is now unnecessary to revert, somewhat remunerative to the defendant; and it must also be conceded that the defendant would lose the foreign traffic, by reason of the competition referred to, and the revenue derived therefrom, unless it carries at the lower rates, and by so doing is enabled to get part of it, which would otherwise go from London and Liverpool to San Francisco around the Horn or by the way of the Isthmus." *Interstate Commerce Commission* v. *Texas & Pacific Railway* (52 Fed. Rep. 187).

The circuit court did not discuss the case at length, either as to its law or facts, but, in effect, approved the order of January 29, 1891, as valid, and enjoined the defendant company from disregarding it.

The circuit court of appeals seems to have disapproved of the construction put on the act by the Commission. The language of the court was as follows: "The Commission contended that the defendant had violated the second section of the act to regulate commerce, which prohibits unjust discrimination in the compensation charged for like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, and had also violated the third section, which prohibits any undue or unreasonable preference or advantage to any particular description of traffic. The defendant insisted that the dissimilar conditions growing out of the ocean competition freed its conduct from the prohibition of the statute. The Commission held that this class of dissimilar conditions was not in the contemplation of the statute, and was not to be regarded in the regulation of inland tariffs of rates." Then, after citing a passage from the report of the Commission, the court proceeds to say: "Its conclusion was that foreign and home merchandise 'under the operation of the statute, when handled and transferred by interstate carriers engaged in carriage in the United States, stand exactly upon the same basis of equality as to tolls, charges, and treatment for similar services rendered.'

"This rule, having been founded upon a construction of the statute, is a very broad one. It is applicable to all the foreign circumstances and conditions which affect rates, and the question whether it must be universally applied without regard to any circumstances which may exist in a foreign country, and whether dissimilarities which have a foreign origin are to be excluded from consideration under the operation of the statute, is an exceedingly important one, the ultimate decision of which may have a wider influence upon the interstate commerce of the country than we can foresee. This legal question was not discussed in the Export Rate case, which was treated 'as one of practical policy.' We are not disposed to pass authoritatively upon this question, except in a case which demands it, and in which the effect of this construction of the statute is naturally the subject of discussion" (20 U. S. App. 6–9).

Having thus intimated its dissent from, or, at least, its distrust of, the view of the Commission, the court proceeded to affirm the decree of the circuit court and the validity of the order of the Commission, upon the ground that, even if ocean competition should be regarded as creating a dissimilar condition, yet that, in the present case, the disparity in rates was too great to be justified by that condition.

This course proceeded, we think, upon an erroneous view of the position of the case. That question was not presented to the consideration of the court. There was no allegation in the Commission's bill or petition that the inland rates charged by the defendant company were unreasonable. That issue was not presented. The defendant company was not called upon to make any allegation on the subject. No testimony was adduced by either party on such an issue. What the Commission complained of was that the defendant refused to recognize the lawfulness of its order; and what the defendant asserted, by way of defense, was that the order was invalid, because the Commission had avowedly declined to consider certain "circumstances and conditions" which, under a proper construction of the act, it ought to have considered.

If the circuit court of appeals was of opinion that the Commission in making its order had misconceived the extent of its powers, and if the circuit court had erred in affirming the validity of an order made under such misconception, the duty of the circuit court of appeals was to reverse the decree, set aside the order, and remand the cause to the Commission, in order that it might, if it saw fit, proceed therein according to law. The defendant was entitled to have its defense considered, in the first instance at least, by the Commission upon a full consideration of all the circumstances and conditions upon which a legitimate order could be founded. The question whether certain charges were reasonable or otherwise, whether certain discriminations were due or undue, were questions of fact, to be passed upon by the Commission in the light of all facts duly alleged and supported by competent evidence, and it did not comport with the true scheme of the statute that the circuit court of appeals should undertake, of its own motion, to find and pass upon such questions of fact, in a case in the position in which the present one was.

We do not, of course, mean to imply that the Commission may not directly institute proceedings in a circuit court of the United

States charging a common carrier with disregard of provisions of the act, and that thus it may become the duty of the court to try the case in the first instance. Nor can it be denied that, even when a petition is filed by the Commission for the purpose of enforcing an order of its own, the court is authorized to "hear and determine the matter as a court of equity", which necessarily implies that the court is not concluded by the findings or conclusions of the Commission; yet as the act provides that, on such hearing, the findings of fact in the report of said Commission shall be prima facie evidence of the matters therein stated, we think it plain that if, in such a case, the Commission has failed in its proceedings to give notice to the alleged offender, or has unduly restricted its inquiries upon a mistaken view of the law, the court ought not to accept the findings of the Commission as a legal basis for its own action but should either inquire into the facts on its own account or send the case back to the Commission to be lawfully proceeded in.

The mere fact that the disparity between the through and the local rates was considerable did not, of itself, warrant the court in finding that such disparity constituted an undue discrimination—much less did it justify the court in finding that the entire difference between the two rates was undue or unreasonable, especially as there was no person, firm, or corporation complaining that he or they had been aggrieved by such disparity.

Mr. LONG. Mr. President, I am going to read over again a little of what the clerk read. I read from page 225:

When the case was before the Railway Commissioners it was said by Wills, J.: "It is complained that, although along the London & Northwestern Railway every ton of pig iron, every ton of coal, and every ton of coke travels a longer distance in order to reach Islip than in order to reach the applicant's premises, the charge that is put upon it, although greater than the charge which is put upon the traffic which goes to the applicant's premises, is not sufficiently greater to represent the increased distance. * * * I first observe that these are, in my judgment, eminently practical questions, and if this court once attempts the hopeless task of dealing with questions of this kind with any approach to mathematical accuracy, and tries to introduce a precision which is unattainable in commercial and practical matters, it would do infinite mischief and no good. * * *

I wish I could get the Senate to take the view which the Supreme Court adopts in this case. The Court says that if ever the Court or the Commission undertakes to estimate the conditions, the advantages, the disadvantages, and various other things, all of which are factors in foreign commerce, it will "do infinite mischief and no good." That is what they say, approving the language which was used here—

It seems to me—

And the Supreme Court is quoting this language with approval—

that we must take into account the fact that at Butlins and Islip there is an effective competition with the Midland—

Just as there is in this country. There is a competition with Argentina on meat; there is a competition with Canada for wheat and corn; there is a competition with Mexico for our own fruits, and everything else—

It seems to me that we must take into account the fact that at Butlins and Islip there is an effective competition with the Midland. Although effective competition with another railway company or canal company will not of itself justify a preference, which is otherwise quite beyond the mark, yet still it is not a circumstance that can be thrown out of the question, and I think there is abundance of authority for that. It follows also, I think, from the view which I am disposed to take of these, being eminently practical questions, that you must give due consideration to the commercial necessities of the companies as a matter to be thrown in along with the others * * *.

We have the same case here, identically the same. I want the Senate to understand that I am reading from a decision involving the very case this bill is put forward to reverse. This is one of the decisions of the Supreme Court of the United States the bill is brought forward to reverse, on the theory that these old "mossbacks" on the Supreme Court did not know what they were talking about. I read:

I wish emphatically to be considered as not having attempted to lay down any principles with regard to this question of undue preference, or as to the grounds upon which I have decided it. In my judgment, undue preference is the question of fact in each case.

The Railway Commissioners refused to interfere, and the case was appealed. On the appeal, the higher Court said this:

On the appeal, the higher Court said this:

Of course, if the circumstances so differ that the difference of charge is in exact conformity with the difference of circumstances, there would be no preference at all. But, as has been pointed out before, what the section provides is that there shall not be an undue or unreasonable preference or prejudice. And it cannot be doubted whether in particular instances there has been an undue or unreasonable prejudice or preference is a question of fact. * * * Chief Justice Erle said: "I beg to say that the argument from authority seems to me to be without conclusive force in guiding the exercise of this jurisdiction; the question whether undue prejudice has been caused being a question of fact proved in each case."

Mr. President, I shall skip a great deal, and try to take up as little time as I can. The Court finally comes down to a decision of its own.

I should like to abbreviate this debate. I hope my friends understand that I am very sorry that I do not attract more attention from some of my colleagues. Perhaps they understand this case better than I think they do.

When we tried this case before the Interstate Commerce Commission I think I was on the witness stand perhaps 2 days testifying in the case for the city of New Orleans at one time. I must have spent almost that much time discussing it with the individual members of the Interstate Commerce Commission, and quite a little while arguing it before the Commission, and I wish to say this, that whenever we could get the Commission to sit down and listen and think this thing over, 99 times out of 100 they would find that they had better let it alone.

One of the men with whom I talked was Commissioner Meyer. I do not know whether he is still with the Interstate Commerce Commission or not. I remember spending a Thanksgiving Day with him. As I remember, he was Chairman of the Commission, and I concluded that if I could get him to listen long enough he would not put this kind of an order into effect. So I got on the train at New Orleans, La., and came to Washington, D. C., for Thanksgiving Day, just to take a chance that perhaps I might be able to get Commissioner Meyer to listen to me on Thanksgiving Day, and perhaps he would not have anyone else bothering him. So I came and, by accident, got him to listen to me on Thanksgiving Day. I think I spent practically all that day with him, and at the conclusion of our conference, as feeble as my efforts may have been, nonetheless the Commissioner gave us the one necessary vote to reverse the order of the Commission. As I remember, his vote finally was that way. I might be mistaken, though I do not think I am, but I distinctly recall that my friend from Kentucky, Mr. Charlie McChord, who was on the Commission, was 100 percent with us, and with the help that we received from him and from a gentleman from Indiana, who came from a State commission, whom I saw here 4 or 5 years ago, we managed to get enough votes to upset that devilish thing, and we kept it upset for about 5 years. They upset it as a whole, and finally a little bit later they inflicted part of it on us, and then later they inflicted the balance of it on us, and that destroyed practically all of that business which had been going from this country to other countries, and no other port got it. They did not give the business to any other port; they destroyed the business in this country.

I now quote from the opinion where the Court was quoting an earlier Supreme Court decision:

*Atchison, Topeka & Santa Fe Railroad Co.* v. *Denver, New Orleans Railroad* (110 U. S. 667), was a case arising under a provision of the constitution of the State of Colorado which declares "that all individuals, associations, and corporations shall have equal rights to have persons and property transported over any railroad in this State, and no undue or unreasonable discrimination shall be made in charges or facilities for transportation of freight or passengers within the State, and no railroad company shall give any preference to individuals, associations, or corporations in furnishing cars or motive power." This court held that under this constitutional provision a railroad company which had made provisions with the connecting road for the transaction of joint business at an established union junction was not required to make similar provisions with a rival connecting line at another near point on its line, and that the constitutional provision is not violated by refusing to give to a connecting road the same arrangement as to through rates which are given to another connecting line unless the conditions as to the service are substantially alike in both cases.

The sixth section of act of Congress of July 1, 1862, relative to the Union Pacific Railroad Co. provides that the Government shall at all times have the preference in the use of the railroad "at fair and reasonable rates of compensation, not to exceed the amount paid by private parties for the same kind of service." In the case of *Union Pacific Railway* v. *the United States* (117 U. S.

355) it was, in effect, held that the service rendered by a railroad company in transporting local passengers from one point on its line to another is not identical with the service rendered in transporting through passengers over the same rails.

A petition was filed before the Interstate Commerce Commission by the Pittsburgh, Cincinnati & St. Louis Railway Co. against the Baltimore & Ohio Railroad Co.—

It is a funny thing how some of the people who maintained this very principle are here trying to destroy it. The Baltimore & Ohio had exactly this case once before, but the shoe was on the other foot. In that case they took the other side. They will have their trouble. A route will be found that is shorter than theirs, and then they will have just as much trouble as anybody else is having. It will be found there is a route a little bit shorter than the Baltimore & Ohio. They are one of the great complainants. They are against the Pennsylvania, they are against the New York Central, they are against the Southern Pacific; but we will find that somewhere down the line a port will be discovered that is a few miles more inland than is Baltimore, and then the Baltimore & Ohio will have the fight all over, and they will not get the business in the first place. Things of this kind never have done anything except to destroy commerce since they have been started. They do not move it from one port to another port; they simply, by regulation, destroy the business altogether. They just keep from being carried on the business we have previously been getting.

A petition was filed before the Interstate Commerce Commission by the Pittsburgh, Cincinnati & St. Louis Railway Co. against the Baltimore & Ohio Railroad Co., seeking to compel the latter company to withdraw from its lines of road, upon which business competitive with that of the petitioner was transacted, the so-called "party rates", and to decline to give such rates in the future; also for an order requiring said company to discontinue the practice of selling excursion tickets at less than the regular rate. The cause was heard before the Commission, which held the so-called "party rate" tickets, insofar as they were sold for lower rates for each member of a party of 10 or more than rates contemporaneously charged for the transportation of single passengers between the same points, constituted unjust discrimination and were therefore illegal. The defendant company refusing to obey the mandate of the Commission, the latter filed a bill in the Circuit Court of the United State for the Southern District of Ohio, asking that the defendant be enjoined from continuing in its violation of the order of the Commission. The circuit court dismissed the bill. Some of the observations made by Jackson, circuit judge, may well be cited.

They then cite the decision which he rendered there, in which he said:

Conceding the same terms of contract to all persons equally, may not the carrier adopt both wholesale and retail rates for its transportation service?

And, Mr. President, in this case may not the carrier adopt what is necessary in order to carry on foreign commerce? If he cannot, then the article of the Constitution of the United States purporting to prevent unjust discrimination against any one port might as well not have been written into the Constitution.

I continue reading:

The case was brought to this Court and the judgment of the circuit court dismissing the bill was affirmed (*Interstate Commerce Commission* v. *Baltimore & Ohio Railroad*, 145 U. S. 263).

Notwithstanding the fact that suits before the Supreme Court of the United States involving this principle have been lost in case after case, from 1895 to 1933, and lost on this identical question, and I am now reading one of the decisions, they still come here with this same thing to destroy the foreign commerce of the United States. They have lost this case, and cases upon which this principle depended, year in and year out; and if this bill were passed it would still be unconstitutional, according to the line of argument which has been given here by the Supreme Court of the United States, if I am any judge of it.

I continue reading:

The Court, through Mr. Justice Brown, cited with approval passages from the opinion of Judge Jackson in the court below, and among other things said: "It is not all discriminations or preferences that fall within the inhibition of the statute; only such as are unjust and unreasonable."

Again, speaking of the sale of a ticket for a number of passengers at a less rate than for a single passenger, they quote again from Judge Jackson, which quotation I shall not now read.

The conclusions that we draw from the history and language of the act, and from the decisions of our own and the English courts, are mainly these: That the purpose of the act is to promote and facilitate commerce by the adoption of regulations to make charges for transportation just and reasonable, and to forbid undue and unreasonable preferences or discriminations: That, in passing upon questions arising under the act, the tribunal appointed to enforce its provisions, whether the Commission or the courts, is empowered to fully consider all the circumstances and conditions that reasonably apply to the situation, and that, in the exercise of its jurisdiction, the tribunal may and should consider the legitimate interests as well of the carrying companies as of the traders and shippers, and in considering whether any particular locality is subjected to an undue preference or disadvantage the welfare of the communities occupying the localities where the goods are delivered is to be considered as well as that of the communities which are in the locality of the place of shipment.

In other words, they do not only consider the port that these goods are going through; they consider the place that the goods left. They consider the people who are selling these goods.

That among the circumstances and conditions to be considered, as well in the case of traffic originating in foreign ports as in the case of traffic originating within the limits of the United States, competition that affects rates should be considered, and in deciding whether rates and charges made at a low rate to secure foreign freights which would otherwise go by other competitive routes are or are not undue and unjust, the fair interests of the carrier companies and the welfare of the community which is to receive and consume the commodities are to be considered.

If that is the law, this bill, neither topside nor bottom, would be considered in the Senate today. If it is the law that you are to consider how rates and charges affect the price of the commodity you buy and the price of the commodity you sell, this bill could not stay here long enough for water to get hot.

What is the justification of what the bill proposes? Nobody denies that it lessens the price of the wheat that the farmer gets, because it imposes upon him anywhere from 1 to 7 or 8 cents a bushel that is taken out of the price of his wheat in order to pay the different cost of getting the goods to the port. That is one case; and if he gets it to the port, then that port has been crippled by the fact that the balanced traffic which formerly came from South America to the port where he sends his wheat to ship back to South America has been destroyed, and therefore a steamship no longer comes there loaded, but comes there empty if it hauls the traffic back.

That if the Commission, instead of confining its action to redressing on complaint made by some particular person, firm, corporation, or locality, some specific disregard by common carriers of provisions of the act, proposes to promulgate general orders, which thereby become rules of action to the carrying companies, the spirit and letter of the act require that such orders should have in view the purpose of promoting and facilitating commerce, and the welfare of all to be affected, as well the carriers as the traders and consumers of the country.

There are two decisions of the United States Supreme Court on this case—two decisions. They are both as I am now reading from the first one; and if Members of the Senate, before undertaking to take up for consideration this bill, will do their communities and their country the service to read these two decisions, there will never be any danger of this bill receiving serious consideration from the Congress of the United States.

These decisions may be somewhat lengthy, but anyone who will read the logic behind these two decisions will never stand for the bill's passage. The Court reasons out the harm which is done to the commerce of the country as a whole. It reasons out the increase of the commodity that is brought from a foreign country. It reasons out the lesser price we receive for our own exported product. It shows the balance of traffic. It shows the revenue, and the importance to the country as a whole of a case like this.

We do not have just one little State to keep alive in this country. We have to keep alive 48 States. There sometimes comes a time when the State of California does not see any

use for the existence of the State of Wyoming, and sometimes there comes a time when New York does not see what business Idaho has to inflict itself upon the rest of the country. This is a time of that kind, when little New Jersey, strung up there on the coast, figures that it ought to have an advantage, inasmuch as its goods are raised nearer to a port than the open-field States, such as Idaho, Nevada, Colorado, Wyoming, New Mexico, and Arizona. But there are 48 States in the Union, and the Supreme Court has labored to enforce the articles of the Constitution so that whether the advantages, political or otherwise, are with one of the sparsely populated or with one of the densely populated States, or whether they are with one of the manufacturing States, or with one of the agricultural States, nonetheless there shall be no discrimination imposed which will injure the perpetuity of a State, because, after all, through the course of 150 years, we have found out that 1 State needs the other 47 States. The Supreme Court has labored upon this question, and has reasoned it out. True, it was a 7-to-2 decision the first time, and a 5-to-4 decision the last time. Justice Stone did not understand the case, topside nor bottom. He never did catch the point. I have read his decision. I have presented cases before that Court, and while I have never presented one since Justice Stone has been on the bench, nonetheless I have had the pleasure to have written some of the statutes which he has considered, and I know him to be a learned man; but his decision in this case does not do credit to the intellect and legal mind of Justice Stone.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER (Mr. CHAVEZ in the chair.) Does the Senator from Louisiana yield to the Senator from Florida?

Mr. LONG. Certainly.

Mr. FLETCHER. I have been engaged in sessions of a committee and have not been able to hear the Senator's argument. Probably I should not ask this question if I had heard him; but I should like to have the Senator indicate to me briefly just what would be accomplished by the provisions of the bill. What would be the effect of the bill? It is intended to benefit particularly New Jersey ports, is it not?

Mr. LONG. No; it would not help them a bit. I shall briefly explain it. If the Senator will not feel offended I shall use the State of Florida to demonstrate just what it would mean. I believe I can use the Senator's own State as a means to explain the situation much more clearly.

For example, the State of Florida does a considerable export business. It does an import business. Florida has ports. Florida has created another port through cutting a canal across the peninsula of Florida. The ports of Florida would be dried up as dry as a powder horn if the bill should pass. Why? Because Florida is necessarily removed from the centers of population and the centers of production. The great bulk of tonnage that would go to Florida for export would be out of tune entirely because of the fact that the bill seeks to give the Interstate Commerce Commission authority to impose its mileage structure of rates upon export commerce as well as upon domestic commerce.

Mr. FLETCHER. If I may interrupt the Senator, let me say that I have not looked at the figures of measured distances, but I have had the impression for some time past, and have been so informed, that the ports of Florida—for instance, Jacksonville—are nearer the center of production of most commodities which move in foreign commerce than are the ports of New Jersey and New York. However, those ports have the business, my information is, because the railroads are supported by the large financial interests that furnish the money to take care of the railroads' obligations, and so forth, and they insist that the railroads must carry the products and commodities to their ports in exchange for such financial accommodation. For that reason, although the distance is greater, they get the business, whereas the Gulf and South Atlantic ports are nearer the sources of production than are the ports of New York and New Jersey.

Mr. LONG. No; that is not so. In the Senator's case I do not need to go that far. I can simply say that New Orleans, Mobile, Savannah, Galveston, and Houston alone, if there were no other ports, would almost eliminate Florida immediately, and for this reason: They would be nearer. Products would have to pass by one of those ports to get to Florida. The theory of the bill is that wherever there is a port nearer than Jacksonville, we will say for instance, to whatever product is being shipped, that product shall go through the port which is nearest to the particular place of production. Florida being a peninsula, while it might be nearer to the traffic that passes through New Jersey, yet it would be hedged off a dozen times before the product ever reached a port in Florida. I could take any commodity now shipped out of Florida and demonstrate to the Senator that every bit of it, under this proposed mileage system, would be taken away from Florida.

It is more convenient for foreign ships to land in Florida and unload certain commodities for distribution to the inland country. In other words, for certain things Florida is a good distributing point. We can reach the East with tropical products which are unloaded in Florida more quickly than through the port of New Orleans. But if the Commission says to a ship, "You cannot have outgoing commerce because of the fact that it must go out of a port which, from a mileage standpoint, is nearest the originating point of that commerce", then that ship would have to go out of the Florida port empty, and therefore would have to pay the cost of transportation two ways to bring in one load. I think the Senator understands that very readily.

Florida is a little better off. As a matter of fact, if let alone, the southern ports bid fair to continue to do an increased business, particularly ports such as those of Florida and the port of New Orleans, where they have this accommodation and this advantage. But if this advantage is to be given to New Jersey ports, it means a dozen ports must interfere wherever there is any traffic of any consequence. In New Orleans our business would be scattered to points like Lake Charles and Morgan City, and that system would wreck the port of New Orleans, because its business would be forced to other ports.

This is contrary to the whole theory, the whole genius of the commerce which has been built up from foreign countries and with foreign countries. It is entirely improper to undertake to say that a mileage system of rates must apply. For instance, a carload of traffic starting out of the east on the Seaboard Air Line, which goes to Florida, passes through another port en route. The Seaboard Air Line passes close to Richmond or through Richmond. Under the provisions of the bill they could not carry that commodity through Richmond without paying a penalty for carrying it further. They would have to unload it at the nearest port, and they could never carry it further. Yet it is to the interest of the people that they should carry to the port of Florida where they will find a balanced outgoing tonnage and where the tropical fruits can be brought more advantageously and more readily distributed to the interior, with the lowest cost due to their perishable character. That was shown in the case I have cited, and that is true even of commodities which are not perishable, for example, wheat.

Wheat is shipped out of Oklahoma and Kansas through the port of New Orleans. There was reason why it should be loaded at the port of New Orleans. New Orleans was importing more than it exported. Therefore there was always a ship there which could not only bring in tonnage but could carry out tonnage. A box car loaded from Oklahoma with wheat would be unloaded at New Orleans and reloaded with some other commodity from a foreign country to be carried to the inland. Every car that went in there loaded came out loaded. "But", said the Interstate Commerce Commission, under the law, which the Supreme Court said was not the law, "we want this to go to another port over here." "But", the complaint was, "over here there is no inbound commerce; there is no import commerce." Nonetheless, the Commission said the shipment must come in there in that way.

Mr. CONNALLY rose.

The PRESIDING OFFICER (Mr. McGILL in the chair). Does the Senator from Louisiana yield to the Senator from Texas?

Mr. LONG. I yield.

Mr. CONNALLY. I had not intended to ask the Senator to yield, but since he has been kind enough to do so, let me ask the Senator a question. As I understand the effect of the bill, it is simply to allow representatives of the ports to go into court and have adjudicated the question of whether or not the Interstate Commerce Commission can discriminate as between ports.

Mr. LONG. No; that is not the purpose of the bill. The bill, if it is constitutional—and I do not believe it is——

Mr. CONNALLY. Waive that point.

Mr. LONG. The bill would allow the Interstate Commerce Commission to apply its mileage differential of rates to foreign commerce.

Mr. CONNALLY. But the Interstate Commerce Commission has not always done that; and what we are trying to get around now is that the districts that were claiming that they were discriminated against could not get into the courts in order to have the orders of the Commission corrected.

Mr. LONG. No; it is not the courts but it is the Commission. The courts have decided against the Commission every time. Every time the matter has gotten up to the courts the courts have held that the Interstate Commerce Commission had no right to impose these burdens on account of any mileage set-ups they wanted to make on the ports. The courts have always decided against them, and they have done so twice in this very case I am talking about; but here is the point: Here is Wyoming. Here is Idaho.

Mr. CONNALLY. To direct the Senator's attention to what I have in mind, what is the real objection to allowing the Interstate Commerce Commission to base these rates to the ports according to their natural advantages, for the benefit of the stream of traffic? That is what the Commission is for.

Mr. LONG. But they do not do that. They say, on the contrary, they will not do it according to natural advantages. If they did that, we should be all right; but they undertake to upset the natural advantages.

Mr. CONNALLY. One of the natural advantages is the mileage.

Mr. LONG. That is the only one they know.

Mr. CONNALLY. That goes into the picture.

Mr. LONG. Then we ought to take the waterways out of the country.

Mr. CONNALLY. If a port is nearer to a producing area, why is not that one of the natural advantages which it enjoys? Why should that port be discriminated against, and freight diverted by a longer mileage to another port?

Mr. LONG. If that rule should prevail, the wheat fields of Wyoming and Oklahoma and all the States far removed from ports would sooner or later be swallowed up, because everything would have to be located on the coastline.

Mr. CONNALLY. Oh, no!

Mr. LONG. Oh, yes, it would! That is absolutely correct, and I can demonstrate it.

Mr. CONNALLY. Where would the wheat of the Middle West go under that sort of a rule?

Mr. LONG. I will tell the Senator where some of it did go—to Canada. It would go through the port of Winnipeg. They drove a lot of our wheat business up there.

Mr. CONNALLY. The price did that.

Mr. LONG. It was not merely a question of price. It cost the wheat farmer of Oklahoma 5 cents on a bushel of wheat. It took that much out of his price. It got to the point where he could not compete with the foreign people, and he lost his market; and when he lost the market for one thing, they came in and took it for another thing.

As an example, take the price of bananas. It was materially affected through the destruction they caused to the tropical fruits of South and Central America. The decisions of the courts, well-reasoned and more learned than anything that I could be expected to say, show how this sort of thing destroys the channels of trade, how it prevents businesses in this country from competing with businesses in other countries.

For instance, the Interstate Commerce Commission cannot say a thing in the world to the cattleman in Argentina, nor to the railroad in Argentina.

Mr. CONNALLY. How can they say it to the banana man in Central America, then?

Mr. LONG. Wait a moment, and I will get to that. I am coming to that, and I will show the Senator.

We cannot say a thing to the business man in Argentina. The man in Argentina raises cattle to be shipped into Brazil, and the railroads between Brazil and Argentina, or the steamships, are left free to make whatever rates they want to make for their commerce. But along comes the United States and says to the man in North America, "No; you cannot ship a cow from El Paso, Tex., to New Orleans to be exported to Brazil except on these conditions and for this price." He says, "I cannot meet that price." The railroad wants to haul it cheaper, because the railroad can do it and make money. The United States says, "No; the business must go to Argentina."

If the Interstate Commerce Commission had the right to regulate the foreign commerce with which we compete, that would be different. We can afford to give the Interstate Commerce Commission power to regulate the rate from San Francisco to New Orleans, because it regulates the rate from New York to New Orleans; but we cannot afford to let the Interstate Commerce Commission restrict our own foreign commerce when it has not a right to restrict the competing foreign commerce. That is what the Supreme Court points out, and that has been the result of this case. There is not any question that if there is any such thing as experiment to prove it, this rule never has amounted to anything except to destroy commerce and disrupt the established channels of business.

I will give you a case in Texas. The Texas farmers were shipping their wheat into New Orleans. They want to do that. About 75 percent of the people of Texas today would be hurt by anything except what we are arguing for now.

There is the Texas & Pacific Railroad, which serves the country up there. There is another little railroad line built into that country which has been absorbed by the L. & A. Railroad; I have forgotten what they used to call it. I think the M. K. & T. used to run it into Greenville, Tex. Those railroad lines haul into New Orleans, because it is the only port they serve. They do not go to Galveston, Tex. The Texas & Pacific has only New Orleans to serve. The Commission comes along and says to them, "No; you cannot haul grain into New Orleans. When you get to Fort Worth you must unload it off the Texas & Pacific Railroad and take the T. & B. V. down to Galveston, because it is 100 miles shorter to go there than it is to New Orleans." They did it, and what happened to the wheat? It sprouted down there, because they did not have the facilities to handle it, nor were there ships there to take it to foreign countries, nor markets afforded through that port. That is what it did to them.

The same thing might be explained with many, many other commodities, and as a result of this particular thing, Lake Charles has risen up and has proved to the world that it is a nearer port for cotton than many other ports. It is finally going to wind up with Port Arthur on one side of Galveston, and Corpus Christi and other little ports down there, and Lake Charles and Morgan City in Louisiana and little ports strung out on the coast, and they are going to wreck Galveston and New Orleans and every other port with them, and practically wreck the entire Gulf coast as a practical shipping point for handling foreign commerce, if this kind of thing is permitted. None of the advantages will be retained. They must have a ship that can go from point to point on the whole Gulf coast and pick up 30 bales

here and 10 bales here until it finally makes up a cargo, if we are to have any foreign commerce on the Gulf coast.

We shall have to let a few things alone in this country. We cannot say, "I want the freight to go on this route, and I want it to go on that route", because business is not built up in that way. We were a hundred years, and did not build it up then, trying to get anything like a good business out of South America, until they finally got the contacts and the connections with banks and railroads and mercantile houses and wholesale houses and steamship lines and everything else coordinated to a point where they came in with loaded ships and went out with loaded ships.

Tramp steamers could come from any port to New Orleans and always find a load. They could go to New York and always find a load. We were a hundred years getting the Latin American business built up, and the Commission destroyed a large part of it within a hundredth part of the time it took to build it up. How did they do it? They did just one little thing: They said, "In order for business to go to South America through the port of New Orleans, all the commerce must be made to pay from 1 to 5 cents per hundred pounds more than if the same commerce went through some other port."

What did that mean? It meant that the minute that differential was established, it killed New Orleans as the gateway for that particular kind of commodity. Then what did it mean? It meant that a foreign country down there, like Argentina, raising some of those products, had a competitive advantage, and therefore they took the business, and Galveston did not get the business, and nobody else in this country got the business.

What else did it mean? It meant that the wheat farmer up north who had been shipping his wheat down there through the use to some extent of the Mississippi Valley moved over into Canada, and raised his wheat to be sent through the port of Winnipeg, where they had not imposed any such unjust and unreasonable restrictions; and that is what this whole thing means.

I should think my colleagues in the Senate would take advantage of what experience has taught in matters of this kind and not undertake to force something through here which has been held contrary to the whole American structure and system of things, as this has been held by the Supreme Court of the United States.

Mr. President, it is now 5 o'clock. I have taken more time than I intended to take in discussing this case. I am very sorry that not more of the Members have been in attendance today. I think I understand something more about this case than some of my colleagues do, and I am sorry that more of them have not seen fit to listen today to my attempt to present this case. This is not a sectional question. I talked it over with one of the leading Members of the House from the State of Texas, who was just as much against this bill as I am.

Last year this bill was before the Committee on Interstate and Foreign Commerce of the House, and that committee, with a Texan as chairman, did not report the bill out.

The Committee on Interstate Commerce of the Senate had before it the same bill last year, and would not report it. They did not think the bill justified its being brought to the floor of the Senate, and the same position was taken by the Interstate and Foreign Commerce Committee in the House of Representatives. They did not think they were justified in bringing the bill to the floor of the House.

The bill has been before those committees for a considerable length of time, and neither of them has ever thought it ought to come before the Senate or the House. I was very much surprised when I came into the Senate this afternoon to find it had been proposed that the bill be taken up as the order of business. I thought there was no chance that the bill would ever receive favorable consideration in the Senate. I never thought it would even be considered in the Senate. I never thought the Senate would waste its time with it.

I do not believe the bill would have been reported out if I had had time to present the facts to the committee, as I probably should have done. Last year it was not reported by the committee, as I said a moment ago. There were on the subcommittee last year the Senator from New Mexico [Mr. HATCH] and the Senator from Kentucky [Mr. LOGAN]. My recollection is that those were the two members of the subcommittee last year. Perhaps I am mistaken. I know the Senator from New Mexico [Mr. HATCH] was on the subcommittee, and I think both Senators were, and neither of them would have recommended reporting out the bill. They never considered it of sufficient merit even to bring it onto the floor of the Senate. In the House of Representatives a companion bill never was given sufficient consideration to be seriously considered by the Committee on Interstate and Foreign Commerce.

Mr. President, I had hoped that the bill would not be taken up. I do not want to delay my friend the Senator from New Jersey if he wishes to present any further argument on the matter. I should like to have an opportunity to submit some charts and some schedules to the Members of this body before they vote on this question. I want to submit a chart to the Senators representing the wheat sections of the country. I want to present a chart showing what this bill would cost the wheat farmers if there ever is to be any more export wheat business in the United States. I want to show that the effect on the meat business by the unreasonable discrimination imposed by this kind of legislation would be to keep us from getting the meat business which Argentina has taken away from us.

I should like to show what it would do to the cotton business. I think I have the means, on short notice and a reasonable opportunity, of gathering the information for the Senate. I should like to have an opportunity of presenting these matters to the Senate before it undertakes to take up the bill.

I am sure that if the Members of this body will only consider the matter from even the narrowest, most selfish standpoint none of them will vote to have the bill taken up and considered by the Senate at this time. If there are those whose constituents are affected by waterways, they will see what this would do to them, and they will not vote to take the bill up. So I hope we may not take the time of the Senate to have this bill considered now.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Jersey [Mr. MOORE] that the Senate proceed to consider the bill (S. 1633) to amend the Interstate Commerce Act, as amended, and for other purposes.

Mr. CLARK. If a vote is to be taken on the motion this evening, I suggest the absence of a quorum.

Mr. McNARY. Mr. President, will the Senator withhold the suggestion a moment?

Mr. CLARK. I withhold the suggestion.

Mr. WALSH. Mr. President, will the Senator from Oregon yield to me?

Mr. McNARY. I yield.

Mr. WALSH. Would the Senator from Louisiana be willing to have a vote on this question at 1 o'clock tomorrow?

Mr. LONG. I had understood from the Senator from Arkansas that we were to adjourn over tomorrow.

Mr. ROBINSON. Mr. President, I will state to the Senator from Louisiana that I am not in a position to ask for a recess over until Wednesday, as I had at first thought to do. The recess will be until tomorrow.

Mr. WALSH. Mr. President, I did not hear the statement of the Senator from Arkansas.

Mr. ROBINSON. I stated that it was thought at one time during the day that probably we could take a recess until Wednesday, but on account of the fact that the Committee on Banking and Currency did not report today, as was expected, but probably will report tomorrow, I have decided to ask for a recess until tomorrow, in order to give the committee an opportunity to report at that time. The question now is whether the vote on the motion of the Senator from New Jersey to proceed to the consideration of the bill which has been under discussion shall be taken this afternoon, the

Senator from Missouri having announced that if a vote is to be taken this afternoon a quorum should be summoned.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. ROBINSON. I yield.

Mr. CLARK. I should like to ask the Senator from Massachusetts whether his request was for a vote on the motion to take up the bill or on the bill itself. If the request related to the motion to take up the bill, so far as I am concerned, I have no objection, but I should like to have an opportunity to examine the cases submitted by the Senator from Louisiana today.

Mr. LONG. Mr. President, I had hoped to be able to get some exhibits to present to the Senate. I do not want this measure taken up. I want to assemble some exhibits. I thought I had them in my files, but I find I cannot lay my hands on them, and I may have to go to the Interstate Commerce Commission to get them from their files.

Mr. WALSH. Could not the Senator do that after the bill had been taken up?

Mr. LONG. I think I can prevail on the Senate not to take up the bill. I am not so sure that the Senate will take it up. I have not taken much time on the bill, and I think the Senator will agree that I have not spent a minute in filibustering. I have discussed the case as well as I knew how to discuss the merits of any case. This is quite a broad case, much broader than it seems.

Mr. WALSH. The Senator is apparently unwilling to agree to a vote at 1 o'clock.

Mr. LONG. I should not want to have a vote taken at that time.

Mr. WALSH. The Senator has spent a long time in discussing the bill.

Mr. LONG. I testified in the case before the Interstate Commerce Commission for 2 days, and they did not think it was very long. I tried the case before the Interstate Commerce Commission for a considerable time.

Mr. WALSH. Mr. President, I renew my request that the Senate proceed to vote on the pending motion at 1 o'clock tomorrow.

Mr. LONG. Will not the Senator make it 2 o'clock?

Mr. WALSH. I will make the hour 2 o'clock.

The PRESIDING OFFICER. The Senator from Massachusetts asks unanimous consent that the Senate vote on the pending motion at not later than 2 o'clock tomorrow. Is there objection?

Mr. MOORE. I object. I ask for a vote now on the motion to proceed to the consideration of the bill.

Mr. CLARK. I renew my suggestion of the absence of a quorum.

Mr. McNARY. Mr. President, does the Senator from Arkansas desire to move a recess at this time?

Mr. ROBINSON. Mr. President, the Senate may, if it chooses to do so, take a vote on the motion. I do not expect a vote on the bill today. The Senator from New Jersey insists upon a vote on his motion today, and I do not see any objection to that. The debate on the bill may continue. Of course, all the debate today has been on the merits of the bill.

Mr. MOORE. Mr. President, I withdraw the objection.

Mr. CLARK. I withdraw the suggestion of the absence of a quorum.

Mr. ROBINSON. Mr. President, let the request be resubmitted, then.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. WALSH] asks unanimous consent that the Senate vote on the pending motion not later than 2 o'clock tomorrow. Is there objection? The Chair hears none, and it is so ordered.

Mr. WALSH. Mr. President, I give notice that if I can obtain recognition for 10 minutes before 2 o'clock p. m. tomorrow, I desire to discuss the matter pending before the Senate.

Mr. ROBINSON. Mr. President, I suggest that the Senator from Massachusetts now take the floor.

Mr. WALSH. I shall be very glad to do so.

Mr. LONG. Mr. President, I have no objection to the Senator from Massachusetts speaking tomorrow.

EXECUTIVE SESSION

Mr. ROBINSON. If the Senator from Massachusetts, who has the floor, will yield for that purpose, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. McGILL in the chair) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

Mr. ASHURST, from the Committee on the Judiciary, reported favorably the nomination of John J. Morris, Jr., of Delaware, to be United States attorney, district of Delaware, vice Leonard E. Wales, resigned.

Mr. SHEPPARD, from the Committee on Military Affairs, reported favorably the nominations of several officers for appointment, by transfer, in the Regular Army.

He also, from the same committee, reported favorably the nominations of sundry persons for appointment as officers in the Air Corps of the Regular Army.

Mr. TRAMMELL, from the Committee on Naval Affairs, reported favorably the nominations of sundry officers in the Navy and the Marine Corps.

Mr. PITTMAN, from the Committee on Foreign Relations, reported favorably Executive P, Seventy-fourth Congress, first session, being an agreement between the United States and Germany terminating part of article VII of the treaty of friendship, commerce, and consular rights, signed December 8, 1923, and in effect since October 14, 1925, and submitted a report (Exec. Rept. No. 13) thereon.

The PRESIDING OFFICER. The reports will be placed on the Executive Calendar.

If there be no further reports of committees, the calendar is in order.

PHILIPPINE ISLANDS HIGH COMMISSIONER

The legislative clerk read the nomination of Frank Murphy, of Michigan, to be United States High Commissioner to the Philippine Islands.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters on the calendar.

Mr. ROBINSON. I ask that the nominations of postmasters on the calendar, with the exception of the one passed over, be confirmed en bloc.

The PRESIDING OFFICER. Without objection, with the exception noted, the nominations of postmasters on the calendar will be confirmed en bloc.

That completes the calendar.

RECESS

Mr. ROBINSON. I move that the Senate take a recess until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 12 minutes p. m.) the Senate, in legislative session, took a recess until tomorrow, Tuesday, July 2, 1935, at 12 o'clock meridian.

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## NOMINATIONS

*Executive nominations received by the Senate July 1 (legislative day of May 13), 1935*

ASSISTANT TO THE ATTORNEY GENERAL

Harold M. Stephens, of Utah, to be Assistant to the Attorney General, vice William Stanley, resigned.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY

Lester A. Walton, of New York, to be Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Liberia.

CONSUL GENERAL OF THE UNITED STATES

Edwin Carl Kemp, of Florida, now a Foreign Service officer of class 4 and a consul, to be a consul general of the United States of America.

APPOINTMENTS IN THE REGULAR ARMY

MEDICAL CORPS

*To be first lieutenants with rank from July 1, 1935*

First Lt. David Wanless Clotfelter, Medical Corps Reserve.
First Lt. Charles Henry Bramlitt, Medical Corps Reserve.
First Lt. Ralph Wendell Lewis, Medical Corps Reserve.
First Lt. Frank Dudley Jones, Jr., Medical Corps Reserve.
First Lt. Howard Fletcher Currie, Medical Corps Reserve.
First Lt. George Frederick Baier, 3d, Medical Corps Reserve.
First Lt. Louis Kenneth Mantell, Medical Corps Reserve.
First Lt. John Harry King, Jr., Medical Corps Reserve.

APPOINTMENT, BY TRANSFER, IN THE REGULAR ARMY

TO FIELD ARTILLERY

First Lt. James Julius Winn, Infantry, with rank from December 5, 1934.

PROMOTIONS IN THE REGULAR ARMY

TO BE CAPTAIN

First Lt. Thomas Benoit Hedekin, Field Artillery, from June 21, 1935.

TO BE FIRST LIEUTENANTS

Second Lt. William Charles Dolan, Air Corps, from June 21, 1935.

Second Lt. Ivan Lonsdale Farman, Air Corps, from June 22, 1935.

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CONFIRMATIONS

*Executive nominations confirmed by the Senate July 1 (legislative day of May 13), 1935*

HIGH COMMISSIONER TO THE PHILIPPINE ISLANDS

Frank Murphy to be United States High Commissioner to the Philippine Islands.

POSTMASTERS

ARKANSAS

Samuel J. T. Wynne, Dermott.
Floyd E. Fincher, Waldo.

MICHIGAN

Mabel A. Amspoker, Ashley.
William A. Young, Bellevue.
James McDonnell, Grayling.
Frank R. Moses, Marshall.

NEW JERSEY

John Carey, Glassboro.
Catherine S. E. Cullen, Millington.

PENNSYLVANIA

John H. Baldwin, Atglen.
Charles H. Reisinger, Dallastown.
Reuben S. Lauer, Dover.
Thomas A. Wilson, Ellwood City.
Agnes Ann Flynn, Laporte.
Homer C. Kifer, Manor.
Margaret E. Treacher, Mather.
Donald R. Sheehan, Mehoopany.
W. Frederick Clevenstine, Mingoville.
Thomas A. Howe, Morrisdale.
Lester D. Sedam, Muncy.
Robert M. Graham, Newville.
Joseph M. Gilliland, Snow Shoe.
Thomas M. Shade, Turbotville.

TENNESSEE

Philip T. Young, Baxter.
Willie Ozelle Barnes, Cowan.
Samuel H. Chase, Johnson City.

# HOUSE OF REPRESENTATIVES

MONDAY, JULY 1, 1935

The House met at 10 o'clock a. m.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, before whom the angelic hosts veil their faces and bow down, help us to accept the universe as our Father's house and to realize that we are here to be saved by sacrifice and service; Thou art our strength, and with Thee we overcome the world. Thou who dost call those who are weary and heavy laden, those who feel the burden of their tasks, we beseech Thee to call us. We pray for wisdom, for calm, for peace, for rest of spirit to carry our load of duty. Father of love, be our refuge in weariness; give us the joy of work well done, and bless us with the approval of a living God. To know that we are in the Father's house and near the Father's heart makes living an abiding joy. Glory be unto Thy holy name. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Saturday, June 29, was read and approved.

REGULATION OF THE LINE OF THE NAVY

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent to take from the Speaker's table H. R. 5599, an act to regulate the strength and distribution of the line of the Navy, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Chair appointed the following conferees: Mr. VINSON of Georgia, Mr. DREWRY, and Mr. DARROW.

MOVEMENT FOR MODERNIZING CONSTITUTION GAINS GROUND

Mr. HILDEBRANDT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. HILDEBRANDT. Mr. Speaker, the movement for modernizing the Constitution is steadily gaining ground.

Even from distinctly conservative sources there comes recognition of the fact that ought to be patent to everyone that the Constitution is a mobile document intended to represent the needs and aspirations of the people of the present age rather than to be a chain to bind us to restrictions of a previous period.

A. Mitchell Palmer, Attorney General under President Wilson, has stated the case in cogent language, and I wish to quote from him.

> The question is whether the Constitution shall be pickled in its original liquor and stubbornly preserved in its pristine form, or whether it shall be preserved in the manner in which its framers intended, to meet the changing needs of the new growth and development of a great country.
>
> To suggest changes in the Constitution is not an attack upon the Constitution.
>
> Those who argue now that the Constitution is sacrosant and * * * must remain always as it was written, are insisting that this people * * * shall be governed not by themselves, but by a dead hand reaching out of the darkness of the eighteenth century.
>
> * * * It seems plain that the wise men who framed the Constitution made certain that it should never die from disease or old age.
>
> * * * those who would restrain the people from exercising their will are not only the would-be destroyers of popular government but they are also the real enemies of the Constitution, for they assert that the Constitution as written, including the power to alter it, shall no longer serve its God-given purpose.

I note that Senator GEORGE W. NORRIS of Nebraska, for whom every socially minded citizen must have the most profound respect because of his lifetime of devotion to the struggle against exploitation, has proposed a constitutional amendment under which the Supreme Court would be denied the power to declare an act of Congress unconstitutional except by a two-thirds vote. He also favors a time

limit under which the court's ruling would have to be made within 6 months after enactment of a statute, else the law would automatically be considered constitutional. And he suggests having test cases taken direct to the Supreme Court instead of going through lower courts first.

Senator NORRIS's plan would, beyond question, be a great improvement over the present state of affairs in which, by a 5-to-4 vote, humanitarian legislation may be knocked into a cocked hat after long-winded litigation in several courts and after a year or even several years have elapsed.

Yet, in my judgment, Senator NORRIS does not strike the ax at the root of the trouble. I have contended, and I still contend, that the Supreme Court usurped the authority of Congress when it began declaring laws unconstitutional. The Constitution itself grants no such power to this highest judicial body. It was 16 years after the adoption of the Constitution before the court arrogated to itself this privilege.

If the Supreme Court has no right to interfere with national legislation, it does not matter whether the interference is the consequence of a 6-to-3 vote or a 5-to-4 vote, or a 9-to-0 vote as was the case when, to the astonishment of most progressive people, the Court tossed both the N. R. A. and the Frazier-Lemke law into the discard. If popular government is to be thrown out of the window, who cares whether nine men vote to throw it out or two-thirds of the nine? The net result is the same.

The point is that the Court was, in all probability, never expected to exercise any such power, and it certainly never ought to exercise it. It is said that the Constitutional Convention four times voted down judicial-review proposals. One proposition was for the President and the judiciary acting together as a council of revision, to veto congressional legislation. This was defeated, along with other suggestions of a like nature.

The preponderance of proof seems strongly on the side of the claim that the Constitution itself did not contemplate the possession by the Supreme Court of the authority to kill a law by ruling it to be unconstitutional. The records of the period indicate that it was expected that the laws of the American Congress, like those of the British Parliament, would become effective without challenge by any court—that the people's will, expressed through the national lawmaking body, would be final.

But if this had not been so, it would nonetheless be our duty to make it so for future generations. We have had enough of the emasculation of wholesome statutes because of some alleged incongruity with a basic law of 150 years ago. It is on this account that I have urged, and still urge, an amendment to the Constitution that will clearly establish the right to pass humanitarian laws, and another amendment that will just as clearly establish that the Supreme Court has no control whatever over legislation.

Before me is a bitter, smashing editorial by Oscar Ameringer in an Oklahoma City labor paper, the American Guardian. There is food for serious thought in his burning words, part of which I quote:

> The other day the custodians of the Constitution of the United States said property cannot be taken, no matter how great the suffering of millions. * * * If I were property, the Constitution of the United States would protect me as it protects ass, ox, bull, and bank account. But, alas, I am not property. My body is not property. The strength of my arms, the skill of my fingers, the cunning of my brain, is not property. It is only life. And life may be taken without due process of law by simply depriving it of access to soil and tools. * * *
>
> All this is very hard on my constitution, but in full accord with the Constitution of the United States, for under it property is all and life is nothing. Yet my constitution will prevail in spite of dungeon, faggots, gallows, and Supreme Court decisions. * * *

Mr. Speaker, in this crucial time in the Nation's history, it is for citizens with conscience and courage to demonstrate, once and for all, that our Constitution is not to be utilized for the cruelty and oppression that Mr. Ameringer describes in such grim and graphic phrases.

LETTER TO HON. BASIL MANLY

Mr. WILSON of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include therein copy of a letter written by myself in response to one received from Mr. Basil Manley, which has already been placed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WILSON of Pennsylvania. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following letter written by myself in response to one received from Mr. Basil Manly, which has already been placed in the RECORD:

*June 29, 1935.*

Hon. BASIL MANLY,
*Federal Power Commission,*
*Washington, D. C.*

My Dear Mr. MANLY: I am just in receipt of your letter of the 28th inst., in which you take exception to the remarks made by me on the floor of the House of Representatives on June 27, 1935, insofar as they contained any reference to you.

I can assure you that it never was my intention to make any misstatement either in public or in private concerning any individual, much less anyone connected with the administration of our national affairs.

You will note that during the course of my remarks I stated that my authority was The Red Network, published by Dilling in 1934. I assumed the correctness of the statements contained therein, particularly in view of the fact that there have been four printings of this book, the latest of which was published in January 1935.

I have no personal knowledge of the statements contained therein having been refuted down to the time I made my address before the House of Representatives.

For your convenience, permit me to quote the following from page 259 of The Red Network:

"Names and information in this 'Who's Who' have been taken principally from the official literature and letterheads of the organizations mentioned; from the radicals' own American Labor Year Book and American Labor Who's Who; from the report of the Joint Legislative Committee of the State of New York Investigating Seditious Activities (called the 'Lusk Report') based upon documentary evidence; from United States Report 2290 of the special committee of the House of Representatives to investigate Communist activities in the United States, headed by Hon. HAMILTON FISH; from literature and data sheets of Mr. Fred Marvin, national secretary of the American Coalition of Patriotic Societies, New York City; from reports by Francis Ralston Welsh, of Philadelphia, attorney, long a partiotic research authority on subversive activities; from the documentary files of the Advisory Associates, Chicago; from data furnished by the Better America Federation of California; and from other reliable sources."

On page 304 of the same publication, under the alphabetical listing of the letter "M", appears (their abbreviation):

"Manly, Basil M: Socialist; dir. People's Legis. Serv., 1921–27; was on I. W. W. Defense Com.; Conf. Prog. Pol. Act.; mem. Garland Fund Com. on Am. Imperialism; was contrib. ed. of Inter-Coll. Socialist Society organ; 1933 appointed mem. Fed. Power Commission by Pres. Roosevelt; Nat. Save our Schools Com.; author of publications distri. by Rand Sch.; Nat. Citiz. Com. Rel. Lat. Am. 1927."

In addition thereto, a reference to the index in the same book shows that the Inter-Collegiate Socialist Society is now called "League for Industrial Democracy", and on page 185 the League for Industrial Democracy, inter alia, is described as follows:

"Militant Socialist; headed by Robert Morss Lovett, active in Communist organizations; founded by the revolutionary Jack London in 1905, as the Intercollegiate Socialist Society; changed its name in 1921, after socialism acquired a bad odor owing to the jailing of many Socialists during the war for seditious activities; heavily subsidized by Garland Fund; spreads Socialist-Communist propaganda and literature in colleges; operates chapters of its intercollegiate 'student council' in about 140 colleges, many under the guise of 'student councils', 'social problems', 'radical', or 'socialist' clubs, etc.; in 1933 it claimed: Last year the speakers corps of the L. I. D. reached almost every State in the Union and spoke to some 175,000 people. Norman Thomas, Harry Laidler, Paul Blanshard, Paul Porter, and Karl Borders, reached about 60,000 students in 160 colleges and universities in 40 States. Likewise they spoke to about 100,000 people in noncollege meetings. In addition to these speeches there were innumerable general meetings, political meetings, and radio broadcastings at which L. I. D. speakers appeared'; very closely interlocked by officership with the A. C. L. U.; prepares and widely distributes thousands of Communist and Socialist leaflets, and pamphlets; publishes four publications: Disarm, Unemployed, Revolt (now Student Outlook), and L. I. D.; issues a news service and fortnightly Norman Thomas editorial service to some 250 leading papers throughout the United States; has a national board of directors from 23 States composed mostly of leaders of over 300 other interlocked organizations; conducts student conferences on red revolutionary subjects; drills students in radicalism each summer at Camp Tamiment, Pa.; formed the Federation of Unemployed Workers Leagues of America all over the United States, under joint Communist, Socialist, I. W. W., and Proletarian Party (Communist) control; sponsors the emergency committee for strikers' relief (see), which

aids Communist-Socialist strikes; agitates: For Government ownership (and against individual ownership) of all banking, transportation, insurance, communication, mining, agricultural, and manufacturing enterprises, forests, and oil reserves; for socialization of land and other property, and for social, unemployment, sickness, old-age, and other State doles to the public; its slogan is 'Education toward a new social order, based on production for use and not for profit' (of the individual), which is, of course, the Socialist-Communist tenet; joins the Communists in advocating disarmament of the so-called 'capitalist state' and the arming of the proletarian state and endeavors to convince students and workers that this will bring about prevention of war, claiming the capitalists use the armed forces to fight for markets, etc.—not mentioning how the Socialists use armed forces to rule the workers after the system they advocate has made them paupers and slaves (as in Russia); it calls on youth to help put the War Department out of colleges by stamping out the R. O. T. C., and claims it enlisted 10,000 students in 1931, in 150 colleges, who signed petitions against military training (however, J. B. Mathews, prominent in Communist meetings and an editor of its Student Outlook, says he is not opposed to a war that will end capitalism); it boasts that student members of the L. I. D. have been in the thick of the miners' struggles in Harlan County, Ky., and in West Virginia, and in picketing and making investigations of labor conditions, helping organization work of unions, and other radical agitation; it states of its literature: 'These publications are widely used by college classes and labor, church, and Y. M. C. A. and Y. W. C. A. groups.'"

Notwithstanding the above published statements, I, personally, am satisfied to accept the denials set forth in your communication, and sincerely hope that you will take such steps as are necessary to have the context of The Red Network referring to you corrected.

It was my intention to have your communication addressed to me placed in the CONGRESSIONAL RECORD, but I find that that had already been done, even before I saw your letter or had an opportunity to reply thereto.

I will, therefore, follow it up by having placed in the RECORD a copy of my answer to you.

Yours very truly,

W. H. WILSON.

CALL OF THE HOUSE

Mr. KELLER. Mr. Speaker, I make the point of no quorum.

The SPEAKER. Evidently there is no quorum.

Mr. TAYLOR of Colorado. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 112]

| | | | |
|---|---|---|---|
| Bankhead | Dies | Kennedy, Md. | Schuetz |
| Barden | Dirksen | Kerr | Scott |
| Bland | Dockweiler | Kniffin | Shannon |
| Brennan | Drewry | Kopplemann | Short |
| Brewster | Fish | Lamneck | Smith, W. Va. |
| Brooks | Gasque | Lehlbach | Stack |
| Buckley, N. Y. | Gehrmann | Lesinski | Stefan |
| Bulwinkle | Gillette | Lord | Sumners, Tex. |
| Burdick | Goldsborough | Luckey | Sutphin |
| Carlson | Greenwood | McLeod | Taylor, S. C. |
| Carter | Griswold | Marcantonio | Thomason |
| Celler | Guyer | Oliver | Thompson |
| Chandler | Gwynne | O'Malley | Underwood |
| Claiborne | Hancock, N. C. | Palmisano | Utterback |
| Cochran | Harlan | Perkins | Whelchel |
| Cole, Md. | Hartley | Peyser | Withrow |
| Colmer | Healey | Ramsay | Zimmerman |
| Darden | Hennings | Reilly | |
| Dempsey | Higgins, Conn. | Russell | |
| DeRouen | Houston | Ryan | |

The SPEAKER. Three hundred and fifty-two gentlemen have answered to their names, a quorum.

On motion of Mr. TAYLOR of Colorado, further proceedings under the call were dispensed with.

COMMITTEE ON FOREIGN AFFAIRS

Mr. McREYNOLDS. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs may have permission to sit during the session of the House on tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

PUBLIC UTILITY ACT OF 1935

Mr. RAYBURN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 2796) to provide for the control and elimination of public-utility holding companies operating or marketing securities in interstate and foreign commerce and through the mails, to regulate the transmission and sale of electric energy in interstate commerce, to amend the Federal Water Power Act, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 2796, with Mr. WARREN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Saturday afternoon the reading of the bill had been completed up to section 11. By agreement, the amendment offered by the gentleman from New York [Mr. WADSWORTH] to section 2 is held to be in order the first thing this morning.

The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. WADSWORTH: On page 162, lines 8 and 9, after the word "means", strike out "the Securities and Exchange Commission" and insert in lieu thereof "the Federal Power Commission."

Mr. WADSWORTH. Mr. Chairman, when I offered this amendment on Saturday afternoon I did so having in mind obviating the very serious and extensive duplication of effort and expense, both to the Government and to the persons to be supervised, if this jurisdiction over the utilities field should be divided between the Securities and Exchange Commission and the Federal Power Commission. It was the purpose of my amendment to center the jurisdiction in one commission in order to avoid such duplication.

I find, however, Mr. Chairman, that at the very end of the bill, on page 292, in section 318, provision is made for the avoidance of conflicts in jurisdiction, and in reading that section I have reached the conclusion that a large measure of duplication and overlapping can be, and will be, avoided. It was my failure to recall or to notice that at the last moment this section was added to the bill that accounts for my offering the amendment.

Mr. RANKIN. If the gentleman will permit a question, is there one of those provisions in the Senate bill?

Mr. WADSWORTH. I am not certain whether the equivalent of section 318 is contained in the Senate bill, but as we are considering the House bill, section 318 in large measure meets my objection, and I, therefore, ask unanimous consent to withdraw the amendment which I offered on Saturday afternoon.

The CHAIRMAN. The gentleman from New York asks unanimous consent that he be permitted to withdraw the amendment which he has offered to section 2. Is there objection?

There was no objection.

The CHAIRMAN. Under the agreement, the Committee will now return to section 6, the amendment offered by the gentleman from Wisconsin, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. SAUTHOFF: On page 183, after line 20, add a new subsection, as follows:

"(d) Every registered holding company and every subsidiary company thereof, on or before January 1, 1936, shall take such steps as may be necessary to give to the holders of each class of preferred stock, common stock, or any other stock of such company, voting rights equal, dollar for dollar, to the voting rights had by the holders of that class of stock of such company which has the greatest voting rights. Every registered holding company and every subsidiary company thereof, on or before January 1, 1936, shall take such steps as may be necessary to give to the holder of each bond or debenture of such company contingent voting rights equal, dollar for dollar, to the voting rights had by the holders of that class of stock of such company which has the greatest voting rights; such voting rights shall be contingent and exercisable upon any default in the payment of interest or principal upon such bond or debenture and shall be effective during the continuance of any such default."

Mr. SAUTHOFF. Mr. Chairman, on January 27 the minority leader of the committee, the gentleman from Ohio [Mr. COOPER] made the statement that this bill would destroy all holding companies. To this statement I take exception. The bill does nothing of the kind. What does this bill do?

It exempts from its provision—and I wish you would note these four classes—first, all operating companies. What does this mean? It means that for every dollar invested in holding-company utilities there are $4 of the public's money invested in operating utilities—$4 to $1. This is the ratio, and all the $4 are exempt, and, therefore, four-fifths of the public's money invested in utilities is entirely exempt from the provisions of this act.

The second class is composed of all operating companies engaged in purely intrastate commerce.

The third class consists of all operating and holding-company systems which are engaged predominantly in the operation of the generation and transmission of gas and electric power, which systems are in contiguous States, even though engaged in interstate commerce; and last, but not least, all holding and operating systems which are geographically and economically integrated, even though engaged in interstate commerce. Those are the four classes that are exempt, constituting 91 percent of the investments that are in holding and operating companies. The only thing this bill touches is the 9 percent of the money that is invested in holding and operating systems; and what does it do as to the 9 percent? Does it destroy them? No; absolutely not. What does it provide about that? It simply provides that they can continue as they are, saying to them that they do not have to change their corporate existence, or to make one single solitary operation as to their bylaws or organization, but that they must surrender control, and that is the one thing on earth that they do not want to do.

What does my amendment provide? My amendment merely provides that those who put their money, the vast investing public, into this business shall have the right to vote as to what is to be done with their money.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. MAVERICK. Mr. Chairman, I ask unanimous consent that his time be extended for 5 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. COOPER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. SAUTHOFF. Yes.

Mr. COOPER of Ohio. Is the gentleman speaking of the House bill or the Senate bill?

Mr. SAUTHOFF. I am speaking of the Senate bill.

Mr. COOPER of Ohio. That is what I thought.

Mr. SAUTHOFF. And the House bill tries to evade what is in the Senate bill. To get back to my point, all my amendment does is to give to the public that is investing its money in public utilities a right to vote, and I say now that the public bought and paid for every utility in the United States, and why should it not have the right to vote as to what is to be done with its money? They paid for them; it is their money. Why should they be shut out from a voice in what is to be done with their money? All this amendment asks is for you to give the holders of preferred stock a right to vote.

One more provision in my amendment is, that in case there is a default in payment either of interest or principal on the bonds held in the holding company, that the holder of the bonds shall have the right to vote. What is wrong about that? It is his money. The President recently said that this bill inflicted no death sentence. That is a specious phrase used to frighten children. It cannot frighten anyone who analyzes the bill, because it is not true. The President said it does not destroy, it does not pass the death sentence. He made the statement that this bill is an emancipation proclamation for the investor in utility securities. I go a step further than that. There is an earlier American doctrine on which our very existence has been founded, and that is the doctrine enunciated by the immortal Virginian, Patrick Henry, when he said that taxation without representation is tyranny. The public has been taxed in buying the preferred stock and in buying bonds in the entire utility structure. We have been taxed, but we have not been allowed to be represented, and all I ask in this amendment is that those who are taxed be allowed to have representation in the control of these companies.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. SAUTHOFF. Yes.

Mr. MAY. I agree with the gentleman absolutely in the statement that the vast majority of the money that is in the utilities of this country has been put in by the people, including the employees of the company. What does the gentleman think of the provision of the House bill that where 10 percent of the stock in any operating company is owned by a holding company it comes within the domination of the bill?

Mr. SAUTHOFF. I am in favor of it, if thereby the holding company has control.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. RAYBURN. Mr. Chairman, I dislike very much to oppose an amendment that has the intent of the amendment of the gentleman from Wisconsin. I don't think there was anything, with possibly the exception of sections 11 and 13 in the bill, that gave the committee quite as much pause, and over which we worked longer than this very matter of what sort of stock should have voting rights. I think there is enough in the Senate bill, and especially in section 11, which will remain in the Senate bill whether we put it in here or not, and in the House bill also for us to go to conference upon and work out there this matter, in all probability in better fashion than we could here on the floor of this House. The amendment the gentleman from Wisconsin has offered is a highly technical amendment, and since its offering on Saturday I have discussed it with our legislative counsel and they even are not willing to say just how far the amendment may go. They also raise the question of the legality of the amendment that would change the rights of securities issued heretofore and then, further than that, the amendment is rather indefinite and not at all clear, that it applies only to issues of securities in the past and not to issues of securities in the future. Therefore I say it is one question that must be fought out in conference where we will have both the Senate and House legal drafting talent, and I think it would be fortunate if we do not today accept an amendment of this wide range without further consideration.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. RAYBURN. Yes.

Mr. DONDERO. Does not the amendment do this? Does it not place the bondholder who usually has a senior lien on all of the physical properties, by virtue of mortgage, in a position of preference over the stockholder and give the bondholder the right to vote equally with the stockholder?

Mr. RAYBURN. That was very clearly brought out and argued in the subcommittee and the full committee and we decided not to do it.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Wisconsin [Mr. SAUTHOFF].

The amendment was rejected.

The Clerk read as follows:

SIMPLIFICATION OF HOLDING-COMPANY SYSTEMS

SEC. 11. (a) It shall be the duty of the Commission to examine the corporate structure of every registered holding company and subsidiary company thereof, the relationships among the companies in the holding company system of every such company and the character of the interests thereof and the properties owned or controlled thereby to determine the extent to which the corporate structure of such holding-company system and the companies therein may be simplified, unnecessary complexities therein eliminated, voting power fairly and equitably distributed among the holders of securities thereof, and the properties and business thereof confined to those necessary or appropriate to the operations of one or more integrated public-utility systems.

(b) It shall be the duty of the Commission, after notice and opportunity for hearing, by order to require each registered holding company and each subsidiary company thereof to take such action (either by divesting itself of any interest in or control over property or persons, or otherwise) as the Commission finds necessary to limit the operations of the holding-company system of which such company is a part to a single integrated public-utility system; except that if the Commission finds that it is not necessary in the public interest to so limit the operations of such holding-company system, the order of the Commission shall require such company to take only such action (either by divest-

ing itself of any interest in or control over persons or property, or otherwise) as the Commission finds necessary to limit such operations to such number of integrated public-utility systems as it finds may be included in such holding-company system consistently with the public interest. The Commission shall not, under the foregoing provisions of this subsection, require any company to divest itself of any interest in or control over (1) persons or property other than a public-utility company or the utility assets of a public-utility company unless the Commission finds that such interest or control may not be retained consistently with the public interest, or (2) any person doing business exclusively outside the United States, or property located outside the United States.

(c) The Commission may proceed under subsection (b) either upon its own motion or upon application of any registered holding company and all subsidiary companies thereof, but no such proceeding shall be begun upon the Commission's own motion prior to January 1, 1938.

(d) The Commission is authorized, if appointed by the court, to act as trustee or receiver in any proceeding instituted under subsection (f) of section 18 for the enforcement of an order issued under subsection (b) of this section.

(e) Any order under subsection (b) shall be complied with within 1 year from the date of such order; but the Commission shall, upon a showing (made before or after the entry of such order) that the applicant has been or will be unable in the exercise of due diligence to comply with such order within such time, extend such time for an additional period not exceeding 1 year if it finds such extension necessary or appropriate in the public interest or for the protection of investors or consumers.

(f) It shall be unlawful for any person to solicit or permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, authorization, or power of attorney, in respect of any reorganization plan of a registered holding company or any subsidiary company thereof under this section, or otherwise, or in respect of any plan under this section for the divestment of control, securities, or other assets, or for the dissolution of any registered holding company or any subsidiary company thereof, unless—

(1) the plan has been proposed by the Commission, or the plan and such information regarding it and its sponsors as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers has been submitted to the Commission by a person having a bona fide interest (as defined by the rules and regulations of the Commission) in such reorganization;

(2) each such solicitation is accompanied or preceded by a copy of a report on the plan which shall be made by the Commission after an opportunity for a hearing on the plan and other plans submitted to it or by an abstract of such report made or approved by the Commission; and

(3) each such solicitation is made not in contravention of such rules and regulations or orders as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers.

Nothing in this subsection or the rules and regulations thereunder shall prevent any person from appearing before the Commission or any court through an attorney or proxy.

Mr. EICHER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EICHER: To strike out all of section 11, extending from line 14, page 196, to and including line 3, page 200, and to insert in lieu thereof the following:

"SIMPLIFICATION OF HOLDING-COMPANY STRUCTURES; REORGANIZATIONS

"SEC. 11. (a) It shall be the duty of the Commission to examine the corporate structure of every registered holding company and subsidiary company thereof, the relationships among the companies in the holding company system of every such company and the character of the interests thereof and the properties owned or controlled thereby to determine the extent to which the corporate structure of such holding-company system and the companies therein may be simplified, unnecessary complexities therein eliminated, voting power fairly and equitably distributed among the holders of securities thereof, and the properties and business thereof confined to those necessary or appropriate to the operations of a single geographically and economically integrated public-utility system.

"(b) It shall be the duty of the Commission, after notice and opportunity for hearing—

"(1) After January 1, 1938, to require each registered holding company and each subsidiary company thereof to divest itself of any interest in or control over property or persons to the extent that the Commission finds necessary or appropriate to limit the operations of the holding-company system of which such company is a part to a single geographically and economically integrated public-utility system, and such business as is reasonably incidental, or economically necessary or appropriate, to the operations of such system; the Commission may permit as reasonably incidental or economically necessary or appropriate to the operations of such system the retention of an interest in any business (other than the business of a public-utility company as such) in which such registered holding company or any such subsidiary company thereof is engaged or has an interest if the Commission finds (1) that such business is affected with a public interest and its rates or charges are regulated by law, and that the retention of such interest in such business is not detrimental to the proper functioning of a single geographically and economically integrated public-utility system, or (2) that such business is solely that of owning and operating farm lands for agricultural or horticultural purposes and is carrying on experimental or developmental work in agriculture or horticulture, in connection with any State or any political subdivision, or educational institution of such State, for the improvement of agriculture or horticulture in such State;

"(2) After January 1, 1938, to require each registered holding company, and each subsidiary company thereof, to be reorganized or dissolved whenever the Commission finds that the corporate structure or continued existence of such company unduly or unnecessarily complicates the structure of the holding-company system of which it is a part, or unfairly or inequitably distributes voting power among the holders of securities, or is detrimental to the proper functioning of a single geographically and economically integrated public-utility system; and

"(3) Promptly after January 1, 1940, to require each registered holding company to take such steps (either by divesting itself of control, securities, or other assets, or by reorganization or dissolution, or otherwise) as the Commission finds necessary or appropriate to make such company cease to be a holding company: *Provided, however,* That the Commission, upon such terms and conditions as it may find necessary or appropriate in the public interest or for the protection of investors or consumers, shall permit a registered holding company to continue to be a holding company in the first degree if such company has obtained from the Commission a certificate that the continuance of the holding-company relation is necessary, under the applicable State or foreign law, for the operations of a geographically and economically integrated public-utility system serving an economic region in a single State or extending into two or more contiguous States or into a contiguous foreign country.

"(c) In any order under subsection (b), the Commission shall fix the time within which such order shall be complied with, not later than 1 year from the date of such order; but the Commission shall, upon a showing that the applicant has been or will be unable in the exercise of due diligence to comply with such order within the time fixed, extend such time for an additional period not exceeding 1 year if it finds such extension necessary or appropriate in the public interest or for the protection of investors or consumers.

"(d) The Commission may apply to a court, in accordance with the provisions of subsection (f) of section 18, to enforce compliance with any order under this section. Upon any such application the court as a court of equity shall take exclusive jurisdiction and possession, for the purposes of this title, of such assets of the company or companies, wherever located, as may be the subject of such order, or, in the case of any order for reorganization or dissolution, exclusive jurisdiction and possession, for the purposes of this title, of the company or companies and all the assets thereof, wherever located; and the court shall have jurisdiction to appoint a trustee; and the court may constitute and appoint the Commission as sole trustee to administer under the direction of the courts the assets so possessed and the proceeds thereof as a trust estate for the benefit of the persons interested therein as their interests may appear; and in any such proceeding the court shall not appoint any other person other than the Commission as trustee or receiver without notifying the Commission or giving it an opportunity to be heard before making any such appointment. In any proceeding for the enforcement of an order of the Commission under this section the trustee, with the approval of the Court, shall have power to dispose of any or all of such assets and, subject to such terms and conditions as the court may prescribe, may make such disposition in accordance with a fair and equitable reorganization plan which shall have been approved by the Commission after opportunity for hearing. Such reorganization plan may be proposed in the first instance by the Commission or, subject to such rules and regulations as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, by any person having a bona fide interest (as defined by the rules and regulations of the Commission) in the reorganization.

"(e) In accordance with such rules and regulations as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers, any registered holding company or any subsidiary company of a registered holding company may, at any time after January 1, 1936, submit a plan to the Commission for the divestment of control, securities, or other assets, or for the reorganization or dissolution, of such company or any subsidiary company thereof for the purpose of enabling such company or any subsidiary company thereof to comply with the provisions of this title and the rules, regulations, and orders thereunder or to make unnecessary the issuance of any order by the Commission in respect of any such company under subsection (b). If, after notice and opportunity for hearing, the Commission shall approve such plan, as submitted or as modified to meet such terms and conditions as the Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers, as fair and equitable to the persons affected by such plan and as appropriate to effectuate the provisions of this title and the rules, regulations, and orders thereunder, the Commission shall make an order authorizing and directing such company or any subsidiary company thereof to divest itself of control, securities, or other assets or to be reorganized or dis-

solved in accordance with such plan; and the Commission may apply to a court, in accordance with the provisions of subsection (f) of section 18, to enforce compliance with such order. If, upon any such application, the court after notice and opportunity for hearing, shall approve such plan as fair and equitable and as appropriate to effectuate the provisions of this title and the rules, regulations, and orders thereunder, the court shall take exclusive jurisdiction and possession, for the purpose of this title, of such assets of the company or companies, wherever located, as may be the subject of such order, or, in the case of any order for reorganization or dissolution, exclusive jurisdiction and possession, for the purposes of this title, of the company or companies and all the assets thereof, wherever located; and the court shall have jurisdiction to appoint a trustee, and the court may constitute and appoint the Commission as sole trustee to administer, under the direction of the court and in accordance with the plan theretofore approved by the court and the Commission, the assets so possessed and the proceeds thereof as a trust estate for the benefit of the persons interested therein as their interests may appear. It shall be within the authority of the court and the Commission to approve and carry out any plan under this subsection which it would be within their respective authority to approve and carry out under subsection (d) of this section.

"(f) If any proceeding in a court of the United States, whether under this section or otherwise, in which a receiver or trustee is appointed for any registered holding company, or any subsidiary company thereof, the court may constitute and appoint the Commission as sole trustee or receiver, subject to the directions and orders of the court, whether or not a trustee or receiver shall theretofore have been appointed; and in any such proceeding the court shall not appoint any person other than the Commission as trustee or receiver without notifying the Commission and giving it an opportunity to be heard before making any such appointment. In any such proceeding a reorganization plan for a registered holding company or any subsidiary company thereof shall not become effective unless such plan shall have been approved by the Commission after opportunity for hearing prior to its submission to the court. Notwithstanding any other provision of law, any such reorganization plan may be proposed in the first instance by the Commission, or, subject to such rules and regulations as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, by any person having a bona fide interest (as defined by the rules and regulations of the Commission) in the reorganization. The Commission may, by such rules and regulations or order as it may deem necessary or appropriate in the public interest or for the protection of the investors or consumers, require that any or all fees, expenses, and remuneration, to whomsoever paid, in connection with any reorganization, dissolution, liquidation, bankruptcy, or receivership of a registered holding company or subsidiary company thereof in any such proceeding shall be subject to approval by the Commission.

"(g) It shall be unlawful for any person to solicit or permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce or otherwise, any proxy, consent, authorization, power of attorney, deposit, or dissent in respect of any reorganization plan under this section, or otherwise, or in respect of any plan under this section for the divestment of control, securities, or other assets, or for the dissolution of any registered holding company or any subsidiary company thereof, unless—

"(1) The plan has been proposed by the Commission, or the plan and such information regarding it and its sponsors as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers has been submitted to the Commission by a person having a bona fide interest (as defined by the rules and regulations of the Commission) in such reorganization;

"(2) Each such solicitation is accompanied or preceded by a copy of a report on the plan, which shall be made by the Commission after an opportunity for a hearing on the plan and other plans submitted to it, or by an abstract of such report made or approved by the Commission; and

"(3) Each such solicitation is made not in contravention of such rules and regulations or orders as the Commission may deem necessary or appropriate in the public interest or for the protection of investors or consumers.

"Nothing in this subsection or the rules and regulations thereunder shall prevent any person from appearing before the Commission or any court through an attorney or proxy."

Mr. RAYBURN. Mr. Chairman, this is the part of the bill about which great controversy has raged. It was a remarkable thing to me, of course, and to other members of the committee, that 10 far-reaching sections of this bill were read on Saturday and only two amendments offered. Therefore, we are swallowed up now in a discussion of this bill under the 5-minute rule with reference to the differences between section 11 of the House bill and section 11 of the Senate bill. I had hoped that we might run along under the 5-minute rule for a while and then fix time, but that does not seem to be practical. I spoke to the gentleman from Ohio [Mr. COOPER] about that a while ago, and it has been evident that there would be objection to anyone who spoke under the 5-minute rule proceeding for more than 5 minutes. Therefore, it seems to me the practical thing is to try to fix time in the beginning and that that time may be divided equally between the gentleman from Iowa [Mr. EICHER] and the gentleman from Ohio [Mr. COOPER].

I think debate on this section ought to be liberal. If we do as we did on Saturday, in 2 or 3 hours read 10 sections, when we get over this amendment we will pass over the remainder of the bill, both title I and title II, very fast.

There are a great many Members who want to be heard. I know the gentleman from Iowa [Mr. EICHER] cannot discuss this amendment with any degree of satisfaction to himself and the committee unless he is able to proceed for 15 minutes. Other Members would like time. I think it would be well if we could fix pretty liberal time. I am willing to propose 2 hours. I am willing that it shall run longer than 2 hours, as far as I am individually concerned, because it is only a few minutes after 11 now, and if we could vote on this matter by 2 o'clock or 2:30, I do not think we would lose very much time.

Mr. MAVERICK. Mr. Chairman, in the presentation of the debate the Republicans had one-half the time, all of which they used against what we wanted and what the President wanted. The majority of the time on the Democratic side was against the bill. So 75 or 80 percent of the 8 hours' debate was against the bill.

Mr. HUDDLESTON. Mr. Chairman, I demand the regular order.

Mr. MAVERICK. It seems unfair to give one-half the time to them now.

Mr. HUDDLESTON. Mr. Chairman, regular order.

The CHAIRMAN. The gentleman from Texas has the floor, but so far has submitted no unanimous-consent request.

Mr. HUDDLESTON. Then no one is entitled to the floor.

The CHAIRMAN. The gentleman from Texas is entitled to the floor for 5 minutes.

Mr. RANKIN. Reserving the right to object, I think we ought to run on for a while, Mr. Chairman, under the 5-minute rule and then attempt to fix time later. There are a great many Members on this side of the House who were denied any time to speak under general debate. As everyone knows, this is the crux of the bill. This is the section of the bill the administration is interested in. To allot this time as time under general debate was allotted will shut off many Members who desire to express their views, and for the time being I am going to ask that we proceed under the 5-minute rule.

Mr. RAYBURN. Mr. Chairman, I ask unanimous consent that debate on this amendment be limited to 3 hours, one-half the time to be controlled by the gentleman from Iowa [Mr. EICHER] and one half by the gentleman from Ohio [Mr. COOPER], or anyone whom he may designate.

Mr. MAY. Reserving the right to object, I wish to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MAY. Under the rule under which the bill was brought into the House for consideration, as I understand it, the rule provided that after 8 hours of general debate the bill should be read under the 5-minute rule. Is it proper under the rules that it may be agreed by the gentlemen on different sides of the controversy that they can take so much time and allot it as they please, or do Members have the right under the rule to get such time as they may get under the 5-minute rule by moving to strike out, and so on?

The CHAIRMAN (Mr. WARREN). The Chair will give it as his personal opinion that the proposal made by the gentleman from Texas [Mr. RAYBURN] will be far to the advantage of all of the Members of the House, because under the 5-minute rule only 10 minutes is allowed under the rules of the House for the consideration of any amendment.

The gentleman from Texas [Mr. RAYBURN] asks unanimous consent that all debate on this amendment close in 3 hours, and that one-half of the time be allotted to the gentleman from Iowa [Mr. EICHER] and one-half to the gentleman from Ohio [Mr. COOPER]. Is there objection?

Mr. PIERCE. Mr. Chairman, reserving the right to object, I certainly think we ought to be allowed at least 5 minutes each on a bill so important as this. I have taken very little of the time of the House. I have had some real experience with these matters. I once owned an operating company. It went into a holding company. I was once Governor of a State. I know something about this question. I would like not only 5 minutes but 15 or 30 minutes.

With 300 Members on this side and but an hour and a half between them means that 15 men can speak for 5 minutes each. I must say to the gentleman from Texas that I think we should proceed for an hour or two under the 5-minute rule. I am perfectly willing to cut off debate this afternoon.

The CHAIRMAN. The Chair will state that under the unanimous-consent agreement proposed by the gentleman from Texas the Chair thinks the provisions of the 5-minute rule would be waived. As the Chair understands the request, it is that there be 3 hours of debate on this particular amendment, one-half to be controlled by the gentleman from Iowa and the other half to be controlled by the gentleman from Ohio.

Mr. O'CONNOR. Mr. Chairman, reserving the right to object, this is a most unusual request. I have no concern about it except that during the consideration of a bill in the Committee under the 5-minute rule to give control of the time to somebody other than the Chair is unusual. The usual custom is that when time is fixed for debate on amendments control of the time is in the Chair; the Chair recognizes Members for 5 minutes. It is not usual to give control of the time to other Members. I do not recall ever having seen it done before.

The CHAIRMAN. The Chair is quite sure it has been done in many instances.

Mr. RAYBURN. It has been done many times during my experience here.

Mr. O'CONNOR. I think it is perfectly proper to limit debate if the Committee so desires, with control of the time in the Chair, the Chair to recognize Members to speak for 5 minutes each, but to turn control of the time over to others does not sound right to me.

Mr. SNELL. This is the era of the new deal; everything is in order.

Mr. BLANTON. Mr. Chairman, let me suggest to my colleague from Texas [Mr. RAYBURN] that he amend his request to provide that debate be limited to 3 hours, that the gentleman from Iowa shall have 15 minutes in which to present his amendment, and that the balance of the time shall be in the control of the Chair, who shall recognize Members for 5 minutes each.

Mr. COOPER of Ohio. Mr. Chairman, reserving the right to object, if the gentleman from Iowa [Mr. EICHER] is allowed 15 minutes in which to present his amendment, then someone on this side, a member of the committee, ought to be given 15 minutes in which to oppose the amendment.

Mr. BLANTON. Mr. Chairman, that is fair; let the gentleman from Iowa have 15 minutes, and let the gentleman from Ohio have 15 minutes in which to oppose the amendment, the balance of the time, 2½ hours, to be controlled by the Chair under the 5-minute rule.

Mr. COOPER of Ohio. I do not know that I shall need 15 minutes.

Mr. BLANTON. That would be fair.

Mr. TRUAX. Mr. Chairman, reserving the right to object, as I understand the request——

(The regular order was called for.)

Mr. TRUAX. If the regular order is called for, the request will be objected to.

Mr. Chairman, this request is manifestly unfair to those Members of the House who are opposed to the utility-holding companies. If no one else will object, I will object to this request.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. TRUAX. Mr. Chairman, I object.

The CHAIRMAN. The gentleman from Iowa is recognized for 5 minutes.

Mr. MONAGHAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MONAGHAN. Is it possible at this stage to make a unanimous-consent request relative to the gentleman who now has the floor?

The CHAIRMAN. If the gentleman from Iowa yields to the gentleman from Montana it would be in order.

Mr. EICHER. Mr. Chairman, I yield to the gentleman from Montana.

Mr. MONAGHAN. Mr. Chairman, I ask unanimous consent that, inasmuch as the gentleman from Iowa [Mr. EICHER] has given much consideration to this particular proposal and has been the outstanding advocate on the committee of this proposal, he be given 15 additional minutes in which to present his argument.

Mr. ANDREWS of New York. Mr. Chairman, I object.

The CHAIRMAN. The Chair has not yet put the request. The gentleman from Montana asks unanimous consent that the gentleman from Iowa be permitted to proceed for 15 minutes. Is there objection?

Mr. MAPES. Mr. Chairman, reserving the right to object, I think it is a perfectly fair request that the gentleman from Iowa may have 15 minutes, but I do not think this should be a one-sided affair.

Mr. MAVERICK. That is right.

Mr. MAPES. There is no reason why the request of the gentleman from Texas [Mr. RAYBURN] should not be granted. Until that is done I do not think these other requests should be granted.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

Mr. MAPES. Mr. Chairman, for the reason I have stated, I object.

The CHAIRMAN. The gentleman from Iowa is recognized for 5 minutes.

Mr. MONAGHAN. Mr. Chairman, I wish to amend my unanimous-consent request.

[The regular order was called for.]

The CHAIRMAN. The gentleman from Iowa has the floor.

Mr. MONAGHAN. Mr. Chairman, will the gentleman from Iowa yield?

Mr. EICHER. Mr. Chairman, I yield to the gentleman from Montana.

Mr. MONAGHAN. Mr. Chairman, I ask unanimous consent that the gentleman from Iowa [Mr. EICHER], and the gentleman from Ohio [Mr. COOPER] may each have 15 minutes in addition to the 5 minutes to which they are entitled under the rule in which to present their respective sides on this amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

Mr. MAPES. Mr. Chairman, reserving the right to object, I think the gentleman from Texas, the chairman of the committee, has charge of this bill and has the right to suggest the procedure and that his request should be respected.

It seems to me that his request was perfectly fair and would give to all sides a fair opportunity to express themselves. Until that request is granted I shall object to these other requests.

The CHAIRMAN. Objection is heard.

Mr. EICHER. Mr. Chairman, I shall do the best I can in the 5 minutes that under the rule I have allotted to me, and which I hope the good nature of the House may later on permit me to extend in order to explain a little something of what this is all about.

I think most of you know that section 11 of the House bill as it was reported by the Committee on Interstate and Foreign Commerce leaves the matter of simplification of holding company system structures entirely within the discretion of the Securities and Exchange Commission. Senate section 11 mandatorily directs that the Commission shall, after 5 years, with a possible extension of 2 years more, compel the simplification of holding-company structures to a point where not more than one holding company remains, and that

only where necessary under applicable State or foreign laws in order to maintain a geographically and economically integrated public-utility system. There is the difference between the two sections.

One leaves it within the discretion of the Commission to require that simplification; the other makes it mandatory on the part of the Commission to compel such simplification. They both depend on the same power of Congress. The authority to confer upon the Commission the right to compel divestment of control or reorganization is dependent upon the existence of constitutional power under the interstate-commerce clause of the Constitution, and so also is the power in Congress to decree this so-called "death sentence" that has been so loudly and so falsely trumpeted.

Destruction is all we have been hearing in the last few days. It would be thought from the discussions of the gentlemen on the opposition that on the day the President signed a bill containing section 11 that very night we would have no electric light to go to bed by because the complete and total destruction of the utility industry would have come to pass.

[Here the gavel fell.]

Mr. PETTENGILL. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

Mr. ANDREWS of New York. Mr. Chairman, I object.

Mr. ZIONCHECK. Mr. Chairman, I make the point of order that the objection came from a Member who was not standing when he made the objection.

The CHAIRMAN. The gentleman from New York [Mr. ANDREWS] arose when he addressed the Chair and objected.

Mr. COOPER of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I believe every Member of the House is familiar with the pending amendment. It substitutes the Senate provision for the House provision. The Senate provision carries the "death sentence."

As I stated on the floor a few days ago, it is my firm conviction that the passage of this legislation as incorporated in the Senate bill will practically destroy private utility holding companies and force Government ownership. I want to read for just a moment from the hearings held before our committee. This is a speech delivered by President Roosevelt on March 2, 1930, over a radio broadcasting system, under the auspices of Collier's Magazine. This is what the President said at that time:

> As a matter of fact and law, the governing rights of the States are all of those which have not been surrendered to the National Government by the Constitution or its amendments. Wisely or unwisely, people know that under the eighteenth amendment Congress has been given the right to legislate on this particular subject, but this is not the case in the matter of a great number of other vital problems of government, such as the conduct of public utilities, or banks, of insurance, of business, of agriculture, of education, of social welfare, and a dozen other important features. In these Washington must not be encouraged to interfere.

That is what Franklin D. Roosevelt, Governor of New York, said in 1930.

Again he said:

> The doctrine of regulation and legislation by "master minds", in whose judgment and will all the people may gladly and quietly acquiesce, has been too glaringly apparent at Washington during these last 10 years. Were it possible to find master minds so unselfish, so willing to decide unhesitatingly against their own personal interests or private prejudices, men almost godlike in their ability to hold the scales of justice with an even hand—such a government might be to the interest of the country, but there are none such on our political horizon, and we cannot expect a complete reversal of all of the teachings of history.

I am reading the words of President Roosevelt as he spoke in 1930, at which time he attacked most viciously the very policy which is being advocated in this House today. [Applause.]

[Here the gavel fell.]

Mr. RAYBURN. Mr. Chairman, I ask unanimous consent to proceed for 2 minutes to make a statement, not on the bill, but in reference to the parliamentary situation.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. RAYBURN. Mr. Chairman, I have discussed with the Chairman of the Committee of the Whole that there can be only 10 minutes more of debate on this very important section unless time is fixed. Frankly, I do not think it is fair to the House and fair to the Membership, many of whom did not ask for time under general debate and could not have secured time if they had asked, to close debate on this very important matter in 20 minutes. I, therefore, renew the request I made a moment ago, Mr. Chairman, that there be 3 hours of debate on this amendment, half of the time to be controlled by the gentleman from Iowa [Mr. EICHER] and half of the time by the gentleman from Ohio [Mr. COOPER], or anyone whom he may designate to control the time.

Mr. ANDREWS of New York. Mr. Chairman, reserving the right to object, is this not a Democratic rule that has been brought in?

Mr. RAYBURN. It is not the rule I asked for, because I thought that upon this vital issue men on both sides of it, after the tramping through the corridors and the criminations and recriminations on one side or the other, ought to be given an opportunity by the Rules Committee for a clear vote on this proposition. I did not get it.

Mr. TRUAX. Mr. Chairman, reserving the right to object, I want to make a brief statement. I will withdraw my objection to the request of the gentleman from Texas, provided the gentleman is willing to give 1 hour of the extra 3 hours to be used under the 5-minute rule, by Members here, there, and everywhere, so that others will have an opportunity to xpress themselves on this bill.

So far as I am concerned, together with many other Members, I am ready to vote for this amendment right now, but if the gentleman from Texas will make this agreement, I shall be glad to withdraw my objection.

Mr. O'CONNOR. Mr. Chairman, reserving the right to object, at this moment I am not going to reiterate what I said before that there are five chances to vote on this question, and this was explained to the chairman of the committee; but the usual request would be to permit debate on this amendment to go on under the 5-minute rule and let the Chair recognize Members under the 5-minute rule up until a certain time, before which time it would not be in order to move to close the debate. It would be the usual procedure rather than dividing the time to let the Chair recognize everyone who wants to speak under the 5-minute rule and let him speak in his own right by recognition of the Chair. This is the way the request should be made. [Applause.]

Mr. RANKIN. Mr. Chairman, I hope the request of the gentleman from Ohio, coupled with the request of the gentleman from Texas, will be agreed to and that we may move on with the consideration of this measure.

Mr. RAYBURN. I have no objection, so far as I am individually concerned. I simply want to get some time to debate this amendment.

Mr. MAPES. Mr. Chairman, reserving the right to object, and I shall not object to the request of the gentleman from Texas, the chairman of the committee, personally I think there should be liberal debate on this amendment. I am sorry the situation is such that the gentleman from Iowa [Mr. EICHER] could not have more time to debate his amendment.

I do not agree with the gentleman from New York [Mr. O'CONNOR] that this is an unusual request. The request is not always made in this way, but it is frequently made in the Committee of the Whole, as I recall the procedure, and I should like to ask the Chairman of the Committee this question:

I understood the Chair to put the request, originally, as being unanimous consent for 3 hours' general debate upon the amendment offered by the gentleman from Iowa. Would that permit amendments under the 5-minute rule to this

section after the vote on the amendment offered by the gentleman from Iowa, if it should be voted down?

The CHAIRMAN. The Chair put the unanimous-consent request as applying only to the pending amendment.

Mr. MAPES. Then, if the amendment should be voted down, there would be an opportunity to offer perfecting amendments to section 11 under the 5-minute rule?

The CHAIRMAN. Section 11 would then be open to further amendment as well as debate.

Is there objection to the request of the gentleman from Texas?

Mr. ANDREWS of New York. I object, Mr. Chairman.

Mr. MAY. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, may I be permitted to say to my colleagues in the House of Representatives that I do not today, and never have, and I never expect to own a dime's or a dollar's worth of stock in any public utility of any kind, but from the time of my infancy, and particularly from the time I was 16 years of age, I have been a 100-percent stockholder in the Democratic Party. I cast my first vote for William Jennings Bryan in 1896, and from then until now, year after year, I have gone to the polls and voted steadfastly, without hesitation, the straight Democratic ticket. I have stood upon and loyally supported every Democratic platform that was ever adopted in my State or in my Nation, and supported my party, and I am standing today with the President of the United States 100 percent for the Democratic platform of 1932, the greatest document that was ever written since Thomas Jefferson promulgated those cherished principles upon which it was written.

I can remember in June of 1932, when I sat in my humble home down in old Kentucky and I heard the announcement that the Democratic platform of 1932 had been completed and reported to the convention, and I heard the great Chairman Walsh, of Montana, ask that it be read. I sat at the radio and listened to the reading of those great fundamental principles. Then I heard it said that our great President, the nominee of the Democratic Party, was leaving Buffalo, N. Y., in an airplane for Chicago to accept the party's nomination and stand upon that platform. I listened, and when the plane arrived in Chicago I heard the cheering throng greeting the nominee of my party, our present President, and then I heard him come into the hall, and later I heard him open his speech by saying:

> I accept this platform and this nomination, and I stand 100 percent upon this platform as the nominee of the Democratic Party.

[Applause.]

There were millions throughout the land who heard him declare that a platform was a pledge to be kept and not to be repudiated. That platform declared for regulation of utilities and not annihilation or destruction.

Today I stand 100 percent for the regulation of public utilities, but I am opposed to my party being led into the destruction of the investments of people who have worked for their money. [Applause.]

I am for the men who have worked winter and summer in order to send heat through the long, cold nights, and in summer's heat, often in great peril, light and power to the people throughout the country. I am standing here today to battle for their protection. I shall vote against this amendment. [Applause.]

They are listening today to hear the voice of their Representatives. They shall know after this ballot on this amendment whether their Representatives propose to go off after strange gods and vote to destroy their savings. The millions of innocent, plain people are listening and anxiously waiting to hear the verdict.

This measure places in the hands and under the control of a Federal bureau the life and existence of every electric and gas company in the United States, and the President, who appoints the board members, says all holding companies must go. He makes no distinction in the good ones and the bad ones. If you think anyone is to be appointed to membership on this board who is not imbued with the same spirit of destruction, you shall find after you have voted to destroy rather than reconstruct, that you are sadly mistaken. No such thing is going to occur. I shall not vote to record my party as the party of destruction. This bill and the motive behind it is foreign to every principle of justice and common honesty and I shall vote against it. [Applause.]

Mr. O'CONNOR. Mr. Chairman, I desire to propound a unanimous-consent request. This is an important matter. I ask unanimous consent that debate on this amendment offered by the gentleman from Iowa continue for 2 hours under the 5-minute rule.

The CHAIRMAN. Is there objection?

Mr. ANDREWS of New York. Mr. Chairman, reserving the right to object, and I shall not object, may I reiterate what I said before, that this is a Democratic rule. In view of the fact that the Chairman of the Rules Committee makes this unanimous-consent request, I do not object. [Cries of "The regular order!"]

The CHAIRMAN. Is there objection to the request of the gentleman from New York [Mr. O'CONNOR]?

Mr. HUDDLESTON. I object.

Mr. WOODRUM. Mr. Chairman and gentlemen of the Committee, with your indulgence I should like to say to my colleagues in the House, if I may, without reference to the particular amendment, that the House of Representatives today is proceeding to consider a grave, important, vital matter. I hope we shall proceed in a dignified, logical, and an orderly manner, giving to the Membership a reasonable opportunity to be heard, that they may deliberately and orderly record their sentiments on this great matter. [Applause.]

It does seem to me, Mr. Chairman—and I do not intend to say how I shall vote, but I shall vote on it when the time comes and am quite willing to be recorded—it does seem to me that we should have proper time for consideration. I have seen this House in a moment of emotionalism take a course that it would not have taken under a more orderly procedure.

I still think, despite what some critics may say, that this is the greatest deliberative body in the world, when we stop to deliberate. When we have made errors in the past it has usually been because we did not stop to deliberate. I appeal to my colleagues. It seems to me that 2 or 3 hours of debate here under control of the chairman of the committee or divided—I care not how you may do it—should be granted. Certainly there is an orderly and logical way to do it. Let us stop for a few moments now and let the gentleman from Texas [Mr. RAYBURN], the chairman of the committee, and the gentleman from Ohio [Mr. COOPER] and other gentlemen who are interested come to some reasonable and orderly conclusion as to how long the debate ought to proceed and how it ought to be controlled, and then let us get down to the business of considering and determining this vital matter.

Mr. Chairman, for the purpose of bringing it to a conclusion, I ask unanimous consent that debate may proceed for 3 hours under the regular 5-minute rule, with the right of the Chairman of the Committee to recognize Members, and under those circumstances may I direct attention to the fact that it is then within the discretion of the Committee whether to permit Members to speak longer than 5 minutes. The Committee itself would still have the right to do that. For instance, the gentleman from Iowa [Mr. EICHER], if he obtains permission to address the House, might ask that he be given 20 minutes or 30 minutes, or whatever time he desires, and it would still be within the discretion of the Committee of the Whole to grant it, and if I addressed the Committee for 5 minutes, as I do not intend to do, it would be within your discretion then to let me have only 5 minutes. The whole matter would be within the discretion of the Committee, and all the Membership would have an opportunity to discuss the matter. I appeal to my colleagues to do that or something else, but at any rate let us proceed in an orderly and dignified manner.

Mr. Chairman, I withdraw my request and yield to the gentleman from Texas.

Mr. RAYBURN. Mr. Chairman, I make one more effort. If that does not go through, then I am hopeless. I ask

unanimous consent that there be allowed 3 hours of debate upon the amendment of the gentleman from Iowa, 1 hour to be controlled by the gentleman from Iowa, 1 hour by the gentleman from Ohio, and 1 hour by the Chairman of the Committee of the Whole.

The CHAIRMAN. Is there objection?

Mr. HOEPPEL. Mr. Chairman, I reserve the right to object.

Mr. MAPES. Mr. Chairman, I reserve the right to object.

Mr. RAYBURN. Mr. Chairman, will the gentleman from Michigan yield?

Mr. MAPES. Yes. First, let me say I think there ought to be 2 or 3 hours of general debate upon this amendment. I am in perfect sympathy with the request that the gentleman from Texas [Mr. RAYBURN] made at the beginning. I see no reason why we should adopt any abnormal procedure, however, for the consideration of this bill, and I do not see any reason why the time should be divided three different ways. That is unusual. I shall not object to the original request of the gentleman from Texas. I have perfect confidence in the gentleman from Iowa and the gentleman from Ohio; I know that they will divide the time equitably and right.

Mr. RAYBURN. Mr. Chairman, if the gentleman will yield, I made the other request twice and did not get by with it.

Mr. MAPES. And the gentleman has been driven into making this request by those who are constantly objecting here on the floor of the House to any procedure that they cannot dictate. And on this bill, for one, I do not think it should be allowed.

Mr. HOEPPEL. Mr. Chairman, I reserve the right to object to make this statement for the information of the gentleman from Texas [Mr. RAYBURN] and the gentleman from Virginia [Mr. WOODRUM]. I am in accord with the ideas which he has expressed, namely, that in a democratic body we ought to have liberal discussion on problems of this nature, but may I call the attention of the Membership of the House to the fact that the gentleman from Virginia, when he put through the Economy Act under an iniquitous gag rule, was apparently not interested in liberal discussion? Other acts of the Congress appropriating billions of dollars in a lump sum to the President were also forced through under a gag. We should have had liberal discussion of such important measures, but some were passed after only 5 minutes of debate on the part of the chairman. [Cries of "Regular order!"]

The CHAIRMAN. Is there objection?

Mr. MAPES. Mr. Chairman, I reserve the right to object. I shall not object to the request, providing time is left within the control of the gentleman from Iowa and the gentleman from Ohio, as first submitted by the gentleman from Texas.

Mr. TRUAX. Mr. Chairman, I shall object to that request.

Mr. O'CONNOR. Mr. Chairman, I desire to submit a unanimous-consent request.

The CHAIRMAN. Does the gentleman from Texas withdraw his unanimous-consent request for the time being?

Mr. RAYBURN. No; I do not.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. MAPES. Mr. Chairman, for the reasons already stated, I object to the request.

Mr. RAYBURN. Then I make another request: That the debate continue for 3 hours, half to be controlled by the gentleman from Iowa [Mr. EICHER] and half by the gentleman from Ohio [Mr. COOPER].

The CHAIRMAN. Is there objection?

Mr. TRUAX. Mr. Chairman, I shall be compelled to object to that request.

Mr. O'CONNOR. Mr. Chairman, I submit a unanimous-consent request—and I cannot understand why anybody should object to it—that under the rules of the House the debate on this amendment continue under the 5-minute rule for 2½ hours.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. MAPES. Reserving the right to object, I want to say that I have no intention of objecting. I have perfect confidence in the chairman of the committee and this is the regular procedure.

The CHAIRMAN. The Chair twice stated the question and there was no objection heard.

The unanimous-consent request made by the gentleman from New York [Mr. O'CONNOR] provides for 2½ hours' debate under the 5-minute rule on the pending amendment of the gentleman from Iowa [Mr. EICHER].

The gentleman from Alabama [Mr. STARNES] is recognized for 5 minutes.

Mr. STARNES. Mr. Chairman, the Members of this Congress have been subjected to more pressure and more influence in order to dictate their votes on this measure than probably any other measure that has been presented to this or any other Congress. This pressure and this influence did not begin overnight. It did not start yesterday, but it is a part of a deliberate plan that has been pursued by the power and gas companies of this country for more than 15 years. For more than 15 years they have sought to influence public opinion for the following reasons:

First. To foster and retain full security for privately owned utilities, including their organizations, financing service, and rates.

Second. To secure public approval of all their methods and practices in such matters.

Third. To oppose public ownership in all forms.

Fourth. And I want to drive this home—to prevent effective, or any, regulation of utilities for the protection of the public, either of the consumers as to service and rates, or to the investors, about which they prate, as to their character and the bases of the securities issued to them. [Applause.]

In the brief time allotted I want to call attention to some of the methods by which they have organized their propaganda in this country. They have made use of the newspapers, radios, schools and churches, college professors, and have organized their own victims, namely, their stockholders and the consuming public.

Freedom of the press is one of our cherished institutions. A free press is as essential to a democracy as the freedom of speech. The newspaper is the most important agency that we have in molding adult opinion in this country. We must at all times, and at any cost, maintain the press as an institution wherein facts can be recited, and open and fearless presentation of the truth be made to the public.

The utility interests in this country threaten the freedom of the press because with the vast expenditures of huge sums of money for newspaper advertising and publicity they have influenced editorial opinions. They have been able to get "canned" editorials published. They have been able to get free news items under the names of prominent citizens in this country, which have been written by their own ghost writers. I charge them with the expenditure of more than a quarter billion dollars for newspaper advertising and for publicity items during the past 15 years.

No one denies these interests or any legitimate business concern the right to present their case to the public, to advertise their wares, and to present the facts, but when those facts are distorted and information becomes misinformation and the publicity becomes propaganda, it is time that the law-making bodies of this country call a halt on their activities.

They have subsidized the press to a certain extent, and the gentleman from Ohio and the gentleman from Alabama have been beneficiaries, to a certain extent, of this enlightening program. I call attention to the fact that on an average more than 70,000 column-inches of newspaper space are used in the State of Ohio every year; that in 1926, 150, and in 1927, 200 editorials favorable to the power interests were published. Down in the State of Alabama they were unable to get a friendly press, and they resorted to the expediency of financing the capital structure of the Mobile Press, and in 1929 contributed the sum of $26,000 in the first year of

the history of that newspaper in publicity and advertising features alone.

Mr. MAY. Will the gentleman yield?

Mr. STARNES. I do not have time. They take the baby as soon as it leaves the mother's breast and starts to kindergarten and submit it to propaganda in the form of story books, The Ohm Princess, of which more than a half million copies have been furnished to the children. They take upon themselves the unction and right to edit the school books presented to your boy and your girl and my boys, to see that nothing unfavorable to their interest is published in those books.

As proof of that fact I have here two geographies, one published in 1927, used in the public schools of this country, and the other one published in 1929. I read from the one published in 1927:

> The importance of the conservation of water power and the retention of power sites in the State cannot be overestimated. Timber must not be taken off the watersheds too rapidly, and great care must be taken that large companies do not secure a monopoly of our water sites.

That was in 1927, before that schoolbook had been properly edited.

I now read from the 1929 edition of the same book with reference to this paragraph:

> The importance of the conservation of water power and the retention of power sites in the State cannot be overestimated. Timber must not be taken off the watersheds too rapidly, and great care must be taken from now on so that the watersheds shall be developed only in the manner which shall secure to the State the greatest and most lasting benefits possible.

Note the significant change in the last sentence. This shows how far-reaching and effective the campaign of these utilities has become. The quotations above have been made from page 22 in each instance of the Washington State Supplement in Advanced Geography, McMurray and Parkins, and published by the Macmillan Co., a textbook used in the public-school systems of this Nation.

Members of the faculty of practically all the leading colleges and universities may be found on the pay roll of the National Electric Light Association or its affiliates. They are paid for making economic surveys or studies and reports. Many of these faculty members teach classes or edit textbooks dealing with the development of power and the use of natural resources. Schools and colleges have been endowed with special chairs or special courses dealing with the development of power and the holding-company systems by the utility interests. Do you suppose for one moment that any theory or doctrine with reference to these questions is taught to the young manhood and womanhood of our Nation which does not meet with the approval of the interests concerned?

Not content with attempting to subsidize the press and edit the textbooks of our public schools and colleges, the electric and gas utilities have not hesitated to attempt the spread of their theories and practices by the clergy of our country. They have entered the portals of temples of worship in an effort to put over their program. They have employed ministers charged with carrying the message of the crucified Christ to carry power propaganda which seeks to create monopolistic control of God-given natural resources for exploitation and unlimited power.

Finally we find the power and gas propagandist at every State capitol in the Nation when legislative bodies of the various States are in session, seeking to prevent or control legislation which would tend toward effective regulation of their activities in the public interest. They even dare to enter the Capitol here at Washington and by cajolery, flattery, intimidation, and innuendo attempt to proselyte and prostitute Members of the Congress to their views. They want no regulation. They brook no interference with their designs to monopolize the natural resources of our Nation.

As a Member of this body, conscious of my responsibilities and mindful of my oath, I do not propose to be dictated to by any special group. I propose to follow the dictates of my conscience. The issue is clear. Shall I listen to the voice of privilege or shall I heed the voice of the people? On one hand stands a united Republican Party and the power interests; on the other stands the leader of democracy and the people. I propose to follow the leader and heed the voice of the people I serve. [Applause.]

The CHAIRMAN. The time of the gentleman from Alabama [Mr. STARNES] has expired.

Mr. STARNES. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection?

Mr. BOLTON. Mr. Chairman, I object.

Mr. CONNERY. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

Mr. RANKIN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RANKIN. Do not all Members who speak on this bill have the right to revise and extend their remarks? I made that request on Saturday and understood it was granted.

The CHAIRMAN. The Chair understands that that request was made and was granted.

Mr. CONNERY. Mr. Chairman, I have read the report of the gentleman from Iowa [Mr. EICHER] and am in thorough accord with it. The reason I am taking the floor at this time is because many Members have asked me to ascertain for them the position of organized labor on this bill.

May I inform my colleagues that after conversation with Mr. Green, the president of the American Federation of Labor, he informed me that organized labor, through the American Federation of Labor, is standing for the Senate bill 100 percent behind Franklin D. Roosevelt, the President of the United States. [Applause.] That is as clear as anything I know of.

Mr. WADSWORTH. Mr. Chairman, will the gentleman yield?

Mr. CONNERY. I have only 5 minutes, but I am pleased to yield to the gentleman from New York.

Mr. WADSWORTH. Does the gentleman know whether or not Mr. Green has made inquiry of Mr. Joseph Ryan, of the International Longshoremen's Association, with respect to this bill?

Mr. CONNERY. No; I do not know that.

Mr. WADSWORTH. I advise that he do so.

Mr. CONNERY. I know only that the American Federation of Labor at every convention for the past 20 years has iterated, reiterated, and reiterated their stand against monopolies and, particularly, the Power Trust. [Applause.] So he does not have to see Mr. Ryan to state a position.

I know of nothing which President Roosevelt has done which showed greater courage, which showed greater statesmanship or a greater knowledge of the needs of the American people than his fight against the Power Trust, which has had a stranglehold on the throats of the American people. Through these holding companies they have almost told you what you were going to eat for breakfast tomorrow morning and whether or not they would let you eat it.

My only thought in taking the floor at this time was to make clear the position of labor. I do not want to take any more of the time of the House. I am for the amendment of the gentleman from Iowa [Mr. EICHER]. I hope the House will accept the Senate bill, which is in the real interest of the great majority of the American people.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. CONNERY. I yield.

Mr. MAY. Does the gentleman know or understand that the largest capitalized holding company in America is the T. V. A., a Federal agency?

Mr. CONNERY. All right; that is all right; but it is a Federal agency and can be controlled by the Federal Government, and I still maintain that the Senate bill is a bill for the American people, and I hope it will pass the House.

[Here the gavel fell.]

Mr. PIERCE. Mr. Chairman, I do not yield to the gentleman from Kentucky in allegiance to the Democratic Party. I, too, sat in the Chicago convention and heard the great address of the present President. I do not feel that I am in any way departing from the Democratic platform in sup-

porting the Senate bill dealing with this question. [Applause.]

Mr. Chairman, some half century ago Edison divided the electric current that made it possible to have electricity in our villages and homes. There then sprang up all over this country large numbers of electric plants in villages and cities. I became the chief owner and manager of one of those electric power plants. I can remember the meetings held with the electric managers of that time, many of whom found they had a very fine investment. One question was what to do with the dividends. The holding company was born to siphon off the profits of the operating company. [Applause.] Allow me to give you a real case.

In Portland, Oreg., we had an electric-power operating company. Portland is a fine location for electric-power companies, a great big city, active people, good spenders, water power everywhere around the city. The operating electric-power company has been robbed by holding companies. A few years ago the operating company, known then as the "Pepco", but changing its name on orders from Wall Street, fell into the hands of a holding company, the Central Public Service. The first demand made by the holding company was to exchange $15,000,000 of stock in the operating company for $10,000,000 stock in the holding company. The next thing we knew orders came from the boss in Wall Street to purchase 29,994 shares of the Seattle Gas Co., which were then selling on the market at $15 a share, and to pay therefor $225 a share, 15 times its market value. The Pepco operating company, a solvent company, was ordered to insert in its books, undoubtedly by orders from the overlord, that it had "invested" $6,753,748 in equipment and plant when there had been no additions made except these shares of Seattle Gas, a company which was practically bankrupt. Then they put on a selling campaign for Central Public Service stock with all the gilded promises usually made. They sold millions of dollars of that stock in Portland and vicinity; over 11,675 persons were victimized.

[Here the gavel fell.]

HOLDING COMPANIES (REMARKS ON S. 2796)

Mr. PIERCE. I am deeply interested in this problem for several reasons. The reasons which motivate my very unusual interest are my personal experience as a builder and operator of an electric-power line, and the experience of thousands of investors in my State, Oregon, who were defrauded and lost their life earnings through the manipulations of a holding company.

MY PERSONAL EXPERIENCE AS A UTILITY OPERATOR

About 30 years ago I built a power plant in the State of Oregon and owned and operated the distributing system. I bought out other plants until I was the principal factor in a company that furnished electric light and power to a city of about 8,000 people, and several smaller villages. We had 100 miles of high-voltage transmission lines. I frequently attended the meetings of the managers of electric-power plants and became very well acquainted with the methods of operation. I sat in the councils and heard the various problems discussed. "What will the traffic bear?", "How much can we charge?", "What should a consumer pay for readiness to serve?", "How many bonds shall we issue on our plant?", "How much stock?", "What interest?", "What dividends?", I clearly remember the attitude of the managers, which may be expressed somewhat in these words: "Issue a bond every time you build a mile of transmission line. Issue a bond every time you install a new transformer. In other words, build up the bond issues. If you cannot sell your bonds, carry them in your own safe. They are good collateral at the bank. The courts can always be depended upon to respect our bond issues. We will always be able to fix our rates so we can earn interest on the bond issues and perhaps dividends upon our stock. Never cut down bond issues, build them higher and higher. Stock issues, both common and preferred, should always be water."

I was invited to put the company I controlled into the combination that they were then planning for eastern Oregon and Washington. I was to be given so much stock and bonds, and, when I called the promoters' attention to the fact that one of my original partners had passed away and that the other one of them was bankrupt and that I must have money to settle with their estates, the way was pointed out by which I could legally pay them off with stocks and bonds of the company and still retain control. Needless to say, I declined to follow the advice. I ate dinners and smoked cigars with those who in after years became rich and famous as public-utility magnates. I am sure the users of current in that territory are still paying for those dinners, as users everywhere will pay, in higher rates, for the dinners and lavish entertainment and the costly lobby here in Washington this session, if we do not eliminate the holding companies. When the time arrived I sold my interests because I became convinced that I was not fitted for the game, although I must say that it was the best paying business I ever had. The mountain streams of water performed most of the work that made the electric energy which brought us an income of more than $5,000 a month with a very slender pay roll. My experience in building, operating, and selling this electric power company convinced me beyond the shadow of a doubt that there was but one honest solution of the electric power problem in America, and that was public ownership. This experience was before the days of so-called "regulation."

The holding company, as we know it today, was not in existence, but we were already dreaming about it. We had already started to combine, to pyramid, to crush out, to wreck the weaker units, and to absorb into the financially stronger companies those failures resulting from bad location, or other controlling factors. Managers often resorted to devious methods to secure franchises in the villages and cities, as well as the right to build transmission lines along public highways. To the utility group the end always justified the means.

PUBLIC OWNERSHIP THE ONLY PERMANENT SOLUTION

Our famous Oregon system of direct legislation, including the initiative, referendum, recall, and the direct election of Senators, was brought into existence very largely through the interest and efforts of ex-United States Senator Jonathan Bourne, now living in this city. Recently he said to me:

> I saw at close hand the political corruption that surrounded the election of United States Senators and the passing of laws by State legislatures. I became convinced that the only possible method of saving our Government was to put the political power into the hands of the people. For that reason, I devoted my time and money to the enactment of the Oregon system of popular government.

So I can truthfully say that the system of electric-power operation and of holding companies, which I saw in the making, fixed most firmly my belief in public ownership and operation of utilities. I, too, saw at first hand the corruption, the immense profit, and the antisocial methods. The only cure lies in ultimate Government ownership. This is true of the electric-power company because it is a natural monopoly. The steps toward that end are adequate regulation by the Federal Government and absolute prohibition of the holding companies with their evil practices and malign influences.

When I speak of my convictions in regard to public ownership, I realize that it is somewhat remote. I would betray the trust and confidence of my people did I not make every effort in the meantime to protect their interests as investors and as consumers of light and power. Public-service corporations have abused the confidence of the people more than any other group of business men. Not only because of their financial operations and cost padding in reports but because of their inordinate demands in rates and cost of extensions and the entire refusal to make the utilities available to people who would be served without an immense profit or possibly at a loss. They have been short-sighted and they have been corrupt, and that corruption has spread throughout the Nation, to the schools and through the press. We all know the story and need not recite it. We all know that holding companies were evolved not for service but solely for

gain, and that they wrecked many good operating companies. Quoting a recent writer:

Under these holding-company schemes the big money has been in the manipulation of securities and the inflation of capital structures, not in legitimate operations—the supplying of utility service to the consumer.

MY EXPERIENCE AS STATE SENATOR AND AS GOVERNOR

When I became a State senator, I took an active interest in enacting laws to regulate the public utilities of Oregon. Upon becoming Governor of that State, in January 1923, I did my best to enforce these laws and asked for amendments which experience had proven essential to control utilities so the public interest might be served. In the executive office of that State I soon learned that the utilities regulated the regulators. I demanded of the legislature the right to appoint the public-service commission, so that I might be able to select men who would enforce the law. That power the legislature refused me. I then asked the legislature for the right to erect a State-owned plant on a mountain stream near Salem for the purpose of generating power for the public buildings. I again failed, owing to the strength of the power companies.

We secured an appropriation to construct a generating plant at one of our public institutions. Immediately the exorbitant rates which the power company had been charging were reduced one-half, and it was never necessary to use the appropriation. That has been the game from the very first; lower rates have always been compelled and never granted without compulsion. Regulation by States has generally been feeble and somewhat futile, especially as the operating companies have become absorbed by holding companies.

As ex-officio chairman of the State tax commission in 1923, I found that the company which furnished electric power to Portland was, through the public-service commission, asking that rates be so fixed that they could earn dividends upon a valuation of more than seven times their assessment for taxation purposes. Based upon the New York market, the company was worth the amount upon which it wanted to earn dividends. I will not enter into the details of the fight that was made to force that assessment up to twenty millions, but it was a real fight. As for bringing the taxes up to the same proportion that farmers paid upon their farms, it was simply an impossibility. Suffice it to say that I did, during my term as Governor, more than double their annual contribution. I might add, as a bit of Oregon political history, that these companies helped to return me to the cattle ranch, but the valuation of their properties for tax purposes, while never made adequate, was greatly increased.

THE SPREAD OF UTILITY STOCK IN OREGON

When an operating company which furnished light and power for the most populous section of Oregon began to see the need of public support through good or ill, and to take a hand in politics, its first move was to spread the sale of its stock. It advertised extensively in the newspapers, offering a substantial and unusually high rate of interest with "absolute security" of investment and a plea for patriotism through investing money in local enterprise. The officers and clerks in small banks were enlisted in the campaign and any widow with insurance money, or any bank client left with a little windfall or a little ready money, was usually advised to invest in the stock of that company. It was, of course, calculated to spread the stock in small parcels in order to enlist public interest in warding off unfavorable legislation. Even farmers became owners of small parcels of utility stocks, enough to control sentiment and stir emotions when legislatures or Governors undertook to protect them as to rates or investments.

When I was a candidate for governor a friend sitting at a bootblack stand in Portland talked about me to the Greek boy who was shining his shoes, and the boy said, "Oh, I can't vote for Senator PIERCE for governor because our company thinks he would not be right and they told me not to do it." Investigation showed that he owned $100 worth of stock in "our company", but it was enough to enlist his sympathy for the company against any legislation in the interest of the consumers of utility services.

Yes, we had a State regulatory body, but nothing is more simple and more easily accomplished than the appointment and regulation of regulatory bodies in States. This spread of stock paved the way for the tremendous propaganda which floods our offices today. These people holding the worthless paper of holding companies are made to believe that their rights and interests are in jeopardy. It certainly seems amazing that they do not yet understand that they have been outrageously defrauded by the very people who called upon them for aid in this crisis. When the inevitable crash comes, the holding companies will shield themselves by claiming Government interference leading to ruin. They are preparing for this alibi.

OREGON'S EXPERIENCE WITH HOLDING COMPANIES

My Oregon colleagues from the First and Third Districts have, by their speeches on this floor, led you to believe the people of Oregon are satisfied with their regulation of power companies, and have little complaint to make of holding companies. My observation and experience do not lead me to that conclusion, and I cannot let that impression stand unchallenged on the records of this House. My colleague from Mississippi, one of the best power authorities on the floor, Hon. JOHN RANKIN, has pointed out to you the fact that Oregon has an annual overcharge on its electric power bill of more than $6,000,000.

It is beyond my understanding how any informed citizen of Oregon can object to proposed legislation to protect our utilities and our citizens from such companies. I am amazed to learn that a Congressman representing those investors can raise his voice in defense of the type of financial pirates who robbed us. Let me recite briefly some of the facts which are common knowledge in Oregon.

The operating company to which I referred has had several names, but is generally known in Oregon as the "Pepco." There were three other major companies doing business in the State, but for the purposes of illustration I will confine myself to this company, servicing nearly half the citizens of the State. Its stock should have been a safe investment and its service should have been extended rapidly, but it was wrecked by a holding company and thousands of our citizens lost their life's savings.

In 1927 the Central Public Service, an Albert E. Peirce holding company, took over Portland Pepco, a solvent operating company. Central Public Service exchanged its stock for Pepco stock at the rate of $10,000,000 of holding company stock to $15,000,000 of operating company stock. Within a few months the holding company went into bankruptcy.

The floating of Central Public Service stock under gilded promises and the victimizing of 11,675 persons in Oregon is one of the greatest financial scandals in our State history. Worse still, Pepco, under orders from Central Public Service, bought 29,994 shares of Seattle Gas, worth $15 a share and paid for it $225 a share, or 15 times its market value. Central Public Service at the time being the owner of Seattle Gas, as well as Pepco, paid itself through this deal 15 times the market price for Seattle Gas. The celebrated holding company sat on both sides of the table giving the operating company no choice, and swindling it out of $6,753,748. Reporting the deal to its stockholders, Pepco, the Portland operating company, described it as $6,753,748 "added to plant and equipment."

By that and other like deals Central Public Service, a holding company, as owner of Portland Pepco, increased the indebtedness of that corporation from $45,000,000 to $71,000,000, an increase of $26,000,000 in only 1 year and 4 months, without any increase in tangible assets. These facts have been set forth time and again by the Oregon Journal, a newspaper of Portland, and the figures I have quoted are directly from a recent editorial in that paper.

This is one illustration of the purpose to which holding companies are devoted, and it happened in Oregon. It was plunder, and all the propaganda they are now using to revictimize their former victims cannot alter this history nor

wipe out the scandal. No whitewash applied in Congress or elsewhere can cover the stain.

With this experience fresh in our minds is it any wonder that I am amazed to hear my colleagues from Oregon defend on this floor the same kind of holding companies which have robbed and plundered our people? These holding companies have found an Oregon defender on this floor who advocates the House bill instead of the Senate bill, because he fears the "death sentence" for those companies. My colleague of the first district lives in the capital city of the State, a city with a population of 25,000 people which, until within a few months, had not owned even its own water system, and has had to bring in barrels of water when the legislature assembled, all because it is so utility-controlled that it has not been allowed to supply its people decent and palatable drinking water. My colleagues evidently have not gone through the experiences which have made me understand these things and see them in a different light.

HOLDING COMPANIES SHOULD BE OUTLAWED

I realize that our Oregon experience is but a sample of what has gone on all over this Nation. I believe there has been no group of men in business more ruthless and more regardless of the public interest in putting over their plans and schemes which have wrecked what might have been a stable industry.

John T. Flynn, writing in the last New Republic, says:

> There may be good holding companies, in the sense that the individuals who run them are decent men and do not use them to foster abuses. But economically they are all bad, and, moreover, there is no way to discriminate between the worst and the others. As for regulating holding companies, that is utterly impossible, as we shall find out. The utility bill, however, is a step in the right direction. It will enable us to get all the facts first. Then it will tend toward simplification of capital structure. This will be a gain. When this is attained, we shall learn that we still have the holding-company problem on our hands. We can then proceed to the next step: The complete abolition of all holding companies.

I wish there were some way of ascertaining what this campaign waged for the holding companies has cost the utilities. Yes; ever since January they have had this National Capitol full of lobbyists of all sorts and descriptions, they have resorted to every method known to high-powered lobbyists. They have scores and scores of people working for them, not only in Washington, but in every home town, trying to influence Congressmen and Senators to help them to retain their stranglehold. Hundreds of letters and telegrams have come to the desk of every Congressman, many of them from almost destitute men and women pleading with us to save the life of the holding companies so their little investments will not be wrecked. No investor will lose a sound investment because of this legislation or anything that we can pass at this session. Much of the stock of these holding companies never had any value, it was simply a shadowy equity. The holding companies had only a fictitious boom value on their stocks and bonds before the crash of 1929. Just think of estimating their securities at twenty-nine billions, 29 times the assessed value of the State of Oregon! No wonder the values went down to three billions, and that is probably too much.

Some of my constituents who write or telegraph me the propaganda furnished by the holding companies appear to think the Congress proposes to cut off the electric current, to ruin the operating companies and to make worthless what they consider a secure investment. They do not always realize that the holding company is a speculative enterprise, buying the stock of operating companies for purposes of manipulation and immense and unjustifiable profits. There is no interest in security or service and no pride in business development. There is only the greedy desire to squeeze out profits which they let drip by tiny drops into the hands of so-called "investors" in order to use their funds and command their influence in times like these. An honest investment company or investor is, on the contrary, interested in well-managed operating companies, giving satisfactory service.

OPERATING COMPANIES MUST SERVE THE PEOPLE

Operating companies collect from their patrons more than they should collect, and they refuse to extend their wires without unreasonable charges. They have refused to reduce rates to the consumers or to pay off bond issues, the profits have been absorbed by the holding company, or the overlord, controlling the stock in the operating company. The statement has been made on this floor that the people of America are paying today a thousand millions more annually than they should pay for electric power and electric energy, largely because of holding companies. I believe that this is an underestimate instead of an overestimate.

The brilliant ex-Senator, who is now our colleague from New York, makes much of the fact that the average family in America buys less than $35 worth of electricity each year. True it is not a large item, neither should it be. Electric energy is not a luxury in a home, it is a necessity and should be as cheap as water. No holding company, no group of men are good enough to own, control, and be able to fix the price of a home necessity.

The Congress is not at present considering abolishing operating companies nor reducing the excellent wages paid skilled employees. We are attempting to make it possible for customers to pay only for current consumed, and not to be required to include in every bill an overhead charge for holding-company profits and propaganda.

Yes; electric rates can be reduced, but not while there are holding companies which must get a rake-off.

Yes; we can make utility investments safe for the public if holding companies are not in control demanding financial returns for no service rendered, plundering the industry.

Yes; the T. V. A. yardstick will help to decide what are just and reasonable rates, if holding companies are eliminated.

ADMINISTRATION'S POWER POLICY ADVANTAGEOUS

Without prophesying what may be the verdict of history on this administration, I am saying to you that President Roosevelt will be remembered by coming generations as the first man in the White House who had the strength of character, the courage, and the determination to start the most effective method of regulating the utilities. He is using the only method that will ever be found successful, by backing the T. V. A. in the Southeast and the construction of the great power dams across the Columbia at Bonneville and Grand Coulee in the Northwest. When he earmarked the millions for the construction of these two great dams for the creation of electric power in the States of Oregon and Washington, he built for himself and his days a monument more enduring than the marble shaft to Washington in this Capital City.

A few months ago I stood in the glory-hole at Bonneville. They were just starting to pour the concrete, and I thought of what that marvelous development will mean in the years to come, that mighty stream 60 feet deep, hundreds of feet wide, unceasingly flowing from the glacial streams of the Rockies. I thought of the wheels that it would turn, the tremendous power it would develop, the homes it will light and heat, the farms it will operate. If we are able to develop that power on the Columbia as our President intends, it can be sold at a rate that will pay off the original investment in a generation, at less than the T. V. A. rate.

Think of the population and the activities that will come to that country favored by climate and soil when in the States of Washington and Oregon we can get one horsepower or a thousand to turn the wheels and perform the drudgery that man formerly did with his hands! Then imagine, if you can, what that is going to mean to the next generation. The debt will be paid off. What is the electric energy then going to cost? The dam will be there for generations. The copper wire is not going to wear out, barring accident. We may have to rebuild a few pole lines. Nobody will shovel coal or oil under the boilers. The forces of nature in the snow and the rain will furnish power. Then, when this power is all in use from these dams, there are many more power locations on that same river, The Dalles, Umatilla, the Snake River Canyon, where power almost beyond the comprehension of

man can and will be developed for the benefit of millions yet unborn. We must not fail in our duty at this time in backing up our President, not only in developing the T. V. A. and Columbia River projects but by passing at this time his requested legislation on holding companies. No wonder the vultures have even tried to block Congress, are trying to do everything in their power to get control of this mighty resource that belongs to all of the people.

I am for the Senate bill because it will mean, if it can be passed and enforced, that ultimately all holding companies must disappear beyond the first degree.

I am against the House bill because it is not a reasonable attempt even to control the utilities that have bled white the operating companies.

Mr. BLANTON. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD and to include therein some data to which I shall refer.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BLANTON. Mr. Chairman, holding companies are unknown to the local people of our districts. The people are not served by holding companies. The people do not come in contact with holding companies. The people at home are not familiar with and do not understand the machinations of holding companies. Our local people back home do not know anything about the tremendous, outrageous, unearned, unconscionable, high salaries that are being paid high officials of holding companies. They do not know about the watered stock of holding companies. The people do not know about the stock manipulations of holding companies.

Our home people come in contact only with a subsidiary company, with its local manager, its local officials, and local employees, all neighbors of the people, all living together in our district. The local manager is always a fine fellow. Everybody likes him. The other local officials are affable citizens, popular with the people, and have a host of friends. The local employees are our neighbors and friends, and very naturally we are interested in their welfare, and would not want to do anything that would hurt their interests. They have a host of friends, who are our constituents, and these friends naturally stand ready and willing to respond, when they are called upon, whenever anything menaces the welfare of their neighbors.

Some of our constituents here and there in our district own some stock in this subsidiary company. Usually it is about a thousand dollars. It sometimes represents the savings of self-denial and sacrifice and means much to them. While for 4 or 5 years they have not received any dividends on this stock, that fact makes them just that much more apprehensive when it is represented to them that they are about to lose the stock itself. They are ready to respond when call is made on them to protest.

So, Mr. Chairman, it is not strange that we have been deluged lately with telegrams and letters from practically every town and city in our district, protesting against this Wheeler-Rayburn bill, that proposes to stop greedy holding companies from robbing the people. These holding companies have broadcast to all subsidiary officials the misrepresentation that Congress is about to destroy their business, that this is a destructive measure, that the subsidiary company that serves the people will have to move, that its officers will lose their jobs, that its employees will lose their jobs, that the people who own $1,000 of stock will lose it, and that everything is going to the bow-wows. Naturally the local manager and his local officials and his local employees all get busy and call on their friends and neighbors for help, for protests to save them. And very naturally the protests are forthcoming. Good neighbors do not allow their friends to suffer without taking action to help them.

I have just been furnished with a statement of one of my good friends and constituents, Hon. Price Campbell, who is president of the West Texas Utilities Co., which serves my home city of Abilene, and much of my district, giving his views on this bill. It shows he is overly apprehensive. He has had mutual friends send me their views. They are entitled to be heard by this Congress. I want to quote from a few of them:

STATEMENT OF PRICE CAMPBELL, PRESIDENT OF WEST TEXAS UTILITIES CO., OF ABILENE, TEX.

We have had Judge Wagstaff, along with other able legal talent, interpret what the bill actually means to this local operating company and west Texas.

It is not a recovery measure and it is not a regulatory measure. It is a reform measure that goes further than reform; actually provides the machinery for confiscation and use of private property; takes actual control of policies and management, including extensions, betterments, operation, etc., away from the local directors and executives, all of whom reside in west Texas. The machinery of this bill makes it possible for a Government bureau in Washington to say when we shall do any advertising, whether we shall be a member of any local chamber of commerce, or contribute to any community enterprise, schools or industrial development, how and when we can make extensions and betterments to our service. In fact, provides machinery to take away the company's citizenship in its various communities in west Texas and moves it to one major holding company, and in turn a Government bureau to be established and possibly controlled by those in Washington who are in sympathy with socializing industry.

All the administration propaganda and publicity has been directed for this bill as if it were merely regulating holding companies on whom much propaganda has been built up in various ways and put out against during the past 2 years.

There would be no West Texas Utilities Co. (a Texas corporation manned and operated by Texans) had it not been for holding companies' assistance.

Such legislation, if passed, provides the way for a Federal Government bureau at Washington to take over and operate the property of the West Texas Utilities Co., or they can use the transmission lines to transmit power of the Government-owned projects of municipal plants to and from. They can terminate on this next January 1 a large, profitable power contract this operating company has with a customer across the State line in Oklahoma which brings this company in more than $20,000 a month. Other ways are provided to weaken operating companies financially and thus take them over under ways provided in the bill as submitted. Further, they can cause consolidation of these properties with other State properties into a regional holding company through the clause forbidding diversity of holding-company ownership; that is, the holding companies would have to be reorganized and consist of properties located in the same territory only, which, of course, would mean that many of the operating companies in this State would go under one or more local holding companies with headquarters in one or two of the larger cities, Dallas, Houston, or San Antonio. The loss to Abilene or San Angelo on local purchases, contributions, general and district pay roll, etc., would amount to more than the taxes assessed by these cities for their entire bonded indebtedness; and if actually taken over under Government ownership, the properties would be tax-exempt and the people would have to make it up in their other taxes. West Texas Utilities Co. alone contributes more than $1,200 every day to the various governing bodies in taxes. No benefits could be secured because of the fact that the holding company is not actually costing West Texas Utilities Co. one thin dime; but on the other hand has brought actual cash into this country and invested it in common stock of this Texas corporation which, in turn, went to provide adequate facilities to serve west Texans and at rates below the national average and far below the average rates of all municipal plants in the State of Texas.

While this memorandum is not intended as an argument for utility holding companies, as I said before, yet you, of course, realize there are very few holding companies in the utilities business compared with the holding companies in the other essential businesses and industries in the United States. There are many times more holding companies in transportation, petroleum, and even the newspaper business; Scripps-Howard and Hearst newspapers have more pyramided holding companies. Every town in west Texas has supplies—food, clothing, financing, etc., from holding companies. Every partnership that has joint ownership in two or more holdings is a holding company.

In the present proposed legislation, this qualification of "unnecessary holding companies" means all utility holding companies at the end of 5 years that have any territory diversity, and all others under many different ways or excuses that can be taken advantage of by some dictator or bureaucrat in office of the bureau, which, of course, would mean in the case of newspaper holding-company legislation that the newspapers would have to play ball as they are making the majority of banks do at this time, all of which furthers the program to build up a national Tammany machine to perpetuate those in power and rapidly scrap the Constitution and the American principles of freedom and private initiative in business.

While we, of course, are only interested in the situation from a selfish standpoint, I believe that it is everyone's duty to fight this legislation on purely American grounds. This type of legislation concentrates too much power in the hands of the Federal Government, and if it should pass, unquestionably other businesses would be faced with similar attempts of Federal control. So, I strongly urge you to read the bill, look into the matter, and if you are in accord with the above, you can address a personal letter to our Senators and Congressmen, protesting against such a measure and recommending that it not be confiscatory, and

that it not empower the Federal Government to go into the utility business.

Yours very truly,

PRICE CAMPBELL.

FOUR CLOSE PERSONAL FRIENDS

Judge Robert W. Haynie, Henry James, H. O. Wooten, and Bernard Hanks are four of my good friends and neighbors in Abilene. There is nothing personally that I would not do for all of them. Bob Haynie has been one of my intimate "pals" for years. He has been my campaign manager in a number of heated campaigns. We have hunted together. We have fished together. I love him as a brother. He could get anything I possess. He is the attorney for the West Texas Utilities Co. and is seated in the gallery listening to me. He has come up here hoping to see the Senate bill defeated. It pains me exceedingly to go against his wishes. I regret that I cannot vote as he prefers. But he is such a good friend that he expects me to vote only my real sentiments and judgment on this bill.

Mr. Henry James is the president of the Farmers and Merchants National Bank, of Abilene, Tex. He is one of the finest, ablest bankers in the United States. He and his bank have loaned me money when I needed it to pay expenses in every campaign I have made for 25 years. He is my personal friend. He is entitled to have his views before this Congress:

ABILENE, TEX., *June 28, 1935.*

Hon. THOMAS L. BLANTON,
*Washington, D. C.*

DEAR JUDGE BLANTON: This letter will be presented to you by our mutual friend, R. W. Haynie, who will explain to you in person the object of his visit.

I have previously explained to you my objections to the Rayburn-Wheeler holding-company bill, and I think I also stated to you at that time that I was in favor of strict regulation of holding companies, and that I thought that unnecessary companies of this kind or companies that were not run on the proper basis should be eliminated in some way that would not work a hardship on their shareholders. I am still of the opinion that strict regulation and orderly elimination of unnecessary holding companies is right and proper. But the matter that I am much concerned about at present is the situation of our local company, the West Texas Utilities Co., as I fear that in the pressure to pass the bill quickly that some provision may be included that would be adverse to our local company and result in its being consolidated with some other corporation and the removal of the company's headquarters from Abilene.

I know that you are familiar with the value of the corporation to Abilene and its close relations with the people of Abilene and the territory which it serves, and I am sure that you realize that it would be a calamity from a local business standpoint for a situation of this kind to arise. And I am asking that you keep this in mind and that you keep watch on the progress of the bill and do all that you can to prevent any provision getting into the bill that might bring about the situation mentioned and destroy the independence and individuality of our local company. Thanking you for anything you may do to get them this needed protection.

I am, with personal regards and all good wishes,

Yours truly,

HENRY JAMES.

H. O. Wooten is the president of the H. O. Wooten Grocer Co. and maintains his headquarters' wholesale house in my home city of Abilene, Tex., and also runs branch wholesale houses in Stamford, Sweetwater, Big Spring, San Angelo, Wichita Falls, Snyder, Coleman, Lubbock, Memphis, Quanah, and Spur, Tex., and in Frederick, Okla. He, too, from what he has heard, is apprehensive about this bill hurting our home service company, the West Texas Utilities Co. He is entitled to have his views considered:

ABILENE, TEX., *June 28, 1935.*

Hon. THOMAS L. BLANTON,
*Congressman, Washington, D. C.*

DEAR MR. BLANTON: This letter will be handed you in person by our mutual friend, R. W. Haynie, so that he can explain fully the attitude of your friends in Abilene.

Quoting Will Rogers, "About all I know is what I read in the newspapers", about the proposed Rayburn-Wheeler bill, I feel that we have a capable and patriotic representative on the grounds in Washington and I hesitate to express my opinion on matters about which I am not fully informed. However, I am extremely interested in the welfare of the West Texas Utilities Co., who are our home folks. Their welfare means much to the city of Abilene and to the whole of west Texas. I have read the letter of Mr. Price Campbell to the Abilene Reporter under date of June 20 setting out the dangers of this bill. I am sure that after this matter is called to your attention that you will do all that is possible to avoid legislation that has a tendency toward socialism and Government ownership of public utilities or bureaucratic supervision. I am in favor of eliminating unnecessary holding companies and reasonable regulation of them as a whole.

Yours truly,

H. O. WOOTEN.

Mr. Bernard Hanks is the publisher of the Abilene Morning News and the Abilene Daily Reporter. He is one of my best friends. He is one of the substantial business men of my home city. He is entitled to have his views known:

ABILENE, TEX., *June 28, 1935.*

Congressman THOMAS L. BLANTON,
*Washington, D. C.*

DEAR JUDGE: My experience has been, in discussing pending legislation with you, that your information and knowledge as to just what pending legislation actually will do, if enacted, makes me hesitate in suggesting an amendment or your vote for or against any bill.

I have a letter from Price Campbell, president of the West Texas Utilities Co., in reference to the Rayburn-Wheeler holding-company bill, a portion of which reads:

"I have come to the conclusion that it is a trick bill, conceived many years ago and sponsored at this time by those connected with the present administration, whose main purpose is to socialize industry. It is not a recovery measure and it is not a regulatory measure. It is a reform measure that goes further than reform, actually provides the machinery for confiscation and use of private property, takes actual control of policies and management, including extensions, betterments, operation, etc., away from the local directors and executives, all of whom reside in west Texas."

I am 100 percent opposed to such drastic legislation.

I am just as strong for abolishing the pyramiding of securities, on which holding companies that do not operate are built, but to confiscate all privately owned utility-operating companies is unreasonable, and a proper plank for a Huey Long platform.

If this bill is a step toward giving the Government ownership through administrative powers of all utilities, perhaps railroads and telephones, and probably Government ownership of all minerals, including oil and gas, and the ultimate goal is to have all rates of every kind fixed in Washington rather than locally or by State boards, then it should certainly be amended to what the average American citizen believes it to be, and that is a regulatory holding-company measure.

Thanking you in advance for your consideration, and with kind personal regards, I remain,

Sincerely yours,

BERNARD HANKS.

These communications I have quoted show that these gentlemen are apprehensive about something that this bill will not bring about. This is not a destructive bill. The intent and purpose of this bill is not to destroy a legitimate service company that is properly serving the people. Its intent and purpose is to stop holding companies from robbing the people. Its intent and purpose is to stop holding companies from improperly manipulating stocks to the detriment of the people. Its intent and purpose is to stop holding companies from diverting income that should reduce service charges and pay dividends on stocks held by the people, to paying enormous unearned salaries to high officials. Its intent and purpose is to stop holding companies from diverting income to watered stocks and bonds that should go as dividends to the people holding common stock, and which also should be used in reducing service rates.

These communications I have quoted are a fair cross section of the hundreds of telegrams and letters I have received from my district, and the hundreds of telegrams and letters I have received from all over Texas, and of many received from other States.

Mr. Chairman, the people of this country are entitled to be served with all utilities at the lowest reasonable cost. Through the manipulation of holding companies they have been robbed long enough. The people will never be secure in proper service of utilities at reasonable cost until all utilities are properly regulated and controlled.

The President of the United States, as the Chief Executive of this Nation, has asked the Congress to pass such a measure as this, to properly control all utilities. He administers the law of the land. He cannot properly control utilities unless and until the Congress passes a proper law authorizing it. Are we going to back the President in his efforts to protect the people? It is the people back home whom we represent the President is wanting to protect. He wants to protect our constituents. He wants to see that they are

not robbed. He wants to see that they get a square deal. He wants to see that they are furnished with all utilities at the lowest reasonable cost.

The question resolves itself into whether we think more of holding companies than we do of all the people we represent. This effort on the part of our President is not a lust for power. He is seeking nothing for himself. He wants no personal benefit. He is thinking only of the 125,000,000 people who are citizens of the United States, whose interests and welfare he has deeply at heart. I cannot turn him down in this crisis. I cannot forsake him. I cannot desert him. In casting my vote for the measure he wants, I feel that I am helping to hold up his hands in behalf of the people of our Nation.

The vote I shall cast on this measure vitally affects every man, woman, and child in my district. It means much to them all. It means whether they are going to have needed utilities at reasonable cost or whether they are going to be robbed and charged outrageous prices for all utilities. Poor people must have utilities. When poor people cannot pay for electricity, they are cut off, and must go without. When poor people cannot pay their gas bills, their gas is cut off, and they must do without. I am thinking of them. I represent them in my district. They are the salt of the earth. Am I to forsake them? They are in the mind of the President. Their interest is weighing heavily upon his heart. Am I to say by my vote that it is more important for big holding companies to continue reaping their millions through manipulation of stocks than it is for the rights of the whole people to be safeguarded? Am I to say by my vote that it is more important for holding companies to use earnings and income that should pay dividends and reduce service rates to paying unearned salaries of $50,000, $75,000, $100,000, and $150,000 to pampered high officials, who render nothing of value to the people, than it is to protect the rights of the people and see to it that they are furnished utilities at reasonable cost? That is the question before us. That is the issue. It is the case of the people of the United States versus the holding companies. My verdict is that we back the President in his efforts to protect the people. My verdict is for the people of the United States.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio [Mr. COOPER].

Mr. COOPER of Ohio. Mr. Chairman, I do not believe that any fair-minded person can accuse me of being the enemy of organized labor. I come from the ranks of toil. I was a member of a labor organization for 33 years. I recall that in 1916 I stood on the floor of this House, almost as the lone Republican, and fought for the Adamson 8-hour railroad labor law. I fought for the child-labor amendment. I was the coauthor of the Hawes-Cooper prison goods bill. I made a report to this House on the Railroad Labor Board Act, and when the $4,880,000,000 relief bill was before us for consideration I was one of the few Republicans who stood here and advocated the prevailing-wage amendment for the working classes of this country. I stood right alongside of my friend from Massachusetts [Mr. CONNERY] and supported this policy. The bill went to the Senate, and there, through the influence of the President of the United States—and let us be honest about this, because we knew who did it—the prevailing-wage amendment was stricken from the bill. I stood my ground and fought for it and when the bill came back to the House I could not accept the changes, but the gentleman from Massachusetts [Mr. CONNERY] did accept the Senate amendments.

Mr. Chairman, the gentleman from Massachusetts [Mr. CONNERY] made a statement a few moments ago that William Green, president of the American Federation of Labor, a leader who has my profound admiration, was for the Senate bill containing the "death sentence"; or at least he left that impression. I stand here today and say that I doubt if Mr. William Green speaks for the working men and women in the utility industries. I have received from my district many letters, not from utility managers, but from the employees of that industry, protesting against the passage of this bill.

Now, let us see what Mr. Green said a short time ago:

> The initiative of those who ventured in the field of industry has been rewarded by the success of their endeavors. They have been fortunate in that they have been permitted to carry on their business in a land which guaranteed them the right to own and possess property and to enjoy all the benefits which come from private undertaking and private enterprise. Both employers and employees have been free from the domination of autocratic control and governmental dictation, such as prevails in some of the other lands. This condition creates a feeling of security and assurance and encourages private initiative and private enterprise. It inspires a feeling of independence and satisfaction among the millions of working people who make up a large part of our citizenship. They prize freedom, liberty, and justice very highly.

There is a statement made by Mr. William Green a few years ago in direct opposition to some of the provisions that are in this bill before us.

[Here the gavel fell.]

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. PATMAN].

CUTTING DOWN SO CAN REGULATE

Mr. PATMAN. Mr. Chairman, it is true that the Democratic Party platform says that the holding companies must be regulated. This bill provides that the holding companies shall be cut down so that they can be regulated. [Applause.] You cannot regulate holding companies if you permit them to exist as they are now, and remember that they are not in existence by reason of a law. They were not created by law. No law has authorized the creation of such a holding company as the administration bill will abolish. However, they are in existence by virtue of loopholes and technicalities in the law. This is why they are now in existence. Therefore, they do not come into court with clean hands.

MISNOMER

The term "death sentence" is a powerful one. Did you know that in this country where the people read headlines and pay attention to catch phrases and terms that are coined to mislead people, one catch phrase will have more influence than logic or reason?

There is no death sentence in this bill. It is not a "death sentence" bill, but they call it that to try to mislead the people, and the way they are doing it is through this superlobby system they have.

FOR BILL ON ITS MERITS

I am for this bill on its merits. I have given it careful consideration. I think it is a good bill as the administration wants it. The issue is well defined. On one side there is the Republican Party that has always stood for special privilege for a few, and with the Republican Party there is the Power Trust standing up with the Republican Party. This is the group on one side, and on the other side are the President of the United States, the Democratic Party, and the people of this country. [Applause.] It has been said that lobbying has been going on here for the administration and for the people on this bill. This bill is in the public interest. If so, I want to commend the administration for sending somebody up here—I do not know that they have—to work in the interest of the people.

Under Harding you had nobody here working for the people or lobbying in their interest. Under Coolidge you did not have anyone lobbying against the Power Trust, and under Hoover you did not have anyone. The fact of the business is you had one man running this country during the administration of Harding, Coolidge, and Hoover, and that was Andrew W. Mellon [applause], who really had three Presidents serve under him.

So if you want to please Mellon, if you want to please Morgan, who benefit the most by reason of the activities of the holding companies that will be abolished by this bill, you should vote against the administration's proposal.

POWER TRUST PROPAGANDA

I hold in my hand a statement by Dr. Hugh S. Magill, president of the American Federation of Utility Investors, which was for release to the morning papers of Sunday, June 30. It says:

> The issues of this fight are clear. Let there be no misunderstanding. Millions of free citizens, their backs to the wall, are

fighting to save their property from the ruthless and spiteful destruction of an autocrat who is using his almost unlimited powers to force Members of Congress to bow subserviently to his will.

There is no misunderstanding, the Republican Party which has always favored special privilege and the power trusts, including Andrew W. Mellon and J. Pierpont Morgan, are on Dr. Magill's side, and the President of the United States, the Democratic Party, and the people are on the other side. Instead of millions of free citizens fighting against the holding company bill, there are less than a half hundred Wall Street bankers really responsible for waging the opposition. These Wall Street bankers are accustomed to using the Nation's credit free; owning a little stock worth a few dollars and controlling industries worth hundreds of millions; controlling all the labor and purchases of corporations and everything else in connection with the affairs of the industry. If the backbone of the opposition to the Rayburn-Wheeler bill could be traced, I believe it would go back to not more than 50 men who are really parasites on the country.

They are the ones who have their backs to the wall and they are not entitled to any sympathy. They are the ones who call the President an autocrat. They do not want him to have the power. They want the power as they have always had it. They are complaining because the President is taking unlimited powers away from them. They want the people to be subservient to their will.

Another paragraph in this statement says:

We thank God for those brave Democrats of the House who have dared defend their party pledges and to defy the unjust and autocratic usurpation of the President. Whether or not this death sentence passes depends on whether a majority of the Members of Congress are free men or mere tools of the Executive who is attempting to usurp the powers of Congress.

In reply to the President * * * we shall continue to fight * * * to save our beloved country from dictatorship.

TOOL OF WALL STREET OR TOOL OF PRESIDENT

This statement indicates that Members of Congress will be the tools of someone on this vote. If I must be the tool of the Republican Party, the Power Trust, the Morgans, Mellons, and others who are dissipating and ruining this country on the one hand, or the tool of the President of the United States, who is making the greatest effort any President on earth has ever made to save our country and benefit the people generally, I am willing to be called the tool of the Executive on this vote. As far as dictatorship is concerned, before President Roosevelt came in, we were under the dictatorship of Andrew W. Mellon. Three Presidents served under him. This dictatorship was satisfactory to the half-hundred Wall Street parasites who robbed and plundered this country during the regimes of Harding, Coolidge, and Hoover. As between the dictatorship of President Roosevelt and the dictatorship for 12 years preceding this time, I am willing to follow the dictatorship of our President.

BILL STEP IN RIGHT DIRECTION

The passage of this bill like the administration wants it is a step in the direction of taking special privileges and rights away from the big, powerful bankers of Wall Street. They have been controlling too much of the business of this country. This will take some of the business away from them and give it back to the people. If they should succeed in defeating this bill and perpetuate holding companies, such as are expected to be prohibited under this bill, they will not only control electricity, gas, water, telephone, railroads, and utilities of this nature but they will enlarge in the retail merchandising field, and it will not be long before we will not have a single independent merchant in this country.

INDEPENDENT MERCHANTS

I am chairman of a committee that has been investigating, and is investigating, the American Retail Federation, a superlobby here in Washington headed by C. O. Sherrill, the hired hand of A. H. Morrill, president of the Kroger Grocery & Baking Co. of "corn-stalk brigade" fame. This investigation discloses that there is real danger of the independent merchants of this country being wiped out in a very few months; that during the year 1933, 44 percent of the food and grocery business was done by chain stores for cash. The other 56 percent of the business was done by voluntaries, such as the Piggly-Wiggly and other concerns that are cooperating in making their purchases, and the independent merchants. The independent merchants in 1933 handled only 18 percent of the cash business in the food and grocery line. Therefore, the independent merchant is not only having to compete with the chain-store competitor, who is getting secret rebates, special discounts, special commissions, and even bonuses, but he has to sell his goods on credit and run a risk of getting his money, or not be privileged to do business at all. The chain stores can sell their goods at the same prices that the independent merchant pays for his goods of the same kind and quality and make enormous profits and pay enormous salaries. Some manufacturers sell to the chain at such a low price, which is below cost, that they must make the independents pay a higher price in order to make up for the loss.

SHOULD HAVE SAME PRICE TO ALL RETAILERS

Chain stores and mail-order houses have as much right to do business as any local or independent retailer or wholesaler. No one is attempting to deny them the same rights and privileges as independents; however, chain stores and mail-order houses should not be given special privileges, secret rebates, and other benefits by manufacturers and wholesalers that are not given to independent retailers. In other words, the independents should have the same right and opportunity of obtaining goods at the same price, and on the same terms, as the larger concerns in America.

ALL PRICES WILL BE FIXED

Such holding companies as will be liquidated under the administration's bill will, if permitted to continue to exist and operate, eventually take over the business of this country. Then our country will be operated directly from Wall Street; all employees hired or fired at the will of a few Wall Street executives; all products of the farm, the ranch, and the orchard will have to be sold at a price fixed by these Wall Street parasites and the consumer will have to pay the price that they declare must be paid.

BATTLE OF THE CENTURY IS ON

The battle of the century is here. We must dislodge this special interest group from power now or our Nation is sunk. The people who built this country in time of peace, and who have saved it in time of war, are entitled to the privileges and rights which should not be usurped by a few Wall Street bankers through the use of the Nation's credit.

POWER OF THE PRESS

They have tremendous powers through newspapers, radio, screen, stage, movietone, and all other mediums of communication. A lie has no legs and cannot stand, but it has wings and can fly far and wide. Through their means of communication they can disseminate all kinds of false and misleading propaganda. The people's representatives are not in a position to disseminate the truth so quickly or so effectively. The tremendous advertising bills that the utilities pay will certainly cause all newspapers to be absolutely fair with them and in some cases it is well known it influences the opinions of editorial writers. Therefore, these Wall Street parasites with their enormous power and unlimited money and credit, through the control of at least a part of the press and other means of communication have every advantage over the people.

As for me, I expect to stand with President Roosevelt, and if the people of this country desire independent business locally owned, and owner operated, opportunities for the young boys and young girls in business and professional pursuits, monopolies and trusts broken up to the end that there will be more jobs and fewer million-dollar-a-year salaries, and a more equitable distribution of the wealth, privileges, and benefits, I believe that opportunity will be afforded them only through the support of President Roosevelt's program along this line.

I received the following telegram from the Honorable Jesse Jones, Chairman of the Reconstruction Finance Corporation, today, in regard to the holding company bill:

WASHINGTON, D. C., *June 30, 1935.*

WRIGHT PATMAN,
*Member of Congress, House Office Building,*
*Washington, D. C.:*

The purposes of the holding company bill will be defeated if the amendment restoring section 11 does not carry. This amendment, I am informed, gives holding companies that are far removed from the properties, 5 years in which to adjust their affairs and distribute their assets to their stockholders. In my opinion holding company security holders will be much better off owning the securities of the operating utility companies directly rather than through a maze of holding companies. Most of these utility companies operate at a fair profit, and if this profit can go direct to the security holders without too many intermediate take-offs by unnecessary holding companies, the security holders and the consuming public will benefit. As I understand, the holding company bill allows one holding company, and that is quite sufficient for all legitimate purposes. Public-utility holding companies have been among the worst offenders against the investing public, and against the householder, and the industry, who must meet the monthly light and power bill. My observation of the manipulation of public-utility companies by multiplied holding companies convinces me that most of these holding companies are unnecessary and should be outlawed. I am sending you this message because of my deep feeling on the subject and in the hope that the bill, with the amendment, may be enacted.

JESSE H. JONES.

[Here the gavel fell.]

Mr. WITHROW. Mr. Chairman, I am constrained to discuss the bill providing for the regulation of utility companies because this subject is of such vast importance to every citizen of the United States. In my opinion there are three major interests which should be considered in the determination of action on this legislation: The interest of the consuming public, the interest of investors in utilities securities, and the social and economic welfare of the Nation. If the interests of the consuming public and the utilities investors are observed it follows that the social and economic welfare of the Nation is secure.

I shall attempt to limit my discussion of this measure to fundamental and incontrovertible facts because the people of the United States have been flooded with deliberately misleading propaganda and false statements regarding the contents and purposes of this legislation.

This bill does only two things. It provides for Federal regulation of public utilities and it provides for the dissolving of certain holding companies by 1942.

There has been no objection from any source against Federal regulation of utility companies. Even the utility companies themselves dare not object to Federal regulation because there is no valid objection to such regulation. The consuming public and utility stockholders know that in every State where State regulation has been possible such regulation has always worked to the interest and profit of both the public and the stockholders.

Not daring to oppose the regulatory features of the bill, utility executives have turned their attack to the feature which dissolves holding companies. So let us examine the holding company issue and see if there is valid complaint against the dissolving of holding companies.

A holding company is a corporation which owns enough stock in other companies to control their management. There are about 20 big holding companies in the gas and electric industry, and they control the bulk of the industry. Some of them are amazing organizations. There is one system in which there are nine holding companies piled on top of the operating companies, with the result that $50,000 of stock in the top holding company controls the management of a billion dollars of book value in operating companies down below. In another system $23,000 of stock at the top controls the operation of another billion of property down below. In still another the structure is so complicated that one man is secretary or officer in about 200 corporations within the system.

The only argument which can be advanced in favor of such complex organization is that it achieves economy and that it promotes the development of the industry by making it easier to raise capital because the risk is spread over a number of companies. This argument is fully met by the Senate bill in that it permits the continuation of holding companies of the first degree, which would, therefore, permit the continuation of all of the above-mentioned benefits, but, by preventing further complexity of organization, makes it possible for the investor to know exactly what he owns and what he is buying when he invests in utility securities.

Actual cost studies do not support the argument that operating companies are operated more economically under holding company control.

Now let us see just how the utility stockholder will be affected by this legislation. In the first place, although investors may not realize it, over three-fourths of all utility stocks are stocks in operating companies. Owners of operating company stocks will obviously suffer no loss with the dissolution of holding companies, because the only way they will be affected is that they will receive a larger measure of control over their property because of the dissolving of the controlling stocks with which their investment is blanketed. It is obvious that power rates remaining stationary, holding company stockholders will receive a larger dividend if their operating property is not required to support and pay tribute to 3 or 4 or 9 holding companies which are piled on top of their operating company. It should be remembered that all income and, therefore, all profit and dividends is created by the operating company. Not one penny of income is created by the holding companies, which in fact only divert earnings from the holders of operating company stocks.

Owners of operating company stocks need fear no loss on the basis that it will be more difficult to adequately finance operating companies than would be encountered in financing holding companies, because the facts show that during the past several trying years stocks in operating companies have retained their value to a greater extent than have holding company stocks. In other words, it has been easier to finance operating companies than holding companies—just the contrary of what the utility executives would have us believe.

What would happen to the one-fourth of stockholders who own stock in holding companies? Holding company stocks represent ownership of stock in operating companies. Let us assume a very simple case for the purpose of illustration. Suppose that a holding company has issued a total of 10 shares of stock against 100 shares of stock which it holds in an operating company. The law says that the holding company must be dissolved. Obviously the only way in which the dissolution can be accomplished is to distribute to the holding company stockholder the operating company stock which his holding company stock is supposed to represent. Mr. A., who owns 1 share of holding company stock, therefore receives 10 shares of operating company stock. Is that not exactly what he owned before? How, then, has he suffered any loss? Has he not, in fact, gained because he now receives the full dividend on the operating company stock and no longer contributes to the salaries and other extravagant expenses of the officers of the holding company?

The holders of operating and holding company stocks do not realize the magnitude of the tribute they pay to holding companies. A thousand examples could be cited, perhaps the most startling of which is the fact that salaries to holding company executives of $200,000 per year plus huge bonuses and dividends are not at all unusual in the utility industry.

When it is remembered that the holding companies perform no actual economic service and create no earnings, it is impossible to justify such salaries, especially in view of the fact that they must be paid entirely by the public in the form of higher power rates and by the stockholders in the form of reduced dividends.

The facts and figures of the indictment against the complex holding companies are overwhelming. I shall not attempt to go into them in the short time allotted to me. They have been very ably presented heretofore by the able Senator from Montana [Mr. WHEELER], and also by my colleagues from Texas [Mr. RAYBURN] and from Mississippi [Mr. RANKIN] and others. I would urge that every Member of this body and every citizen of the United States study carefully the material which these gentlemen have prepared on this subject as well as the mass of evidence which has been col-

lected by the Federal Trade Commission and various other agencies.

I do want to mention, however, the writing-up or watering of values which has been accomplished under holding-company control of the utility industry. Holding companies which have been guilty of this practice should be abolished on this indictment alone. The Federal Trade Commission's investigation of 91 operating companies in holding-company control having combined capital assets of nearly $3,307,000,000 revealed write-ups and other improperly capitalized items of $842,995,000 or a write-up of 34.2 percent.

Let us again assume a simple example for the purpose of illustration. The assumptions in this case are justified by the foregoing findings of the Federal Trade Commission, which have never been challanged even by the utility companies. Suppose a utility operating company has been purchased by a holding company for $100,000. The holding company then sells stock to the public in the amount of $150,000 (as has often been the case). It follows that in order to continue the payment of the dividend rate which operating-company stocks formerly paid, it is necessary for the holding company to increase power rates by 50 percent. If power rates remain stationary it is obvious that the dividend to stockholders must be decreased by 33 percent because the transfer of the control over the operating company to the holding company has in no way increased the income or earnings of the operating company and the holding company itself has added no earnings.

If the power rates are raised there is a grave injustice to the consuming public or if the dividend rate is reduced there is a grave injustice to the bona fide investor who has invested for income. In either case it is simply a matter of legalized robbery.

In the meantime what has happened to the $50,000 write-up or water which has been added to the capital structure of the utility? The $50,000 has gone into the pockets of the financial wizards who engineered the deal. In the great majority of cases not one penny has been returned to the physical property of the utility.

It is inconceivable that either the consuming public or utility stockholders should permit these conditions to continue. The consuming public is now thoroughly aroused over this situation and if this legislation is adopted in effective form the stockholder will also soon see the light.

I do not deny that this legislation will be extremely detrimental to speculators in utility stocks. In fact one of the intentions of this bill is that the flagrant speculative aspects of utility financing shall be prevented, and rightfully so. Such action is in the interest of the stockholder who has invested for income and security and in the interest of the consuming public.

I have no sympathy whatever for the speculator. I am, however, considering the rights and welfare of the small investor who has invested savings in utility securities for income. His rights are protected by this legislation.

If, however, it should appear that the property rights of small investors will be impaired or in any way injured by the dissolution of holding companies in 1942 then surely Congress, in one of its many sessions prior to that date, can and will make whatever adjustments or modifications may be necessary for the protection of the small investor for income.

As far as the consumer of electricity or gas is concerned, it is entirely in his interest that stock watering and financial manipulating tactics of the holding companies be discontinued. The direct result will be reduced rates to the consumer. This is of direct interest to those who do not now enjoy the benefits of electricity in their homes. Additional millions of our citizens, especially in rural communities, could enjoy the God-given benefits of light and power if the yoke of holding company rates could be removed.

I do not wish to inject the issue of public ownership into this discussion, as it is not in any way concerned with this bill. I do wish to mention, however, a rate comparison in the State of Wisconsin, which is very enlightening. The city of Kaukauna operates a hydroelectric generating plant which, even though it is none too modern, is able to supply power at exactly one-half the rate as the power supplied by the Byllesby utility in the same territory, in spite of the fact that the Byllesby plant has the most modern of equipment. The city of Kaukauna supplies the power at half rate, after paying all operating expenses, and so forth, because they pay no tribute to holding companies. They pay no dividends on watered stocks; they pay no enormous salaries or bonuses to financiers; they pay no high-priced lobbyists and spend no huge sums for propaganda purposes—therefore, they can concentrate their efforts on the power business, and they can sell power to the consumer at a reasonable price.

Similar results can be obtained when private utilities cease their financial and stock-manipulation activities and return to the business of producing and selling power.

The people of the United States should know that this legislation to regulate public utilities is not a proposal which has been hastily drafted or ill considered. This subject has been under investigation by the Federal Trade Commission for over 5 years, at a cost of $2,000,000. The subject has been studied by various congressional committees and private organizations for many years. Although many of the facts now being brought to light have been carefully suppressed for years by utility-serving newspapers, the facts have long been known to those who have been interested in this subject.

For years the holding companies have been milking the operating companies and robbing not only the consuming public but also the stockholders of the operating companies. What we want to do is take the blood-sucking holding companies from the backs of the operating companies so that the operating companies can resume the power producing and selling business on an honest and clean basis.

The private electric and gas utilities, like the railroads, have fallen into the hands of the wolves of Wall Street. The control of both has fallen into the hands of speculators and financial wizards to the great detriment of the consuming and investing public. The railroads are already paying a heavy toll in bankruptcies and the gas and electric utilities will follow in their footsteps if present conditions are permitted to continue.

Utility holding companies beyond the first degree are, except in a few isolated instances, mere devices for exploiting and robbing both utility investors and the public. Any legislation which does not recognize that fact and correct that evil is worse than useless because it would give a sense of security and assurance which is entirely false. The issue must be met squarely. We must either protect the interests of bona fide investors for income, and the interests of the consuming public, or we must surrender to the speculators and financial wizards and permit the abuses of the past to continue and perhaps precipitate the Nation into another great depression when they crash.

The utility bill, as passed by the Senate, is a sound and fair way of meeting and solving this problem with fairness and safety to the bona fide investor and with justice to the consuming public. I urge that the Senate bill be adopted intact and that no concession be made to the speculating wolves of Wall Street who seek only to continue their legalized thievery. [Applause.]

[Here the gavel fell.]

Mr. BOILEAU. Mr. Chairman, it has been said on the floor that the employees of the utility companies have expressed their disapproval of this legislation. I know that to be true because I, with other Members of the House, have received numerous requests from men and women in my district who are employees of the utility companies urging that the Senate bill be defeated.

They have gone so far as to say that unless the bill is defeated they are in great danger of losing their jobs. The gentleman from Ohio [Mr. COOPER] stated that most of the employees in the utility field were in favor of the House provision rather than the Senate provision.

Mr. COOPER of Ohio. Will the gentleman yield? I did not make that statement. I said I had received many protests from employees of the utility companies in my district against the passage of the bill.

Mr. BOILEAU. I am glad the gentleman has corrected me; I did not intend to misquote the gentleman. The point I am trying to make—and many employees have written me as they have the gentleman from Ohio—is that they will not be affected at all by this legislation. They are working for utility operating companies and not for the holding companies. There are very few employees working for the holding companies. If we wipe out all of the holding companies, there would still be as many employees working for the utility operating companies as are now working for them. [Applause.] There would be no jobs lost.

Mr. COOPER of Ohio. Will the gentleman yield?

Mr. BOILEAU. Yes.

Mr. COOPER of Ohio. I want to say that it is my firm opinion, after going through 4 months and 20 days' examination, that if this dissolution takes place, there will not be many utility companies able to stand up—they will be in bankruptcy.

Mr. BOILEAU. There is going to be just as great a demand for electric light and power as there is now. There will be just as many wage earners, and there will be just as many people wanting light and power as there are at the present time. If the utilities do not want to play ball unless they can make the rules, I for one am willing to let them close down. If the public utilities do not want to operate unless they can have a free hand to do as they wish, then I advocate public ownership of public utilities in the interest of the people of this country. [Applause.]

But I do not believe that this bill will bring that about. If the utility companies want to take the attitude expressed by the gentleman from Ohio, I, for one, am willing to accept the challenge and let them get out of business. If they consider that they are greater than the Government, and that their selfish interests should be given greater consideration than the interests of the small investors and the consumers, it seems to me that it is about time that we let them know that they overestimate their importance.

As far as this bill is concerned, it affects only the holding companies, only that small group who have never performed any really valuable service except from the standpoint of financing. There is no other good that they have done. They have not performed any other service. It is true they have rendered some service in the matter of financing, but even though the Senate bill be approved, they can still perform that useful service if there is any need for it, because they can be turned into investment trusts. This bill does not kill any useful holding companies, but it does reform them, and they are certainly in need of a lot of reformation. [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. SWEENEY. Mr. Chairman, when the Democratic Convention met in Chicago to nominate Franklin D. Roosevelt, the same lobby that you are confronted with now was found at Chicago in an effort to nominate a Wall Street candidate, and favorite of the Power Trust, namely, Mr. Newton D. Baker. They failed in that mission. I was a delegate to that convention. I was attracted to the candidacy of Mr. Roosevelt because of his fight against the power trusts in the Empire State. He minced no words in indicting the unscrupulous utility companies when he was Governor of that State. He conserved for generations yet unborn the great natural waterways of that State, and now we find the same element fighting him here again—I am surprised at the "liberals" that I knew some time back in this Congress, like JOHN COOPER of Ohio and my friend GEORGE HUDDLESTON from Alabama. What my friend from Ohio [Mr. COOPER] said is true. He is the friend of labor. I have supported him in the Ohio Legislature on labor measures and also on the floor of this House, but the question is: Where do you stand today, John? That is the question. [Applause.] Mr. HUDDLESTON I knew before I came to Congress, by reputation. He used to go through the length and breadth of this land expounding liberal doctrines, but where do you stand today, George?

Mr. Chairman, the Pecora investigation is enough to open your eyes, when they had Mr. J. Pierpont Morgan over there, when it was developed by the testimony that Mr. Morgan and his outfit controlled over 2,000 corporations in this Nation, holding companies, subsidiaries, controlling the sale and purchase of the very clothes you wear, the food you eat, the picture shows you go to, the banks and insurance companies you patronize, the casket you are buried in—all controlled by Morgan and men like him in this day of monopoly. The late Tom L. Johnson, former mayor of Cleveland, Ohio, one of the leading exponents of municipal ownership in this country, 30 years ago in the city of Cleveland said that "unless you destroy public utilities they will corrupt your politics, they will destroy your liberties." That was a prophecy. The Morgan episode to which I referred proves that. What are we going to do about it? Are we going to be a lot of "yes" men, carried away by the smoke screen of the widow and the orphan? Why, it is comparable to men like Al Capone and Dillinger holding a widow or an orphan in front of them against the G-men who came after them. You have your opportunity today. You are making history today. You will never cast a more important vote in your life if you stay here for 25 years, and the people of this Nation will watch the vote. I respect the right you may have to your own opinion, but I believe the Eicher amendment is a proper amendment.

If I had my way, I would take the bill without the Borah amendment. I have seen so much of this corruption in my city. I see a subsidiary of a public-utility holding company connected with the North American Co., the Cleveland Electric Illuminating Co., charging my people 4 cents a kilowatt-hour for electric use for domestic purposes, that our friends from Alabama and Mississippi and other States get for less than 1 cent per kilowatt-hour. It is time to change the system. If you do not do it, the people will. We are living in a day now when we must break up monopolies or they will destroy our liberties. Every day we are increasing the advocates of public ownership, because we see, as our friend JOHN RANKIN showed us in figures he inserted in the RECORD, the millions, yes, the billions that these giant corporations, these holding companies, these operating companies, are taking from the people of your State and my State every year. This vote is a vote in favor of Franklin Roosevelt's policies or it is a vote for the Power Trust. [Applause.]

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. KELLER. Mr. Chairman, the biggest big business of the future will be that of making and distributing electrical power. We are going to decentralize industry, and we cannot do that if we permit the monopolization of any of the necessary requisites, and the first requisite is that we shall have reasonably priced electrical power. Let us get that perfectly clear. The combination of the holding companies undoubtedly at the present time do constitute a monopoly, not only of what business we are doing today in the production and distribution of electrical power but they limit, if they do not control, our future, and will continue to do that until we break them loose from that monopoly and brush them aside. The holding company was formed originally for the purpose only of getting the economic value out of contiguous operating companies in adjoining States, where the laws of the two States would not permit that. That is entirely acceptable at the present time. Section 11 of the Senate bill, which is now before us for our consideration, permits just exactly that thing, as it ought to do. But the abuse arose when the holding companies were recognized as a convenient means of getting control of this great industry by the few who have so long exploited and robbed the people of this country.

This greedy, grasping few who have for so long had no business honor, proceeded to commit every fraud and deception in the calendar to grab and control a great industry and strangle its growth to their own profit. Holding companies began piling one on top of another until we have one instance where nine holding companies are piled up on

top of the operating companies, sucking their blood without return service.

Holding companies are made for the purpose of getting larger profit than they can get through operating companies. If they do not do that, they do not fulfill their promises. If they do it, they take every dollar of that extra money out of the pockets of the people who use electric current. There are two leading facts that this body ought to consider on this question. The first one is, Shall we permit this to go on as we are at the present time? If we do, we will permit these holding companies to go back into the stock market and resell these "insecurities" to the people of this country as they did back in 1926, 1927, 1928, and 1929.

These holding-company stocks were sold on a basis of $19,000,000,000 and somebody paid that for them on the stock market. Those stocks are quoted on the market today at about $3,000,000,000. The people of this country have therefore already taken a loss of $16,000,000,000 on these "hold-up" companies, and they are "hold-up" companies.

Mr. KVALE. Did the gentleman say "insecurities"?

Mr. KELLER. Yes, sir; I did say "insecurities" and I thank the gentleman for accentuating that expression. The men who did those things, who piled up these holding companies on the backs of the legitimate operating companies and committed the frauds and abuses, a good example of which Governor Pierce from Oregon told us about out of his own rich experience, ought every one to be in jail. Every one ought to be doing time. That is where they belong, every one of them. Men who stand here and support their plea to have a free hand as they have had heretofore are simply going to be responsible for the resale of these "insecurities" to other innocent people of this country if this House bill becomes the law.

The second question principally involved is the privilege of continuing the present unconscionable rates for electric current.

The holding company does absolutely nothing that an effective operating company cannot do itself.

Not a single man who has spoken for the holding companies has discussed the rates people must pay.

Not one of these dares to discuss this question on the floor of this House.

Not a one of these dares to go before his constituents at home and try to justify the rates people are paying all over this country.

No man can defend the holding companies' outrageous rates and come back here by the people's vote.

I want to illustrate what this rate business means. In 40 southern Illinois counties, in the heart of the Insull empire, where we have the best-developed soft-coal field in the world, where we can produce electric current through a properly equipped steam plant under 3 mills per kilowatt-hour—over this entire region counting all power, lights, cooking, and heating—we are paying on an average over the whole field 7 1/17 cents per kilowatt-hour for what costs 3 mills.

Industry cannot exist under such rates. Just in proportion as rates for current are lowered the use of electricity will be increased. We must not only revive industry that has been killed by exploitation, but we must establish and maintain vastly greater new industry; to create vastly greater wealth than ever before and distribute it according to the service rendered by the men who create the wealth.

This producing and distributing of electric power becomes a matter of national concern. If we are to progress we must take control of this great industry away from the exploiters and make it of the greatest possible use to all our people. We must frankly recognize that industry can in itself unhampered meet every need which our progressive civilization may demand. But we must also recognize that industry cannot carry the robberies which we refer to as exploitation and meet its other vital requirement of providing ever-increasing division of the wealth created in favor of the man whose thought and labor creates that wealth. We must do away with all exploitation, or we must continue the enormous inequality under our present customs and laws. We cannot at the same time exploit labor and reward labor according to the service rendered. Whatever renders no service shall receive no reward.

I am for actual public utilities. Every dollar put into a public utility honestly, intelligently, and in actual cash ought to receive a fair return for that investment. It is the exploiters of our utilities that I am against. Let us get the facts. Ninety-one percent of the actual cash investment in the production and distribution of electric power is in the operating companies, or wholly within given States and therefore under State law alone, and only 9 percent in the holding companies subject to our consideration here today. It is this 9 percent which dominates the 91 percent that we are seeking to control. Every man of wide experience in the attempts to regulate these outlaw companies knows that it simply cannot be done. It is only through law that will compel dissolution of those that cannot show their right to continue as matters of service can be reached, and that is exactly what the Senate bill provides for, but for which the House bill does not provide. If we replace sections 11 and 13 of the House bill with sections 11 and 13 of the Senate bill the rest of the House bill may fairly meet our requirements. But without these the House bill, should it become the law, would be a national license to the "hold-up" company conspirators who have already robbed the people of sixteen billion dollars, to go ahead and rob them again.

The holding companies taken together constitute a trust calculated only to suck the blood of industry. Those which cannot justify their existence by their service must go. That is exactly what the Senate bill provides. Section 2 of the Senate bill, referred to often as the "death sentence", is in fact a liberal method of liquidating losses that have already occurred.

The only "death sentence" in it is the sentence against future robberies. That is not only a justifiable but a necessary sentence.

We can no longer submit to the exploitation of industry. We must free industry. Here is our opportunity to fire the first shot in that fight. We are going to declare our faith by our recorded votes that all men may see whom we serve—God or mammon.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. KELLER] has expired.

Mr. MOTT. Mr. Chairman, I ask unanimous consent that the gentleman may have 1 additional minute that I may ask him a question.

Mr. KELLER. I shall be glad to have the time to answer your question.

Mr. MILLARD. Mr. Chairman, I object. There are so many who want to speak.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota [Mr. KVALE] for 5 minutes.

Mr. KVALE. Mr. Chairman, I do not know that I can contribute anything to the debate that has already transpired. I do not know that this debate is particularly fruitful. I believe the minds of the members of the committee and of the House are pretty well set as to how they intend to vote, but I do want to thank the Scripps-Howard newspapers and the Washington News for trying to break down the effort which is being made to throttle expression in this House, through this rule, by means of publishing the list of those who pass through tellers and identifying them by name rather than by number.

I want to call the attention of the Membership of the House to the fact that today's copy of this little tabloid newspaper states that it is going to make a sincere and serious effort to publish the names of those who pass through tellers. [Applause.]

Mr. Chairman, I think we have gone backward in our procedure during this session. Last week we passed the labor-disputes bill without a record vote. Time and again we have brought controversial and important major measures before this House and we have passed them without a record vote or we have defeated them without a record

vote. Today we are witnessing the identical experience. I, for one, protest against that procedure in this body. Time was when it would not be considered proper to bring a major measure before this body without providing for a record vote. Today's Washington News carries a biting criticism of the House of Representatives for its evasive tactics in dodging roll-call votes upon major items, and it is a well-merited criticism.

So, instead of discussing the merits of this measure, it can be assumed I am going to support the Senate provision, section 11, as originally in the bill. There is no secret about that. I want to see the entire Membership of this House go on record, and I hope and trust that a roll call will be made possible through the adoption of the Senate amendment, so that subsequently, in the later stages of the consideration of this bill, we may have that roll call, which will not be possible unless we adopt the amendment in committee.

Mr. Chairman, I think this debate is futile. I do not have anything more to contribute, and I yield back the balance of my time. [Applause.]

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. KVALE] has expired.

The Chair recognizes the gentleman from New Hampshire [Mr. ROGERS].

Mr. ROGERS of New Hampshire. Mr. Chairman, I know of no way in which I can better express my attitude toward this proposed measure than by calling your attention to the words of Hon. FRED H. BROWN, the junior Senator from New Hampshire, delivered on Wednesday, June 5, at the other end of this Capitol. He is a man who had 7 years' experience on the public service commission of the Old Granite State, and he knows the situation from top to bottom. As a result of his connection with it, he told that august body at the other end of the Capitol in his concluding remarks on the subject as follows:

> Those of us who have had to deal with this holding-company evil know that it is very real, and not a phantom affliction. We know that the legislation proposed is neither punitive nor vindictive. It is a practical measure to meet practical realities. I have seldom been accused of being an extremist in words or in action, but if we fail to destroy this holding-company menace, I say it will ruin us in the end.
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> The pending bill takes the greatest care to preserve every element of legitimate value for the investor. I think it will give the ordinary investor much more protection than if his property were left to the uncontrolled whim of the holding-company managers, who have taken away the savings of the people and given them next to nothing in return. The holding-company managers are not fighting for the investor, they are not fighting for the consumer, they are fighting only for power over other people's money, other people's business, and other people's lives.

It now becomes our duty to decide whether or not we will support the changes made by the House Committee on Interstate and Foreign Commerce in section 11 of title I. In other words, do we feel that the bill as presented to us by the House committee insures full regulation of holding companies? The Democratic Party in its splendid and progressive platform adopted in 1932 charged itself with the following solemn responsibility:

> We advocate regulation to the full extent of Federal power of holding companies which sell securities in interstate commerce.

This pledge is not a promise to wipe out all holding companies, but it is a real obligation to enact into law a measure which will make impossible a recurrence of the unfair, unjust, immoral, and evil actions of the holding companies with which our generation has come in contact. In other words, we must pursue not a policy of destruction but a high code of regulation and organization for the welfare of town, city, county, State, and Nation. To hang a boy because he is a bad boy does not and cannot make such a boy grow to become an honest man. By the same logic the abolition of a bad holding company will not be necessary if such company hereafter respects and obeys the law. If the passage of this law does not eliminate the holding company abuses, I hope I may be the first man to cast my vote to put the companies out of business.

It is stated in this morning's Washington Post that the President himself may take a hand in the situation now confronting the House for the purpose, I suppose, of obtaining our approval of the so-called "death sentence" in the bill as passed by the Senate. If the President is correctly quoted, I fear that it must be because he has not been fully advised as to the ultimate effect of the bill as reported to the House. No Member of this body will go further than I to uphold the hand of our great President. I desire at this time, however, to remind you that we can successfully restore this great Nation to peace, happiness, employment, and prosperity without becoming in any way panic stricken over our present ills.

Let me here adopt as my own the words of a great American statesman, Henry Clay, uttered by him as a Member of this great body 111 years ago on March 30, 1824. In speaking to his fellow Members of this House in a time of a great depression, this man, famous for his remark that he "would rather be right than be President", used these words:

> In casting our eyes around us, the most prominent circumstance which fixes our attention and challenges our deepest regret is the general distress that pervades the whole country. It is forced upon us by numerous facts of the most incontestable character. It is indicated by the diminished exports of native produce; by the depressed state of our foreign navigation; by our diminished commerce; by successive unthreshed crops of grain perishing in our barns and barnyards for the want of a market; by the alarming diminution of our circulating medium; by the numerous bankruptcies, not limited to the trading classes but extending to all classes of society; by a universal complaint of the want of employment and a consequent reduction of the wages of labor; by the ravenous pursuit after public situations, not for the sake of their honors and the performance of their public duties but as a means of private subsistence; by the reluctant resort to the perilous use of paper money; by the intervention of legislation in the delicate relation between debtor and creditor; and, above all, by the low and depressed state of the value of almost every description of the whole mass of the property of the Nation, which has, on an average, sunk not less than about 50 percent within a few years. This distress pervades every part of the Union, every class of society; all feel it, though it may be felt at different places in different degrees.
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> It is like the atmosphere which surrounds us—all must inhale it and none can escape it. In some places it has burst upon our people without a single mitigating circumstance to temper its severity. In others, more fortunate, slight alleviations have been experienced in the expenditure of the public revenue and in favoring causes. A few years ago the planting interest consoled itself with its happy exemption; but it has now reached this interest also, which experiences, though with less severity, the general suffering. It is most painful to me to sketch or to dwell on the gloom of this picture. But I have exaggerated nothing. Perfect fidelity to the original would have authorized me to have thrown on deeper and darker hues. And it is the duty of the statesman, no less than that of the physician, to survey with a penetrating, steady, and undismayed eye the actual condition of the subject on which he would operate; to probe to the bottom the disease of the body politic if he would apply efficacious remedies.

Just one word further. I do want to call attention, if I have a moment, to the fact that as a result of the service rendered by the junior Senator from New Hampshire on the public service commission of our State, we, for a long time, have had a public service commission which properly protects the rights of the citizens as against these damnable curses; but the Senate bill as originally drawn would deprive certain States, I think five in all, of certain rights which they have over the exportation of hydroelectric energy which is transmitted across the State line. This situation has been taken care of by the House committee, and I hope when you come to it, section 201 of part II, that you will grant us the privilege to continue, as we have been for 22 years, to exercise our State right over the exportation of hydroelectric energy transmitted across State lines but produced up there in the granite hills of old New Hampshire. [Applause.]

[Here the gavel fell.]

Mr. MORITZ. Mr. Chairman, Pennsylvania, of all the great States is surely the one infested with great utility and holding companies. Attempt after attempt has been made to get them on record as to their doings and undertakings. Some years ago this was brought about very forcibly and an opportunity was had to put them under oath for the purpose of taxation. The result showed that they evaluated their property one way for the purpose of taxation and another way entirely for the purpose of paying dividends, showing just plain fraud.

Much has been said about this "death sentence" clause. I represent the district (downtown of Pittsburgh), in which Mr. Mellon has many holdings. Mr. Mellon probably has

never heard of me, and I do not care whether he has or not. After today, after we have substituted the Senate bill and passed the "death sentence" on these monopolistic gougers, the utilities, he will know that there is a Democratic Congressman from Pittsburgh representing the masses and not the privileged few.

This progressive legislation is sponsored by President Roosevelt, who, in his own right, as I understand, is a wealthy man, but not afraid to fight the vested interests. I hope the Democratic Party will give this great leader opportunity to break up also the monopolistic holdings of land so as to give the people a chance of getting back to the land. This is only the first step, Mr. Chairman, but it is a great step; and I am glad to be able to do my share in giving the "death sentence" to the monopolistic holding companies that have been cheating widows and orphans for many years, but who are now trying to hide behind the widows' skirts.

Members of Congress have been bombarded with a barrage of letters and telegrams from the owners of securities and from employees of public-utility holding companies. Most of these communications come from persons sincerely terrified by the flood of circulars and newspaper advertising put out by the holding companies themselves. Is this fear warranted by the provisions of the bill advocated by President Roosevelt and containing a section calling for the elimination of most holding companies? I think not.

To be sure, the present market value of the securities of holding companies is far less in most cases than the purchase price. But to a great extent the shrinkage has been due, not to any real loss which may be suffered on account of the enactment of this salutary law. Owing to the unsound pyramiding of securities upon securities—of debentures upon class B stock upon class A stock upon prior preferred stock upon preferred stock upon common stock—many of these securities never had any substantial earning power and thus were chiefly "dated." Under such financial practices, coupled with the "milking" processes, which I shall mention hereafter, there never was any possibility of continuing dividends on much of the stock of the holding companies except by the imposition of consumer-rate charges entirely out of reason.

It appears to me that by the changes in financial structure to be brought about through the proposed elimination of holding companies no present security holder will suffer if his security now has any real honest value behind it.

As for the employees of the operating companies, it is certain that whether the holding companies continue or not, generating stations still will be running, lines must be repaired, meters must be read, bills must be prepared and submitted. So it seems that, with the exception of a relatively few highly paid holding-company officials, there will be no reduction in employment. The probability is that, with the elimination of a few overpaid sinecures, there may be more funds to pay wages to those who really do the work of supplying electric current.

Now, what kind of organizations is it that this elimination provision seeks to outlaw? Picture to yourself an organization such as Electric Bond & Share, with 150 or more subsidiaries, conducting electric, natural gas, artificial gas, public water supply, ice manufacture, motor-vehicle and street-railway transport, coal, and other businesses in 27 different States and several foreign countries. Or one like Associated Gas & Electric, with 160 or more subsidiaries, doing business in 18 States and several foreign countries.

Many people—even some Members of this body—advocate regulation and not elimination. Witnesses before the committee at the hearings on this bill in some cases were unable to tell the name of the corporation for whom they were working or even the official position of the person to whom they were responsible. How can any governmental commission, no matter with how much authority, no matter how energetic, hope to regulate such sprawling, loosely connected, will-o'-the-wisp combinations?

The Federal Trade Commission spent about 7 years, with a numerous and efficient force of examiners, trying to dig out the facts about 91 holding companies. Their findings cover more than 75 volumes of reports. I quote part of one paragraph from chapter IV of the final report, dealing with United Corporation:

> Drexel & Co. (Philadelphia), affiliate of J. P. Morgan & Co., in 1927 held common stocks of United Gas Improvement Co. and Public Service Co. of New Jersey * * * of a market value of about $10,562,400, representing an investment of about $5,970,000. * * * J. P. Morgan & Co. apparently decided to establish an investment trust, and between May 3 and June 20, 1928, acquired 81,800 shares of common stock of United Gas Improvement Co. and 25,000 shares of Public Service Corporation of New Jersey at a total cost of $13,335,427.75. Also J. P. Morgan & Co. obtained from General Electric Co. in June 1928 an option to purchase the latter company's holding of Mohawk-Hudson Power Co. at a cost of $23,034,120, and exercised that option on January 10, 1929. J. P. Morgan & Co. also arranged with Bonbright & Co. to cause the American Superpower Corporation to participate * * * by putting in 800,000 shares of Public Service Corporation of New Jersey and 53,000 shares of United Gas Improvement and $25 cash at a total valuation of $72,480,025.

In this short part of a paragraph there are named eight different corporations: Drexel & Co., J. P. Morgan & Co., United Gas Improvement Co., Public Service Corporation of New Jersey, General Electric Co., Mohawk-Hudson Power Co., Bonbright & Co., and American Superpower Corporation, not to mention the $25 in cash, which is scrupulously taken into the picture. Since this is the only cash mentioned, one wonders whether it was included so that there might be a slight solid foundation to all that column of water. The whole thing makes one dizzy even to read, to say nothing of attempting to regulate.

And how do these holding companies operate? I referred a while ago to a "milking" process. In one case brought to my attention—an Associated Gas & Electric operating subsidiary, there was—

First. A management contract, under which another subsidiary of the holding company received 2½ percent of the gross earnings of the operating company, payable monthly, with interest monthly at the rate of 8 percent per annum on deferred payments; and the holding company, handling all the funds of the operating company, saw to it that payments were regularly delayed for months;

Second. A construction contract, whereby another subsidiary of the holding company carried on all construction for the operating company, at prices fixed by the former, receiving 7½-percent commission on all such expenditures, payable monthly, also with interest on deferred payments;

Third. A purchasing contract, through which another subsidiary of the holding company made all purchases for the operating company, receiving 1½-percent commission;

Fourth. An appliance contract, under which the operating company furnished space and attendance for the sale of appliances for another subsidiary of the operating company without remuneration, the appliance subsidiary retaining all profits from their sale;

Fifth. An advertising contract, which obligated the operating company to place all its advertising through another holding company subsidiary in amounts and at prices fixed by the latter.

On top of this, employees of the operating company were expected to sell securities of the holding company to themselves, their relatives, and friends, on pain of losing their jobs.

And yet, with all this unprincipled graft, the holding company had issued such a volume of foundationless securities that long before the pending bill was even contemplated, shares costing $100 each were selling on the market at $1 and $2.

To be sure, thousands of innocent investors—widows, orphans, churches, and hospitals—have lost millions of dollars to the unprincipled promoters of these holding companies; but there is no way in which that already lost can be regained, and all we can do is to enact such laws as will make it impossible for such a Nation-wide catastrophe to happen again.

The holding companies tell in their circulars and advertising about the wonderful assistance they have rendered to operating companies in the way of financing expansions and interconnections and in supplying management advice. Undoubtedly much advantage has been afforded in these

directions, but at what a price. But there is nothing in this bill to preclude the continuance of such assistance.

The Public Utility Holding Company Act of 1935, with the elimination provision, provides for the continuance of systems lying wholly within a State, or even of those systems crossing State lines when the integration is such as to indicate economical operation. Under its provision I venture to say that there is not a section in the whole United States where the demand for service warrants its supply which will not be within the sphere of an operating company of sufficient financial stability to warrant the furnishing of every dollar required. And when the shadow of gigantic menace—the holding company—has been dissipated, I make bold to predict that in any case where the size of the operating company fails to warrant the employment of competent full-time management, independent advisory management organizations will spring up, which, for a moderate fee, will afford even the small company the benefit of the latest and most efficient developments of the industry.

Consider for a moment the local situation. All local utilities—the Potomac Electric Power Co., the Capital Traction Co., and even Glen Echo Amusement Park—with some 150 other public utilities scattered over 15 or more States, are under the benevolent control of the North American Co. Can there be any question in the mind of anyone that these local utility operating companies could obtain all necessary financing themselves? Is there any doubt but that their activities are of such scope as to warrant employment of the best managerial talent? What function, then, does the North American Co. perform, aside from abstracting funds from the pockets of Washington residents through the medium of excessive rates, fares, and other charges for its own benefit?

Some uninformed people suggest that power is in the hands of State regulatory commissions to curb these excesses and unsound practices. I need only call attention to the fact that the National Association of Public Utility Commissioners repeatedly has pointed out their inability to control these interstate holding companies. More than that, certain energetic State commissions have sought to accomplish this, only to find themselves face to face with court decisions curtailing their authority over interstate holding companies.

So after the most careful study and reflection on this bill, I have come to the conclusion that its enactment with the elimination provision is absolutely essential for the preservation of the rights of the people of the whole country; and that its passage in that form will not interfere with any honest and necessary interest now in existence. [Applause.]

The CHAIRMAN. The Chair recognizes the gentleman from Kentucky [Mr. ROBSION].

Mr. ROBSION of Kentucky. Mr. Chairman, I ask unanimous consent to extend my remarks and to include therein two short letters and a part of a report made by a committee appointed by Mr. Roper.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. ROBSION of Kentucky. Mr. Chairman and ladies and gentlemen of the Committee, I am happy to have an opportunity to talk to you awhile on the so-called "Wheeler-Rayburn utility bill." Permit me, however, to say in the outset that neither I nor any of my close relatives now own or have ever owned any stock or securities in any utility company. I have at no time in my life been the agent or attorney for any utility company, but have at various times represented clients in their suits against utility companies. I have had no connection throughout my life with any utility company except as a consumer. I feel that I can approach this subject without any bias, favoritism, or partiality, one way or the other.

HEAT, LIGHT, AND POWER

Heat, light, and power—the three mightiest forces of our twentieth-century civilization, the three great handmaidens of the home, the school, the church, and of science, industry, and commerce—represent an investment of $12,500,000,000. These stocks and securities are owned by more than 12,000,000 American citizens and institutions. You find them in all walks and conditions of life—among the workers in the mills, shops, mines, factories, stores, and office, on the railroads and farms, among doctors, lawyers, merchants, teachers, preachers, insurance companies, banks, schools, universities, fraternal organizations, and others, and included among these are widows, orphans, the aged, the poor, the rich, and the powerful, and this great industry provides employment for hundreds of thousands of men and women and livelihoods through wages, interest, and dividends to millions of American citizens, contributing about $300,000,000 annually in taxes to the support of the Government and provides light or heat or both to nearly 25,000,000 homes and service to approximately 100,000,000 Americans.

Webster defines "utility" as "usefulness" and "intrinsic value." We speak of these mighty forces of heat, light, and power as "utilities" because of their intrinsic value and universal use to mankind. It is impossible for us to appreciate fully what these great forces have meant to our civilization. They have turned the darkness of the city into the bright light of day; they have removed the drudgery from the home; they have brought the cooling breezes of the seashore to the scorched and humid sections of the interior; they have become the tried and true friend of the physician and surgeon; they carry the stream-lined trains across the country at lightning speed; operate the street-car systems, and over the telephone and telegraph wires they have brought together 125,000,000 Americans as neighbors. They turn the wheels of industry, and contribute in countless ways to the health, happiness, and prosperity of our Nation.

We shudder to contemplate the result if these mighty forces—heat, light, and power—should be taken away from us but for a short time, in inconvenience and the destruction of life and property.

The welfare of the American people and the rights of millions of investors and those who depend upon this industry for a livelihood make this one of the biggest, most complicated, and most interesting problems that has been up before Congress in many years.

The President and many of his friends in and out of Congress have declared that unless Congress accepts the President's death-penalty provision, this will be the great political issue of 1936. I deeply deplore this attitude on the part of the President and his friends. This problem must not be approached in a spirit of partisanship or favoritism. We should not be swayed from a just and proper course because, forsooth, some company or companies or some individuals connected therewith have in the past been guilty of frauds or even crimes. This great industry and the millions of honest American investors and the great army of those employed by these enterprises and American consumers of utility service should not and must not become the football of partisan politics. It is a great economic problem. I have no interest to serve and I am sure you have none except to do the right thing and the best thing to protect the public interest, the honest business concern, the honest investor, those dependent upon this industry for their support, and at the same time restrain that small group which no doubt is found in this industry as it is found in almost every industry who have no regard for the public welfare or for the rights of the people.

SENATE BILL—HOUSE BILL

The so-called "Wheeler-Rayburn bills" are companion bills and were introduced in the Senate by Senator WHEELER, of Montana, and in the House by Congressman RAYBURN, of Texas. They were not written by Senator WHEELER or by Congressman RAYBURN; neither were they written or prepared by any Member of the House or Senate or by the President. It is admitted that the President had Mr. Cohen and Mr. Corcoran, two young men from New York, to come here to plan and write the so-called "Wheeler-Rayburn bills." These young men were not elected by the people to serve this Government in any capacity. You do not know, and I do not know, who or what is behind these men. Their

motives may be of the highest, while on the other hand they may be serving their own special interest or the special interest of some group or groups. They may be nursing some grievance against this great utility industry or some persons connected with it. Anyhow, they did write this legislation, and handed it to the President, and he handed it to the Senate and House, and demanded that we, the chosen and sworn Representatives of the people of 435 congressional districts and the Senators of the 48 States, pass the Cohen-Corcoran bill without the crossing of a "t" or the dotting of an "i."

There are many, many great lawyers, many men and women not only of wide legal training and experience and wide business experience, and who have served their country with fidelity and distinction for many years in the House and Senate. Who ever before heard of Cohen or Corcoran? I am unwilling to say by my action and vote on this bill that these two young New Yorkers possess greater fidelity, greater zeal for the welfare of our country, or superior legal knowledge, business ability, or statesmanship than the 435 Members of the House and the 96 Members of the Senate. What have Cohen or Corcoran ever done that would justify us to accept their bill proposing to destroy scores and scores of honest business concerns and the stocks and securities of millions of honest American investors, taking from them billions of dollars, in preference to the House bill?

A lot of us have been told that we could not be reelected unless we do so. I for one refuse to be intimidated. I refuse to make this great question political or partisan. I have received thousands of letters from the people of my own State denouncing the Wheeler-Rayburn bills with the President's "death penalty" clause, and not one person has urged me to support any such measure. I have made a long, painstaking, and earnest study of this question, and I am unwilling to ignore the suggestions and information received from thousands of Kentuckians and the knowledge I have gathered on this matter and accept the opinion of Cohen and Corcoran.

The Seventy-third Congress will go down in history as the "rubber stamp" Congress, and this, the Seventy-fourth Congress, has done little to wipe out that stigma. It did refuse to follow the President on the soldiers' bonus.

The bill now before us is what is known as the "House bill." After months of investigation, the House committee reported favorably the bill that is now before us and which does not contain a "death penalty" clause. I am advised that every Democrat on the House committee except one voted in favor of reporting the House bill without the "death penalty" clause.

Early in January the President demanded that Congress, without amendment, adopt the so-called "works-relief bill", granting him a lump sum of nearly $5,000,000,000 with dictatorial powers even greater than those granted to Hitler of Germany or Mussolini of Italy. The President and his close advisers admitted that they had no program on which they proposed to spend this huge sum of money. They urged that it must be passed forthwith in order to provide jobs for the unemployed. The bill was forced through. Six months have gone by. No jobs have been provided to amount to anything except to give thousands and thousands of offices to the faithful Democratic office seekers. They cannot agree and they admit that they do not now have a program.

I believed at the time that this huge sum of money would be used to browbeat and club Congress to do the President's will and a lot of it would be used to promote his political ambitions. I made a speech against it and voted against it, and warned my Democratic friends that it would be used as a club against them and they would have to continue to be a "rubber stamp" Congress. I was unwilling then and I am still unwilling to give to any President such a huge lump sum of money to be expended according to the whims of the President and a lot of bureaucrats, be the President and the bureaucrats Democrats or Republicans. This procedure disregards the duties of Congress, the rights of the taxpayer, the liberties of our people, and common sense and honesty in government and business.

An amendment was offered by a Democratic Senator to take the "death penalty" clause out of the President's utility bill when it was up for consideration in the Senate. The President and Farley sent their special representatives and others and set about to compel the Senate to reject this amendment. Rumors flew thick and fast as to the "big stick" that was being used, the withholding of allotments for projects, Federal appointments, and so forth, and on a roll call the amendment to take out the "death penalty" clause was defeated by one vote.

I understand the administration undertook to browbeat and force the great Committee of the House on Interstate and Foreign Commerce to bring out the bill passed by the Senate with the "death penalty" clause, but this great committee, to its everlasting credit, refused to do so, even though certain influential Senators and the President, according to press reports, have declared that they would kill the bill unless the House bowed to them and passed the Cohen-Corcoran bill. This independence on the part of the House committee and what I have seen here among outstanding Democrats indicate that the House will not accept the President's "death penalty", and that it will be defeated by an overwhelming majority. This is a most wholesome sign. The great House of Representatives has decided to legislate and no longer abdicate.

I am advised that a terrific effort will be made to put the "death penalty" clause back into the House bill. The President has demanded that this be done. I am anxious to know if the House will be intimidated, cajoled, and bulldozed into doing that which I am sure a great majority know and believe is not the right course or best thing.

"DEATH PENALTY" OR CONTROL

What does the President mean by the "death penalty" provision of the Wheeler-Rayburn bill? It is that provision that provides that a lot of utility-holding companies the President says are not geographically integrated—meaning their lines and wires are not immediately connected; they have a plant or two or more in one State and other plants in other States. In other words, the President wants Congress to pass a law to automatically and arbitrarily put out of business these companies by a certain date—that is, inflict the "death penalty" and destroy these companies. The President does not claim to know, and Congress does not know, what companies would be destroyed. This will mean that scores of utility companies will be put out of business and the stocks and securities of millions of American investors will be either destroyed or greatly reduced in value.

I am unable to understand the apparent attitude of the President toward these companies. What is back of it all? I have never seen a public official apparently so anxious to destroy a lot of business concerns as is the President. He says that some utility concerns and some individuals have put out a lot of worthless stocks and securities, and the consumers of heat, light, and power are imposed on. In his tirades he speaks of the Insulls. However, he does not name any particular concern except the Insulls. It is generally agreed by those who have made an investigation of this subject that some utility companies and some persons connected with some utility concerns, including the Insulls, have committed frauds and perhaps crimes. No one condemns more severely the conduct of the Insulls or any other concern or individual imposing upon the American people either by the sale of stocks or worthless securities or by oppression than I do. No honest man or woman would uphold any such conduct as that.

There is nothing in the President's "death penalty" provision or any other bill that Congress could pass to punish these guilty persons for things they have already done or restore the money wrongfully taken from the American people. This would be an ex post facto law—that is, passing a law making a certain act a crime after the act has been committed. The Federal Constitution expressly prohibits Congress passing any ex post facto law.

Like the Insulls, many of the persons who sold these worthless stocks and securities or committed these wrongs are either dead or out of business but the stocks and securi-

ties sold by these individuals are now in the hands of American investors. There is nothing in the Wheeler-Rayburn bill to punish the Insulls or other wrongdoers or to restore any money wrongfully taken. We can, however, do something to protect and save something that is left to these investors. These investors put their money into these concerns in good faith. Under the continued threats of the President and other administration leaders, the market values of these stocks and securities have been forced down and they have already lost approximately $3,000,000,000. These innocent investors certainly have been punished enough. The President's "death penalty" cannot and will not punish the Insulls or other crooks who have operated in the utility business in the past—it can punish one group and one group only and that is the investors. The President demands that we destroy what little these investors have left, by putting his "death penalty" into the law and wiping out scores and scores of utility companies and thereby destroying or reducing the value of the stocks and securities held by these millions of American investors, representing billions of dollars and without giving them a hearing or their "day in court."

GIVE THEM A TRIAL

The Seventy-third Congress passed what is known as the "Securities and Exchange Act", which requires all concerns that propose to sell stocks or securities using the instrumentalities and facilities of interstate commerce to submit their proposal to this Commission. They can sell no stock or securities without the approval of this Commission.

Who appointed this Commission? President Roosevelt appointed it. If he has named able and honest men on this Commission, there cannot be in the future any more Insull frauds, the sale of worthless stocks or securities, or the exploitation of the American people. There cannot be established in the future any utility concern unless it shall appear that its operation will be in the public interest and its stocks and securities are backed by real values.

We now have that law and that Commission. What sense is there in the President hallooing "Insull"? A great many of these utility concerns, and some of them complained of, were projected during the 8 years of President Wilson's administration.

Now, what does the House bill provide in lieu of the "death penalty" of the President? It provides that this same Securities and Exchange Commission may investigate every interstate utility-holding company in this land—of course, Congress cannot pass a law that will operate against a concern engaged in purely intrastate business—and if this Commission shall find that there is any interstate utility company in this land whose operations are inimical to the public interest, oppressing the people, or engaged in any of the evil practices about which the President complains, this Commission may, after a hearing in which the company investigated and its stockholders and security holders may appear and present their side of the case, dissolve such company and put it out of business.

In this way, the rights of honest utility concerns and its stockholders and security holders will be protected, and they will be permitted to continue their business, while the useless, dishonest concerns and crooks will be put out of business.

If Congress should pass the President's "death penalty" provision, scores and scores of utility companies will be put out of business. Some of these, no doubt, ought to go out of business, while others should not. In other words, the House bill gives all of these concerns their day in court—an opportunity to be heard. And to be heard before whom? Before the Commission appointed by the President himself. In other words, the President selects the jury. What more does he want? If he wants to do the right thing by honest utility concerns and their honest investors in stocks and securities, it seems to us he ought to agree readily to this provision. If a lawyer is permitted to select the jury to try his case—and had as wide a field to select from as the President—125,000,000 American people—he ought not to have any fears about winning his case. If he lost, there must be something wrong with his case.

The fact that the President is unwilling to let these utility concerns have a hearing before a jury—Commission—of his own selection raises the question in my mind, "What is in the President's mind?" It certainly is not to correct or regulate. Is it in the interest of justice or fairness? What is it? Is it prejudice or political considerations, or is it that he desires Government ownership for the utility industry?

Some of his champions in the House and Senate favor Government ownership. Others of his spokesmen have urged that this measure should be and assert that it will be the great campaign issue in 1936.

If the President wants to put out of business utility concerns whose existence is unnecessary and who are not operating in the public interest, the House bill would most effectively carry out that idea. It would eliminate all unnecessary and vicious utility concerns, and it would do it according to law. We have a law in Kentucky that provides that a sheep-killing dog may be put to death, but it also provides that the dog must be given a trial and his guilt established.

In the first place, I doubt if there is any Member of Congress who will claim that he knows the names of the utility companies that will be put out of business by the President's "death penalty" clause. Whatever concern it is, it is entitled to a trial. The House bill gives it a hearing—gives it its day in court. The President's "death penalty" provision does not; and for that reason many able lawyers say that there is no doubt as to the unconstitutionality of the President's "death penalty" provision.

Let us put the vicious, useless utility concerns and crooks out of business, after they have had a full and impartial hearing. We must all be deeply concerned in protecting all honest concerns and the millions of holders of the stocks and securities of these concerns. I could not think of destroying a lot of honest business concerns and their stockholders and security holders in order that I might destroy some concern that should be put out of business. I never was willing to knock down five or six of my friends or innocent people in order to hit my enemy.

The President demands that Congress decree the "death penalty" for many utility concerns and destroy the stocks and securities of their holders without a trial. We cannot put a sheep-killing dog to death in Kentucky without giving him a trial and establishing his guilt. The House bill provides for a trial by a commission appointed by President Roosevelt himself. Has the time come when we are unwilling to give to a great industry and its millions of investors at least as much consideration as is given to sheep-killing dogs in every State of the Union?

Let this great commission separate the sheep from the goats, protect the innocent, and punish the guilty.

The House bill likewise regulates all interstate utility concerns. Every interstate utility concern, whether big or little, must, under the House bill, operate with due regard to the public interest, to the rights of the people, and to the protection of the investing public of our country.

DO NOT GIVE THE CROOKS AN ALIBI

If we should pass the President's bill and put out of business utility concerns without a hearing, we would at the same time give these crooks an alibi. They could say to the persons to whom they sold these stocks and securities that these stocks and securities were all right—it was Congress and the President that destroyed them.

However, if these concerns are given a hearing, as provided in the House bill, and it is established by evidence that they are useless, oppressive, and crooked concerns and have sold and issued a lot of worthless stocks and securities, these purchasers of stocks and securities will know who is responsible.

Furthermore, these crooks may use this act of Congress to avoid punishment or to avoid restitution to those who have been defrauded.

However, without a hearing many honest concerns and their investors would be put out of business and destroyed along with the fraudulent concerns and the crooks.

ONE HUNDRED THOUSAND KENTUCKIANS DIRECTLY INTERESTED

More than 80,000 Kentuckians have invested in and are the owners of stocks and securities, or both, in various utility concerns, representing an investment of more than $140,000,000, and providing employment for more than 10,000 men and women.

The utility concerns of the United States consume about 43,000,000 tons of coal annually and a great quantity of natural gas. Kentucky is a large producer of coal and natural gas. It can be seen that Kentucky and Kentuckians are vitally concerned in the important question before us. I have received more than 2,000 letters from Kentuckians in all walks of life—Democrats and Republicans—and I have interviewed scores and scores of others on this important subject. All of these have expressed opposition and sincere alarm over the President's "death penalty" provision. A very great majority of these is entirely willing that there be necessary and proper regulation of utilities.

The President has been very active in giving out statements, other great agencies of the Government have given out more than 300 newspaper releases, and the administration has spent perhaps over $2,000,000 in investigating and putting out reports to uphold the "death penalty" as advocated by the President. Mr. RAYBURN, Senator WHEELER, and others have spoken over Nation-wide radio hook-ups along the same line and have tried to get it over to the people that the salvation of the American consumers of heat, light, and power depends upon the President's "death penalty" provision; yet I have not up to this time received a single letter or telegram or personal request urging me or advising me to support the President's "death penalty" provision. In fact I have received no such letter or telegram or request from anybody in the United States, and I have heard many Members of the House say this is true as to them. It seems to me if the President's "death penalty" provision meant so much to the general public and to the welfare of the people generally, in the several months that this matter has been up and given such wide publicity that some person would have seen the advisability of this and urged me to support the President's plan for destruction.

The President has from time to time denounced people for writing to the White House and to Members of the House and Senate protesting against his bill. It seems to me in view of all the President and the agencies of government under him and Members of the House and Senate backing him have said, he would recognize the right of these millions of honest American investors to write their Congressmen and Senators and protest against this vicious legislation. Must they sit supinely while their stocks and securities, in tens of thousands of cases representing their earnings and saving for a lifetime, are detroyed by Cohen and Corcoran? I have always been under the impression that the Constitution gave the people the right to petition Congress and the President for a redress of grievances; and so far as I am concerned I have encouraged the people to give me their views. I wanted to know all that was possible for me to know about this important question, and I am quite sure none of us now know as much as we ought to know to arrive at the best solution of this problem.

The administration has been maintaining at 1133 House Office Building an office. Who were there? The representatives of the President and Postmaster General Farley. According to what we have heard on the floor of the House and in the cloakrooms and have seen in the press, Members of the House who were unfavorable to this legislation were called there and various methods used in the attempt to bring them to the support of the "death penalty." Yes; it was all right to talk about appointments, allotments from the five-billion fund, and so on, to force support of the President's bill, but it is all wrong when some widow or other citizen whose all is invested in utility stock writes her or his Congressman or Senator and protests against the "death penalty."

The President talks about the Power Trust lobby. If there is such a lobby in Washington, I am not aware of its presence. I am glad to say that my public record has been such that in all my years of service here I have never been improperly approached by any human being.

No doubt there are some utility concerns that are against the House bill that are opposed to being regulated. I do not agree with them. I am concerned in legislating in the public interest, to protect honest business concerns and honest investors and those depending upon this great industry for their livelihood, and I am interested in restraining the vicious and corrupt business concerns and crooks connected with them. I refuse to be intimidated by the President and his power or to be turned from what I consider my honest duty by any power concern.

The following is a sample of some of the letters I have received:

BARBOURVILLE, KY., *March 10, 1935.*

Hon. JOHN M. ROBSION, M. C.,
*Washington, D. C.*

MY DEAR CONGRESSMAN: My husband and I spent most of our lives on a small mountain farm. We worked and toiled in order to save something. We invested in utility stocks so as to have an income in our old days. My husband is now dead. I have nothing to look to except this utility stock.

It seems to me that Congress is trying to destroy my savings. I guess it is true that some companies and some men in some companies have done wrong. I am not upholding any of them in their wrongs. On the farm when the weeds grew up in the garden, we pulled up the weeds but we did not destroy the garden. If weeds have grown up in this business, Congress ought to take out the weeds, but not destroy the garden.

——— ———.

This is a simple, poor, humble woman in the hills of Kentucky. This letter is written in her own handwriting with a lead pencil and it comes from her very heart.

We have received scores and scores of similar letters from other widows and other persons in the State of Kentucky appealing to me and to Congress to safeguard their just rights. I will not disregard their appeals. Let us take out the weeds but save the garden.

The majority of the letters I have received are from Democrats. The following comes from what I consider the ablest and most influential Democrat in my whole district. He has always been a "simon-pure" Democrat. I suspect he could truthfully say he has never voted for a Republican. This distinguished Democrat does not operate a utility, factory, coal mine, other industrial plant, or brokerage office. In my opinion, there is no man in my district who is more able or who stands higher or is more influential as a citizen and as a Democrat.

———, KY., *May 24, 1935.*

Hon. J. M. ROBSION,
*House Office Building, Washington, D. C.*

DEAR SIR: I write solely for the purpose of protesting against the passage of the Wheeler-Rayburn public-utility bill. Yes; I own a few shares of preferred stock in Louisville Gas & Electric Co., but I stand in no danger of losing one cent on my investment. It does seem to me that the Democratic Party can find more ways of acting the fool at critical times than would seem to be expedient or necessary. We are already overburdened with bureaucratic control at Washington. Local self-government has always been a Democratic tenet and datum post.

After making quite a number of other strong statements, he continues:

These things being true, just where can we look for Democratic votes in the next campaign?

This is not the ravings of a disappointed officeholder or office seeker. I have no grievance whatever. I am a loyal Democrat and have been making campaign speeches in behalf of my party for more than 40 years. These are not only my thoughts, but I hear the same sentiment on all hands from true-blue Democrats, and the sentiment is spreading like wildfire. Mark my prediction that prosperity will never return so long as Congress continues to haggle and harass and hamper the legitimate industries and enterprises of this country.

He says further:

Quit trying to regulate the universe * * *. Balance the Budget so as to meet the expenses of Government economically administered, and then come on home.

Please do not consider this as impertinent or as dogmatic, for these sincere suggestions are given in the very kindest spirit and come from one who is close enough to the great body of common people to hear their very heart beat. Think ye on these things.

Yours very respectfully,

PRESIDENT CHANGES POSITION

The Democratic platform of 1932 opposed this character of legislation. President Roosevelt, as Governor of New York and as a candidate for President in 1932, expressed strong opposition in principle to this proposal.

At the instigation of President Roosevelt himself, the Department of Commerce appointed the Business Advisory and Planning Council, made up of some 50 outstanding men of the United States. They were requested to investigate and make a report on the President's Wheeler-Rayburn bill. They did file a most illuminating report. They expressly advised against this "death penalty." They urged regulation and opposed destruction. The House bill is in line with that report. It provides that we regulate and not destroy.

Mr. David E. Lilienthal, a director and counsel for the T. V. A., who is now doing what he can to promote the President's program of the "death penalty" and, I think, bring about Government ownership, in 1929 said in regard to utility-holding companies:

> The holding and management company has come upon the field, demonstrated its prowess, and in a relatively few years changed the entire economic nature of the public-utility industry. Isolated plants have given way to great systems whose lines span several States and serve hundreds of communities, all operated under unified managerial and financial supervision. The spread of rural electrification, the amazing advances in telephony * * * these and many other technological developments so intimately related to the public welfare are directly attributable to the efforts of the holding company. Perhaps most important of all, to the holding company must go the credit for the unprecedented flow of capital into the public-utility industry, making possible extensions and improvements of service.

The National Electrical Manufacturers' Association, American Institute of Steel Construction, National Coal Association, Durable Goods Industries, and many national labor organizations have gone on record as opposed to the President's "death penalty" policy.

WONDERFUL DEVELOPMENT

It cannot be denied that some utility concerns and those controlling them have engaged in fraudulent practices and shady deals. They merit the condemnation of all honest people. This character of concern and of people is not confined to the utility business, but they have been present in the oil, the coal, the insurance, the banks, and mercantile establishments and in practically every other form of enterprise and industry. I am unwilling to condemn any great industry or any great group of people because of the wrongful acts of some one or more of them. The utility industry has developed phenomenally in the last 30 years.

The investment in utilities in 1902 amounted to about $500,000,000. Today it represents an invested capital of $12,500,000,000, with more than 12,000,000 holders of its stocks and securities, and provides a livelihood for millions of American citizens in wages, interest, and dividends, and contributes approximately $300,000,000 to the cost of Government, and furnishes service to approximately 100,000,000 Americans. It had an output last year of 1,787,926,000 kilowatt-hours, an increase of 6,000,000 kilowatt-hours in the year of 1934, and it increased its number of customers in that year—1934—by more than 600,000; for 3 years of the depression it expended annually for construction more than $750,000,000, and for the fourth year the sum of $1,000,000,000. This remarkable growth indicates to me that while this industry no doubt has had some crooks, on the other hand it must have had in directing its affairs many men and women of honesty, outstanding ability, and integrity.

THE RECORD SHOWS

It is most interesting to study the record as to the cost to the consumers of electricity in comparison to the cost of other commodities and service, wages paid, and so forth.

*Price history of domestic electric service in the United States—average cost in cents per kilowatt-hour*

| Year: | |
|---|---|
| 1882 | 25.00 |
| 1902 | 16.20 |
| 1912 | 9.10 |
| 1922 | 7.38 |
| 1927 | 6.82 |
| 1930 | 6.03 |
| 1931 | 5.78 |
| 1932 | 5.58 |
| 1933 | 5.49 |
| 1934 | 5.30 |
| June 1935 | 5.20 |

It will be observed that the average cost in cents per kilowatt-hour in 1882 was 25 cents; the average cost per kilowatt-hour in June 1935 was 5.2 cents. There has been a pronounced reduction in the cost to the consumers from 1882 down to the present time. For the last 2 years there has been a general increase in the cost of other commodities—food, clothing, and rent have risen in price from 25 percent and in some cases to more than 100 percent. The cost of living has greatly increased right in the middle of this great depression, while the cost of heat, light, and power have shown a steady decrease.

If we take 1929, the peak year of high wages and high prices, and fix 100 as the unit spent for labor in the iron and steel industries, you will find that labor has been reduced 54 percent; in other metal mills the reduction is 51 percent; and in bituminous-coal mines it has dropped 46 percent; in the crude-petroleum industry it is down 43 percent; in the lumber industry it is down 64 percent; but the utility industry tells another story—labor has dropped less than 15 percent.

Now let us examine the number of people employed. Unemployment in the iron and steel industries is 32 percent compared with the peak year of 1929, other metals 30 percent; bituminous coal, 23 percent; crude petroleum, 22 percent; other metal mines, 59 percent; paper and printing, 14 percent; lumber industry, 49 percent; the electrical industry, 9 percent. In other words, the utility industry has paid the best wages and laid off less of its workers than any other one of the major industries of this country. The average wage today under the utility industries is $30 per week, or $120 per month, twice the average fixed by N. R. A. The code did not fix this wage. These utility people were receiving this wage before N. R. A. and since it has gone out of business.

Summing up the record, we find the utility business for the past year increased its number of consumers by more than 600,000, the number of kilowatt-hours by more than 6,000,000, the cost of service to its consumers showing a steady decline, while the cost of many necessaries of life has doubled and all the others have greatly increased. We also see less decline in employment and the best wages paid during this depression of any of the Nation's industries, and the greatest sum paid out for construction.

Inasmuch as under the provisions of the House bill before us, the Securities and Exchange Commission has the power to eliminate all useless, oppressive, and fraudulent utility concerns and put the crooks out of business and at the same time provide for the necessary, reasonable, and proper regulation of all interstate utility concerns, and in view of the record as disclosed by more than 50 years of experience, I cannot see that any good purpose would be served in the Government owning, operating, and controlling the utility industry. In fact, experience has taught us the contrary.

IS GOVERNMENT OWNERSHIP GOOD FOR THE PEOPLE?

As I have heretofore pointed out, some of the advocates of the present "death penalty" openly and earnestly favor Government ownership of utilities. Some of the President's other friends insist that the "death penalty" bill should be the paramount issue of the 1936 campaign, with the President as its chief exponent. Under the policies of the President the Tugwells, Wallaces, and others, labor industry, and agriculture have been regimented and the pending banking bill, as it passed the House, will enable the President to regiment the banks and the money of this country, and I sincerely

believe that the purpose of the President in urging the "death penalty" clause is to get control and regiment the utilities of the country. All of these are the doctrines of socialism, paternalism, and communism, and they are in direct conflict with Americanism. I have served under five Presidents, President Roosevelt is the only one of the five who has shown such great anxiety and determination to have dictatorial powers. He and many of those close to him appear willing to set their sails for any wind and embrace any policies, however wild or fantastic, that they think will promote his reelection next year. Will it help the American people to have Government ownership of utilities? I own no interest in any of these great industries. My only desire is to see that policy pursued that would do the greatest good to the greatest number of our people. Up to this time I have never seen any industry owned and operated by the Government that was carried on as efficiently and economically as it has been under private ownership and control. On the average it always cost more and is less efficient. In order for the Government to own and control the utilities of the country it would be necessary for the Government to buy or confiscate these properties.

The question arises, Would the consumers under Government control pay more or less for the services, and would it be more or less efficient than under private control? Let us look into the records. Within the last 50 years about 3,900 cities and towns in the United States have owned and operated their own plants. The records show that more than half of these plants have been abandoned and only about 1,800 remain and are operated as municipal plants. Between 1920 and 1930 there were established in this country 430 municipal utility plants. However, 323 of these plants by 1932 had been sold or abandoned. Think of it. Seventy-four percent of these Government-owned plants sold or abandoned. We must bear in mind that the municipal plant throughout this whole period has been the favored child. They have been free from taxation and enjoyed many other privileges that privately owned plants did not enjoy. The records further show that the cost to the consumer of these municipal plants has been approximately 15 percent higher than the cost to the consumers of the privately owned plants. The average tax rate in the United States, where there are municipal plants, is $2.69 per hundred dollars, and the average tax rate for the cities with privately owned utility plants is $2.19 on the hundred dollars. We see that the private utility industry has grown by leaps and bounds, carrying its burden of taxes, and so forth, while the municipal plants have deteriorated, being free of taxes and other burdens. The cost to the consumer of the private plants is 15 percent less than the municipal plants. The tax rate in the cities and towns with private plants is 50 cents less on the hundred dollars than in cities and towns with municipal plants. We can see that Government ownership, with 50 years of trial, has not benefited the taxpayers or the consumers. I certainly have no objection to any city or town whose people desire trying this experiment, but as experience has shown that Government ownership does not benefit the taxpayers or the consumers and does not make for efficiency, I see no good reason why the Government should take over this great industry and make it the football of partisan politics and give the bureaucrats of Washington a greater stranglehold on the people of this country. You cannot keep politics out of anything that the Government owns, controls, and operates.

DOES PRESIDENT AND TUGWELL SEEK REFORM OR RECOVERY?

The American people elected Mr. Roosevelt on the declaration of his party platform and his repeated pledges in his campaign speeches of 1932 that if he were elected he would bring about recovery. To accomplish this, he pointed out that it was necessary to economize and reduce the cost of government at least 25 percent, to do away with useless commissions, bureaus, and officeholders, to quit going in debt, stop the deficits, reduce taxes and the burden of government, encourage production rather than curtail it, encourage business, but not be its competitor. The American people accepted his promises and gave him a tremendous majority. They are beginning to find out that Mr. Roosevelt has violated each and every pledge made by his party and every pledge made by him. Instead of doing away with commissions and bureaus he has created more commissions and bureaus than all of the Presidents from the days of George Washington in 1789 down to 1933. He has created more offices and officeholders than any other President in peace time. There are now nearly 103,000 officeholders in the city of Washington alone. The Government's pay rolls for its officeholders now is about $110,000,000 per month, and about $1,100,000,000 per year. Did he quit going in debt? Did he cut out the deficits? He certainly did not. He has been in office a little over 2 years and has built up a deficit of nearly $10,000,000,000, and this does not take into account the billions and billions of bonds issued by the various agencies of the Government behind which is pledged the credit of the Government, and on which there is bound to be tremendous losses to the Government. The Government, during the past fiscal year, collected $685,000,000 more in taxes than that collected the fiscal year before, yet the deficit amounts to over $4,000,000,000. With the miscellaneous emergency taxes continued and other taxes that the President is urging this Congress to impose will add in taxes this year approximately $2,000,000,000, yet it is admitted that there will be a deficit for the fiscal year beginning July 1, 1935, and ending July 1, 1936, of more than $4,500,000,000. and there is apparently no end in sight.

There will be a like deficit or more for each of the 4 years of the Roosevelt administration, so that during the 4 years his administration will create a direct deficit of approximately $19,000,000,000. In other words, the administration will spend $19,000,000,000 more in 4 years than it takes in, not taking into account these billions in bonds issued by the various agencies of the Government that have been sold and the money spent, and for which the credit of this Government is pledged.

The United States Government from George Washington to Woodrow Wilson—from 1789 to 1913, a total of 124 years—expended $24,521,845,000. The Roosevelt administration as actually and as estimated by President Roosevelt himself will have spent at the end of his first 3 years $24,206,535,000, not counting the pledge of the credit of this Government in these billions of other bonds. This is how the President kept his promise to reduce and cut down the cost of Government. He pledged that private industry would be encouraged and would not have to meet the Federal Government in competition. In violation of that pledge, he has regimented labor, industry, and agriculture, and now is attempting to regiment the banks, the money, and the great utilities. He insists upon the Government putting its finger into everybody's eye and poking its nose into everybody's business. Instead of building up confidence and encouraging the American people, his socialistic and paternalistic policies have created fear, broken down confidence, and is retarding recovery. What is he up to? They are seeking reform or revolution, and not recovery. The Constitution and the Supreme Court irk the President, the Tugwells, and the Wallaces. These stand in the way of their desire for autocratic and dictatorial power. No doubt there are wrongs that need to be righted and practices that need to be corrected, but we maintain that recovery can be had in this country more quickly and more fully through observance of the rights of the States, upholding the Constitution and recognized American policies and principles that have made this country the richest, finest, and most powerful country on earth.

Instead of reducing taxes, he has increased the tax burden. He has soaked the poor more than he has the rich. The processing taxes on meat and bread, clothing, and other necessaries of life bear most heavily upon the humble, poor, and needy. In 1932 he opposed any policy to curtail production. In direct violation of that promise, he and his associates have killed, burned, or destroyed nearly 7,000,000 hogs and pigs, millions of acres of cotton, millions of bushels of wheat and corn, while countless millions of American citizens cry for meat and bread, and shiver with cold.

He has paid out hundreds of millions of dollars to take 41,000,000 acres of productive land out of production, and is spending and planning to spend hundreds of millions of dollars for irrigation and reclamation projects to bring hundreds of millions of acres of unproductive land into production.

Since the President favored the destruction or burning of pigs, the cotton, wheat, and corn, we can in a way appreciate the fact that it may not mean so much to his political viewpoint to urge the "death penalty" in the utility bill and to destroy the stocks and securities of American investors.

One of these days the Democratic Party and the Democratic leadership will have to reassert themselves and turn their backs upon these so-called "socialistic, paternalistic, and communistic" fantastic ideas of reform and revolution and adopt a sane and tried American policy.

FAILURE OR SUCCESS

The President, the Tugwells, and the Wallaces have now had 2 years and 4 months to try out their policies, and coupled with this they have had dictatorial powers and the greatest sum of money of any President or any ruler of any country in all the history of the world in peace time, together with an almost unanimous backing of Congress and the American people. He has had cooperation, the power, and the money. It seems to me that it would not be unfair to make an appraisal of what has or has not been accomplished.

In the first place, he has increased taxes, he has created a deficit of approximately ten billions of dollars, and when the obligations of the Government are met at the end of this fiscal year the national debt will have reached at least thirty-five billions of dollars.

Why were these powers and these tremendous sums of money granted and expended by the administration? To restore employment and bring about recovery. What does the record of the administration show? On April 1, 1935, there were 305,000 more men and women unemployed in industry than there were on April 1, 1934; 25,000 more miners were unemployed on April 1, 1935, than on April 1, 1934.

The new deal has not solved the unemployment problem.

The Association of American Railroads, in their report for the week ending June 22, 1935, shows the loadings of revenue freight were 85,245 cars below the preceding week, 55,475 cars below the corresponding week in 1934, and 41,780 cars below the corresponding week in 1933.

This administration has messed up the cotton business. The Department of Commerce records show that for 10 months of 1933 there were exported 8,353,449 bales of cotton. For the corresponding 10 months in 1934, and after the cotton-processing tax had been put into effect, we exported only 5,753,644 bales, and the records show that our export cotton is going down every day. We are killing the American cotton business. For the same period the foreign production of cotton has increased more than 3,000,000 bales. In other words, the countries that were using American cotton are now being supplied by the increase in cotton acreage and production in other countries.

Our foreign trade has decreased along practically every line. Steel output is down, coal output is down, we have less food products than at any time in 40 years.

The darkest and most significant part of this picture of failure, however, appears to be that recently the Government reports showed that there were more than 20,000,000 people in this country on relief. This is an increase of many millions over 1933 and over 1934. Millions of thoughtful Americans are beginning to wonder what is the end of all of this.

This administration has encouraged waste, graft, indolence, and dependency. It has scorned economy, thrift, self-reliance, and old-fashined honesty. It has overrun the rights of the States and the freedom of the people, ignored the Constitution, and repudiated our country's sacred obligations. It is no wonder that taxes, deficits, and debts have increased; that unemployment and relief rolls far surpass the record in 1933 and 1934; and that agriculture, industry and commerce are stagnant under these socialistic, paternalistic, and communistic policies.

May we urge our good Democratic friends of the House to continue to assert the right and duty to legislate? When did you hear the President, the Tugwells, the Wallaces, the Ickeses, or the Hopkinses speak of the Democrat Party? They have all ignored the fundamental and traditional policies of your party as well as your platform of 1932. They have gone far enough to prove to you that these wild, socialistic, paternalistic, communistic policies being advocated by the President, the Tugwells, the Hopkinses, and the Wallaces are not the answer to the great problem of depression.

Let us again exalt the Constitution of our country, restore the Government to the people and the rights to the States, and again commend the sane, substantial American doctrines and policies, encourage industry, protect labor, counsel thrift, self-reliance, and individual accomplishments, insist upon the Government confining its activities to public enterprises, stop the Government's becoming the competitor of its own taxpayers, provide adequate relief for the aged and those who cannot help themselves, but at the same time insist upon thrift, industry, and self-reliance for those who can provide for themselves.

We have overcome many depressions and we have successfully conducted many great wars observing the mandates of our Constitution as well as the good old American policies, and I sincerely believe that if they are adhered to we will, in due course of time, conquer this depression and come out more than victorious.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana [Mr. PETTENGILL].

Mr. PETTENGILL. Mr. Chairman, the other day the gentleman from Iowa [Mr. EICHER], in his remarks, made a very gracious reference to me, paying me a compliment beyond my deserts. I reciprocate at this time by returning the compliment to him with interest and appreciation. He is one of the most sincere and patriotic men of my acquaintance in this House, and while I do not agree with him on the amendment which he has offered, I recognize that he has offered it only because he believes it is in the public interest. I oppose the amendment for the same reason.

The long weeks of discussion that we had in our committee were painstaking and wearing. We met afternoons and mornings for eight long weeks. Positions were taken and stubbornly maintained, but there never was an unkind word between any of the members of the committee, and I therefore very much regret that on the floor of the House the patriotism and the motives of the Members of this House are constantly being impugned if they take a position against the "death sentence" as carried in the Senate bill.

The most illuminating discussion of the effect of the Senate "death sentence" that I read during the hearings was contained in a protest which was filed by the National Association of Mutual Savings Banks. For some reason it did not get incorporated in the hearings, and I therefore ask unanimous consent, Mr. Chairman, to include this as a part of my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The matter referred to follows:

NEW YORK, N. Y., *April 5, 1935.*

To the COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
*House of Representatives, Washington, D. C.:*

This memorandum is submitted on behalf of the National Association of Mutual Savings Banks to direct attention to certain features of the Wheeler-Rayburn bill (H. R. 5423), which, in our opinion, directly or indirectly may impair the value of mutual savings banks' investments in mortgage bonds of operating electric light, power, and gas companies.

For your information, the National Association of Mutual Savings Banks includes in its membership 97 percent of all mutual savings banks operating in 18 States of the Union. The aggregate deposits of these institutions are $10,000,000,000, approximately 25 percent of active bank deposits. These deposits represented the balances in 13,836,975 accounts last January 1, or an average for each account of slightly more than $700. The aggregate assets of mutual savings banks are in excess of $11,000,000,000.

Our banks have no capital stock and profit is not their primary purpose. In effect, depositors are the owners of these institutions.

It is the duty of the trustees, who serve without compensation, and of the management of such institutions, to safeguard the deposits entrusted to our care by these millions of Americans, the typical men and women whose labor and frugality are vital contributions to the welfare of the Nation. Since each account in our banks probably reflects the welfare of at least two persons, it may be said that this great accumulation of small capital is the first and often the last line of defense for upward of 30,000,000 people, or about a quarter of our population. We consider the protection of these funds a sacred trust.

Mutual savings banks of the United States hold approximately $700,000,000 of utility bonds, all—or practically all—of which are mortgages upon the property of operating companies. These mortgages constitute the premier type of underlying utility securities approved by the laws of the various States governing savings bank investments and by the banking superintendents of those States. Of these bonds the major part consists of bonds of gas and electric corporations.

Our utility investments were made in full confidence that they would receive fair treatment at the hands of governmental agencies. In general, their rank as high-grade investments was justified by the essential character and quality of the services they rendered, and, in our opinion there has been no failure either in service or management of the operating companies sufficient to warrant action threatening loss of their standing.

The mutual savings banks have no interest in legislation pertaining to holding companies except as such legislation may affect—

First. The financial stability of the operating companies whose bonds we own and which may be subsidiary corporations of holding companies.

Second. The financial strength of the equity owners of the properties whose bonds we own and the ability of such owners to carry on the business and supply sufficient funds from time to time in the future maintaining a substantial cushion in value and in investment to support the mortgage debt.

Third. The credit standing of the particular companies whose bonds they own, the market price and marketability of those bonds, and the general standing in the public mind of the industry as a medium for investment, capable of continuously attracting funds to provide for the expansion and development of the industry.

Let us repeat again that the mutual savings banks have no financial interest in the stocks or other securities of holding companies, but only in the mortgage bonds of operating companies. To make this statement technically correct, it should be added that most of the operating companies in fact are holding companies as defined in the Wheeler-Rayburn bill, since they actually have their own subsidiary corporations, even though their size and activities are relatively of minor importance.

Before discussing certain provisions of the bill it may be well to state that the association is in favor of any legislation or regulation which will properly prevent for all time abuses which may have existed in some of the holding company situations, causing tremendous losses to innocent investors.

We believe that any present abuses can be terminated and the danger of future abuses prevented without impairing the soundness or the value of securities issued by conservatively capitalized and well-managed operating companies. It seems to us that the evils in the public-utility field have arisen largely in connection with the securities of pyramided holding companies, together with improper intercompany transactions with affiliates.

Without professing superior knowledge of the technicalities of the power business, the economic factors involved in the generation and distribution of electricity, or of the financial structure of holding companies we are convinced that the Wheeler-Rayburn bill goes beyond what is necessary to correct existing or threatened evils. Its passage would injuriously affect our institutions and their depositors.

A large number of experts already have appeared before this committee, who have testified as to their opinions of the wisdom or error of many provisions of this bill. If we reiterate points already covered, it should be remembered that our views are those of an investor or a group of investors whose only financial interest is in one type of security, the mortgage bonds of the operating companies.

We will not attempt to point out the effect of each provision of the bill, but confine our remarks to those provisions which, in our judgment, have primary bearing upon our investments. We first direct attention to section 10 of title I, which aims at the eventual dissolution of holding companies, with certain qualifications.

Most of the operating properties which secure the bonds held by savings banks are owned by holding companies, subject, of course, to the mortgages which secure our bonds. Specifically, we may not be directly interested in those provisions of the bill relating to holding companies, but we are vitally interested in any legislation which destroys existing or potential values—and especially are we interested in legislation which may destroy or weaken the financial strength of the owner or owners of the equity.

The general financial strength of a borrower and his ability to provide additional security to protect his own junior investment, is of no small importance in the security and safety of any loan, whether it be a collateral loan, a mortgage upon a home, or an issue of mortgage bonds upon the properties of a utility corporation. To decree the early demise of the owners of the companies which are our immediate debtors could not fail to injure or perhaps destroy the credit of scores of operating companies. It would convert a field of active enterprises into a moribund industry, would injure savings depositors, and other investors, and limit the chances this business has to assist in relieving unemployment.

Unquestionably—and without attempting to differentiate between good or bad holding companies—a very substantial amount of equity money was supplied during the years 1925 to 1929, through the agency of the holding company in the sale to the public of preferred and common stocks. In this way, the bond structure of the operating companies was materially strengthened.

If these stocks are to be wiped out with heavy losses to investors, it is likely that the psychological effect upon the investing public will be to destroy confidence in all equity securities of public utilities, even of the best operating companies, and these operating companies would be forced to provide funds for extensions exclusively by the sale of mortgage or fixed interest-charge obligations. The safe and necessary cushion of junior money would be diminished and mortgage bonds be less well secured and less suitable for investment by savings banks and others serving in a fiduciary capacity.

If the legislation finally results either in the distribution to security owners of holding companies of the stocks or other securities of operating companies, or if it forces the sale to the public of very large blocks of securities of these operating companies, it would be difficult if not impossible to find buyers except at large sacrifices. It likewise would be difficult for an operating company to obtain a market for additional new securities in order to raise equity funds for the extension of its property while such blocks of securities were overhanging the market.

Another phase of the dissolution of holding companies which should be considered is the fact that many subsidiary operating companies are indebted in substantial amounts to such holding companies, and it is questionable whether such subsidiary companies would be in position to liquidate that indebtedness. Liquidation probably would be inevitable in the dissolution of many holding-company structures.

Section 10 (3) also directly affects operating companies. It specifically provides that the commission may reorganize a public-utility holding company or its subsidiaries. This apparently would delegate to the commission power not only to reorganize a holding company but an operating subsidiary of the holding company.

This feature is disturbing in that any dismemberment of the properties owned by an operating company or any reorganization of the financial structure of the operating company would influence the securities held by mutual savings banks. There is some question as to the constitutionality of a provision permitting an administrative commission of the Government to reorganize the capital structure (unless in the case of insolvency) of any operating company, and the same constitutional question arises concerning its power to separate the physical properties of such an operating company.

Our next objection relates to section 6 (c) (3), which provides that as to holding companies or a subsidiary thereof the commission shall not permit the sale of a security to become effective unless such security is (a) common stock or (b) a first-lien bond. Apparently this provision restricts the issuance of securities of operating subsidiaries of holding companies in the future to common stock or first-mortgage bonds. It seems to us that this is an unduly restrictive provision and may be damaging.

In many instances the first mortgage already existing upon an operating public utility property is a closed mortgage and additional money cannot be realized from new bonds under this provision of the bill unless this old first mortgage should be called and paid off and a new first mortgage placed upon the properties, or unless common stock could be sold. Conditions might be such as to make it impossible or impracticable to adopt either alternative and thus, if an operating subsidiary should need money for extensions or other purposes, the earning power or the value of the property as a whole might suffer because of inability of the operating company to raise funds through either of these two forms of security.

Furthermore, in those instances where the first mortgage is not a closed mortgage and in future cases where new first-mortgage bonds are issued, the tendency probably would be to increase the ratio of first-mortgage debt to the value of the property, as distinguished from the present practice in the better and stronger companies of issuing nonfixed charge securities to a substantial degree. This, of course, would render the first-mortgage issues less attractive to our institutions which are concerned with safety and stability. An examination of the provisions in a subsequent title of the bill relating to interstate operating companies (not necessarily subsidiaries of any holding company), discloses that no such restriction is imposed in the case of security issues of operating companies in general. We do not understand the reason for the imposition of this severe restriction on operating subsidiaries as against independent operating companies.

There are two or three features of title II which may seriously affect our investments. Under section 203, paragraph (a), the Commission is empowered and directed to divide the country into regional districts for the control of the production and transmission of electric energy, including interchange, interconnection of facilities, and the determination of the uses to be made of facilities. It is stated that as far as practicable such control shall be by voluntary coordination (under the supervision of the Commission) of the privately and publicly owned electric facilities in and between the several districts so established.

Paragraph (b) gives the Commission authority to require additions, extensions, or changes in facilities, to establish physical connections with other facilities, "to permit the use of its facilities by one or more other persons or to utilize the facilities of, sell energy to, purchase energy from, transmit energy for, or exchange energy with one or more other persons."

The apparent intent of the act is to give power to the Commission to arrange eventually the various utility companies into regional districts and to limit or extend the territory in which such utility company might operate, and consequently to have a very important bearing upon the investment value of that utility. Here, again, arises the question as to whether, under the specific language of the act, the Commission might not require a privately owned utility to establish physical connections with the facilities of a publicly owned electric utility or to permit the latter to utilize the facilities of the privately owned electric utility, or make any other arrangement in connection with the use of the facilities that the Commission might deem proper. It seems to us that the potentialities of this particular provision are far reaching from the standpoint of possible danger to our investments.

Section 202 of the act makes a common carrier out of a public utility engaged in transmitting energy and charges it with the duty of furnishing or exchanging or transmitting energy for any person upon reasonable request. This language apparently would require a public-utility company engaged in the transmission business to exchange and transmit energy offered to it by a competing production and transmission company, as part of its duty as a common carrier, even to the extent of permitting this competitor to require it to transmit energy in competition with it for sale to a local distribution company.

It would seem entirely reasonable that a public utility engaged as a common carrier in transmitting energy should be required to furnish its own energy to a local distribution company, as obviously the public interest would not sanction any interruption in service because of some disagreement as to contractual relationship, but the proposition that the transmission company must transmit for competitors electrical energy for sale to its own retail distributors seems to us to be somewhat far reaching in its effect and might damage the securities of the operating companies.

There is another angle in connection with the declaration that a transmission company is a common carrier which it is important to consider. If we are correct in our understanding of this language it would seem possible that a governmental enterprise such as the Tennessee Valley Authority might require a transmission carrier to exchange electrical energy with and transmit the energy for it to local distribution companies or to local municipal plants.

We also should like to call attention to one feature of the proposed amendments to the Federal Power Act relating to licenses. Sections 205 and 206 provide, among other things, that in issuing permits for the development of power and in the utilization of natural resources for this purpose the Federal Power Commission must give preference to the applications therefor on behalf of States and municipalities, and, furthermore, that States and municipalities under certain conditions shall enjoy the use of such power without the payment of the license fees assessed against private companies.

This might offer opportunities for serious damage to existing privately owned operating utilities, where such power is to be brought into a district and distributed in competition with privately owned companies. In other words, a State or a municipality is to be given the preference in the utilization of a particular water-power site without the attendant license expense imposed upon private companies, and without any condition that the State or the municipality make satisfactory arrangements with the local privately owned utility already in existence and distributing electrical energy, or requiring the purchase of the local facilities at a fair value rather than to compete directly with an existing property.

This requirement in conjunction with the provision making common carriers out of transmission companies would permit publicly owned properties to compete on an unfair basis and could result in the impairment of the bonds of private utilities.

It is our belief that the provisions of the proposed bill will reduce unduly and unnecessarily the purchasing power of millions of people, will defer activities in the way of extensions and improvements which would be of great assistance in solving the problem of unemployment. Also that it will exert a restraining influence upon the employment of idle capital and prove a distinctly retarding influence upon recovery. We believe that such evils as remain to be corrected should be accomplished in such manner as will give assurance that investments made in good faith with the savings of the people will receive fair and well considered treatment.

The electric light, power, and gas industry represents an investment exceeding $17,000,000,000, employing and supporting directly or indirectly millions of people, contributing almost half a billion dollars in taxes annually, and performs an important part in the economic wealth and life of this Nation. The financial strength of these industries should be preserved and help and encouragement extended to their further development and continued prosperity.

Upon behalf of 14,000,000 depositors, represented by this association in a fiduciary capacity, we respectfully urge that any legislation be in such form as duly to safeguard the interest of the people's savings.

Respectfully submitted.

NATIONAL ASSOCIATION OF MUTUAL SAVINGS BANKS.

Mr. PETTENGILL. Mr. Chairman, the National Association of Mutual Savings Banks has $10,000,000,000 on deposit, with 14,000,000 accounts, averaging about $700 each. They have no capital stock; they do not operate for profit; their depositors are the owners of the institution. So far as I know these mutual savings banks have no connection with the big banks of the Nation. I think it is only fair to the House that before the Members come to a final judgment in this matter that they should at least consider the protest of the National Association of Mutual Savings Banks, which has $700,000,000 invested in the bonds of operating companies. They show, as it seems to me conclusively, that the "death sentence" is not merely against the holding company, but will adversely affect the operating companies and the bonds of the operating companies which the mutual savings banks of the United States, permitted by State law, have invested the deposits of their customers in.

The mutual savings banks have no financial interest in the stocks or other securities of holding companies, but only in the mortgage bonds or preferred stocks of the operating companies.

We believe that present abuses can be terminated and the danger of future abuses prevented without impairing the soundness or the value of securities owned by conservatively capitalized and well-managed operating companies.

I am sure there is no one here who wants to do damage to the operating companies of this Nation.

If the "death sentence" is defeated I shall give my support to the bill as reported by our committee. It calls for strict, even drastic regulation, but not for the destruction of companies lawfully conducted in the public interest.

[Here the gavel fell.]

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. STACK].

Mr. STACK. Mr. Chairman, in 1917 and 1918 this country was at war. We went to war for the principles of democracy. Today we are at war. There is a direct cleavage between the Hamiltonian philosophy of government and the Jeffersonian philosophy of government. The moneyed interests representing the Hamiltonian philosophy of government have declared war against the Jeffersonian, the new deal, or the people's philosophy of government.

Mr. Chairman, in 1917 and 1918 I recognized President Wilson as my Commander in Chief. I went overseas; I plowed through the mud of France, and I suffered the enemy's fire. When my commanding officer, whether he be captain, sergeant, or corporal, asked me to do something, I did not question his leadership. Today Franklin Delano Roosevelt is asking you and me to do something. He is asking you and me to vote for the "death sentence", so-called; that is to say, to entirely eliminate the holding companies by 1940. I am going to vote for it, and if that is treason, bring on the firing squad. [Applause.] The gentleman from Pennsylvania, the Honorable Mr. WILSON, in his remarks the other day, among other things, said that his district—the Second District of Pennsylvania—was no better off than a year ago. I grant that, but is it because of the new deal? No. It is because of the Republican controlled council in Philadelphia, which will not cooperate with the public-works program to allow worth-while projects into Philadelphia; in other words, the Republican Party in Philadelphia does not want to cooperate with the new deal, but to obstruct it.

The lords and masters of the Republican Party in Pennsylvania—that is, the Mellons, the Grundys, and the Atterburys—do not want any part of the new deal in Philadelphia.

Mr. KNUTSON. Mr. Chairman, I make the point of order that the gentleman is not discussing the amendment under consideration. Grundy has nothing to do with this amendment.

The CHAIRMAN. The gentleman from Pennsylvania will proceed in order.

Mr. STACK. Mr. Chairman, Mr. Grundy is one of the biggest holders of utility stocks in the State of Pennsylvania and because of his control of the press of the State,

through his connection with the Manufacturers Association, he is doing everything by way of propaganda to have pressure brought to bear on Members of Congress to vote against the new deal. I for one will not do it. [Applause.]

I was elected in a district in which I promised to serve my constituents to the best of my ability. I ran on the Roosevelt ticket. I was elected with the avowed understanding of supporting Roosevelt, and this I mean to do by voting for the utility bill.

Grundy and all his paid propagandists cannot stop me. I am here to vote for the so-called " death sentence ". Next November we are going to vote for mayor in Philadelphia. We are going to elect John B. (Jack) Kelly, Democratic mayor of Philadelphia. He is a new-deal follower of Roosevelt's policies. A Democratic council will be elected along with him and then the different Public Works projects will come into Philadelphia. Then Congressman WILSON's district and my district will partake of the new deal and will benefit from the $4,000,000,000 public-works program.

Right at this particular moment, I am trying to get the present powers that be in Philadelphia to cooperate with me toward having built at Sixty-third and Spruce Streets, a much-needed stadium and playground where the children, 22,000 of high-school age, can enjoy the God-given free air of West Philadelphia in a suitable place to play.

If the powers that be in the present city government of Philadelphia will only say the word, within 30 days laborers and mechanics of all kinds will be enjoying the benefits of the new deal through a weekly pay envelop. [Applause.]

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I was very much interested in the remarks of the last gentleman [Mr. STACK] in which he stated he had received his orders from the White House, and, like a good soldier and a good rubber-stamp Member of Congress, he was going to carry out those orders.

I want to say to the Members of the House on the Democratic side that I happen to represent in Congress the congressional district from which the President comes, and I have received from the people of my district, thousands of letters of protest against the " death sentence " clause aimed at the utility holding companies. Not a single millionaire has written me. These communications come from good, honest, loyal, decent, patriotic American citizens whose earnings are at stake. They are the middle class Americans who are the backbone of this country, men and women who believe in the American system.

I have received from them 2,000 letters and 600 telegrams and all from the President's own district, asking me not to vote for the " death sentence " clause, because it means the death sentence to them and to their earnings. If this be treason, make the most of it; as for me, I propose to uphold and defend their right to petition Congress and to have their views presented on the floor of the House. The President is the last person to denounce them as propagandists, surrounded as he is by hundreds of paid publicity agents, paid out of the Treasury of the United States to spread propaganda over the entire country in behalf of the new-deal measures and State socialism. We are in the midst of a government of propaganda and ballyhoo, yet when free American citizens dare to differ with the divine rights of the autocrat in the White House, it becomes propaganda and treason.

Mr. STACK. Mr. Chairman, will the gentleman yield?

Mr. FISH. I will not yield.

Mr. STACK. You are a rubber stamp to your people back home.

Mr. FISH. Yes; I am glad to represent the sound, honorable, honest views of my constituents for regulation of public utilities, but not for their destruction. As a candidate for reelection to Congress I told my people that if they want a rubber stamp to vote for somebody else, that I do not propose to come down here and obey anybody's orders or to be a rubber stamp for any man, the President or anybody else. [Applause.]

I do not own a single share of utility stock. But these constituents of mine who do are just as good citizens as the President in every way, and are entitled to be heard without being called names. They are American citizens and they have the right to petition Members of Congress and to ask you and me to vote the way they think best. They have used this right, the sacred right of petition, and what are they called? They are called propagandists, witch burners, traitors, pirates, and liars, and opposed to liberal and forward-looking legislation.

I stand here representing that district and the people of my district who have the same right as any others to be heard upon the floor of the House and to petition their Member of Congress not to be crucified by a lot of little " brain trusters ", the Cochrans and the Cohens, Socialists at heart who like termites seek to undermine and pull down the public utilities upon the heads of the American investors, upon the American public, to destroy them, and for what purpose? For the purpose of substituting government ownership and State socialism. This is the crux of the vote before the House. The " death sentence " clause crucifies not only millions of American investors but beyond that public and business confidence is being likewise crucified which prolongs the depression, retards recovery, and increases unemployment. I say to every one of you, you who favor Government ownership and State socialism with Senator WHEELER, should vote for the death sentence, and the Members of the House, Democrats and Republicans, who are opposed to Government ownership and to State socialism, should vote against the " death sentence " clause that the President is trying to insert in this bill with the help and advice of a few little " brain trusters " in the Government service who were never elected to any public office. [Applause.]

[Here the gavel fell.]

Mr. McFARLANE. Mr. Chairman, you have just listened to the speech of the gentleman from New York [Mr. FISH], one of the bright hopes of the Power Trust as the next candidate for the Presidency of the United States. No doubt those who believe in that line of thought will vote for him, but the millions of people in this country who are daily being robbed by this Power Trust in excessive rates and who are being charged from two to four times as much as would be a fair rate in this country, are going to vote against that kind of talk. They are going to vote for Franklin D. Roosevelt. [Applause.]

The galleries are full of Power Trust lobbyists.

Mrs. KAHN. Where?

Mr. McFARLANE. I can point them out to you. Some of them are from my own State and I can give you the names of some of them who have been here in opposition to this legislation. Bob Hanger, of Fort Worth, W. A. Vinson, of Houston, W. P. Hamblen, of Houston, W. H. Radcliffe, of Dallas, J. M. Harris, of Snyder, Joe Worsham, of Fort Worth, and J. W. Carpenter, of Dallas, to say nothing of the lesser lights they have brought with them.

This is the same Power Trust lobby that has kept Texas all these years from passing any kind of law to regulate the electric-light and gas rates by a proper regulatory commission. This is the same kind of crowd, Nation-wide, that has done the bidding of the Power Trust that has yearly, according to the undisputed evidence before you—and none of these Power Trust boys will attempt, when they speak to you, to justify it—the Power Trust has annually robbed the American people out of about $1,000,000,000 a year in excessive rates they have charged the consuming public beyond what has been considered a fair rate.

Are you going to sit here and vote with this crowd and vote for this line of thought that has robbed the widows and orphans, both through sale of worthless securities and through excessive rates, during all these years, year after year? They do not want regulation. They want to emasculate this bill in any and every way they can. They have never wanted regulation. They have always fought any and all kinds of regulation, yet they come in here now and do the baby act and through fraud and false propaganda have

all their stock and bond holders write and wire us to defeat this bill on the plea that it will ruin their investment, when this crowd of pirates know these stocks and bonds were not worth 10 percent of their investment on March 4, 1933.

They know that as long as they can lull this Congress to sleep, as long as they can, through their propaganda running into millions of dollars annually; keep this legislation from being enacted that just so long can they continue to extract excessive rates from the consumers, as long as they can keep from having any adequate national regulation, they know, as you know, that no State regulatory commission has the power or the authority to reach this question and regulate their rates. They know, as every Member of Congress knows, that they use these very holding companies that this bill abolishes as the very method of escaping the jurisdiction of the State regulatory commissions when the State commissions try to force them to give the consuming public a fair rate.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. McFARLANE. I yield.

Mr. RANKIN. What they want is to continue to regulate the States and then they want to regulate the Federal Government, and if the gentleman who spoke a moment ago has his way and they can elect a Republican President and turn the Government over to them, they will be satisfied.

Mr. McFARLANE. The gentleman is correct; the Republican Party has always been very satisfactory to the Power Trust. The question is whether a progressive democracy or the progressive thought in this country is going to be dominated by the Power Trust, the reactionary interests that have always controlled Congress throughout the years, and this control has been more complete through the years until now these moneyed interests practically control the political and economic thought of the Nation.

Mr. HOFFMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. McFARLANE. I cannot yield.

I have served my State for 8 years in the House and Senate of Texas before coming to Congress, and I have viewed with alarm their continued expanding and far-reaching power. I have seen, year after year, in that body, the rights of the common people go down, just because such gentlemen as these Power Trust lobbyists here are controlling that body, and it is well known today that we cannot have any kind of adequate electric light and gas regulatory commission in Texas and, of course, we are being charged about $25,000,000 a year in excessive rates in Texas beyond what would be considered a fair rate based on information disclosed by the Federal Trade Commission. The gentleman from Mississippi, on June 6, placed in the RECORD the excessive rates each State in the Union is paying, which shows the people of the Nation are paying about $1,000,000,000 per pear beyond what is considered a fair price for this service. [Applause.]

[Here the gavel fell.]

Mr. SISSON. Mr. Chairman and ladies and gentlemen of the Committee, I am speaking here today in the interest, if you please, of the investors in utility companies, I am speaking for the widows and orphans, and for those in the twilight of their lives, and I am speaking for millions of consumers of electricity and gas in this country.

I have noticed that every man who has got up here to make a defense of the holding companies, whether feeble or otherwise, started off by saying that he did not own a dollar of utility stock. I will say frankly that I do own a little. There is no virtue in not owning it or in owning it. [Laughter and applause.]

I speak after an experience of many years in dealing with the Power Trust, and I hope my words will reach my Democratic colleagues, both in New York and other States, I want to state to you that do not you be fooled—if you want to be an ex-Democrat, if you want to be an ex-office holder—you line up here today with the Power Trust and the Republican Party.

At the last election I had the opposition of the Niagara-Hudson Power Trust. I never had them with me, as you may well understand. There were three Democratic senators of the Legislature of the State of New York who deserted Governor Lehman last year in his fight against the Power Trust, and to secure proper utility regulation. One of those three Democratic senators who ran out on Governor Lehman had the support of the Power Trust for reelection last fall. He lost the same county by 1,500 votes that I carried by 1,500 votes. The Democratic member of assembly from my county, who supported Governor Lehman in that fight, had the Power Trust against him, and he was elected by 3,000 votes.

I have never seen a man who had the stamp of the Power Trust on him as a candidate, where the people knew it, who did not go down to the defeat he deserved, and I have never known a man who was a candidate who had the Power Trust against him, and it was known by the people, but that he received the majority votes of the American people. [Applause.]

In 1929 there were $29,000,000,000 in securities of the holding companies invested in by the American people, and today it is valued at $3,000,000,000.

I want to say that the people who are holding these securities are not going to be affected by this bill. They have already lost all they can lose. The holders of the stock of the operating companies are going to be benefited by releasing those companies from the grip of the holding companies.

Mr. MARCANTONIO. Mr. Chairman, will the gentleman yield?

Mr. SISSON. Yes.

Mr. MARCANTONIO. The gentleman is familiar with what happened the other day with the employees of the Associated Gas. They were cut 10 percent, and with that 10 percent they were forced to purchase a share of the parent company.

Mr. SISSON. Yes; I thank the gentleman for his contribution. Here is another instance of the benevolence of these holding companies.

The Niagara Hudson Power Corporation, as I have already said, controls and operates in my congressional district and generally throughout the up-State of New York. It controls, through a small stock ownership, many of the operating companies in the up-State. The city of Watertown, N. Y., has for a great many years owned a splendid hydroelectric power plant. They are able to generate electric power at an unusually low rate. Under the New York State law, until recently, they could not, however, even furnish the domestic consumers of electricity current to light their houses and cook their meals and perform the many other services which electric power can be used to perform with such benefit to the housewife and the family pocketbook where power is as cheap as it ought to be. They could not sell their surplus power to private power users in the city of Watertown. They could only use that power to light the public streets and to light the public buildings of the city of Watertown. I know something about the power business. I have been through it from cellar to attic. I know what power can be generated for where there is a fairly good power load, either by steam or by hydro, and power can be generated in a great majority of the places in New York State and elsewhere for around about half a cent a kilowatt hour if the consumption and the power load is sufficiently constant and is great enough. The city of Watertown, however, in the hydro plant, could generate power even cheaper than that. Why were they not able to furnish juice to the houses and to private power users? Because this benevolent holding company, the Niagara Hudson Power Corporation, has a subsidiary company up there which had a franchise, and they did not want to be subjected to the yardstick of the public competition, so they kept their dead hand on the municipally owned plant so that it was never able, during all of those years, to get consent to distribute juice to the people of the city of Watertown and to sell its surplus power to private power users.

What did it do, my friends, with its surplus power? Bear in mind, they were operating the plant without cost to the

city. They had even piled up a surplus to enable them to help pay the taxes; but their surplus power they had to sell to the Power Trust, the Niagara Hudson Power Corporation, which paid them from 2 mills to 4 mills a kilowatt-hour, depending upon the time of day, and so forth. And how much do you suppose this benevolent holding company, the Niagara Hudson Power Corporation—this company which at the peak marketed its own securities for around 29 and sold millions of dollars of them to the public, and whose stock today is worth 6, and has been below that even before the Roosevelt administration ever came in—sold this power for? Why, the Niagara Hudson Power Corporation sold this same "juice" which it purchased from the hydro plant for from 2 to 4 mills a kilowatt-hour to the people of the city of Watertown for 9 cents a kilowatt-hour.

Now, the holders of the stock of the Niagara Hudson Power Corporation are not affected by this bill—either the House bill or the Senate bill or the bill either with or without the elimination or so-called "death penalty" provision clause. Its business is purely intrastate. But what we are hoping is that when we get the holding companies in a position where they can be properly regulated, as they can be by only sections 11 and 13 of the Senate bill in this legislation, that we may then look to the States for proper regulation of the operating companies. Of course, the people who purchased the securities of the Niagara Hudson Power Corporation have lost, if they purchased them at anywhere near the peak at which they were sold, because they were sold at an inflated value and for more than they represented of the value of the physical properties of the underlying operating companies. And if the people want to know where they lost their money and who got it, let them go to the head of the Niagara Hudson Power Corporation and ask him where it went.

The measure of the value of the stock of a public utility is by the fair value of the used and useful property of that utility. That is the way that rates to be charged to the consumer are measured and regulated under the laws of the States, and that is the way that the value of the securities should be determined.

A great many people come in here and complain because they already lost on utility stock that they have purchased, and when we inquire why they have already lost, it is because of a lack of effective, proper regulation by any of the Governments, either State or Federal, as to the issuance of the securities by these holding companies. The holding companies come in with a plea of avoidance and say, in effect, that there was no one to stop them from issuing their securities. There was no one to stop them from loading their worthless securities upon the public and robbing the public. Why? It is because, in many instances, they have gone beyond State lines, and the States were helpless and impotent to regulate them, either as to the issuance of securities or otherwise. That is what this bill is designed to cure. It is designed to relieve the operating companies from the burden of the racket and it is designed to protect the public against again being looted by the holding companies of this country by the sale of securities of inflated value.

Others may do what they choose, but as for me, I am in this fight to stay unless the power company is able to retire me from public life, and I am going down the line with the President of the United States and with the others who are fighting to keep this Government free from the control of the Power Trust.

The CHAIRMAN. The time of the gentleman from New York has expired.

THE FORGOTTEN MAN IS SENTENCED WITHOUT TRIAL

Mr. FENERTY. Mr. Chairman, during the long hours of this debate, it has become increasingly apparent that the fundamental danger underlying the enactment of this proposed legislation is the thinly disguised purpose and intent of the administration to dominate and regulate the business of the Nation regardless of the loss that must inevitably ensue to the small depositor and overburdened taxpayer. The flaming zeal with which the advocates of the "death sentence" for utility companies insist upon destroying the life savings of poor people has about it the alarming aspect of an obsession. It is governmental domination in its complete intoxication; it is unblushing dictatorship, government gone mad.

I venture to say, Mr. Chairman, that if the Democratic Members of this House were not goaded by Presidential decree, there would be scarcely a single man on the majority side who would dare to vote for the wanton destruction of the meager savings of the people of the Nation. It is no secret that the President possesses a consuming hatred for these ocmpanies in which are concerned so many millions of poor people. To make certain that his animosity may take full effect he asks us to destroy without mercy the investments which these thrifty, hard-working people have made over a period of years, as their safeguard against the rainy day of old age and physical disability. These forgotten people are not only to remain forgotten; they are to be robbed of the little they possess in order to vindicate one man's opinion. This is not republican government, Mr. Chairman. It is tyranny in its worst form; it is the entire deprivation of the right to the pursuit of happiness and the maintenance of liberty and life guaranteed to us by the Declaration of Independence and upheld by our Constitution.

WHITE HOUSE ORDERS

Who is there here, Mr. Chairman, who, without orders from the President, would demand the so-called "death sentence" for American industry? Is there anyone here who, in his own unfettered conscience, desires the enactment of such legislation? Who is it who instigates such a deadly thrust at recovery? The death sentence is favored only by the President and a motley assortment of industry baiters in and out of Congress.

And who are those who oppose any such destructive measure? They are the business organizations to which your constituents look for economic recovery, the savings banks and mutual savings associations in which 14,000,000 of your fellow citizens have deposited the little they have been able to save; they are the insurance companies in which your constituents invest that they may be protected from loss by fire or hazard or death; they are virtually all the reliable businesses in the country; they are the chambers of commerce; they are the fraternal organizations which have invested their members' payments in the companies whose destruction is now advocated; they are the religious societies, like the Catholic Church Extension Society of the United States, the Baptists, the Methodists, and others, who will lose the investments by which religion and education are supported in numerous mission fields. Likewise, opposed to destruction of the companies are State public-service commissioners and a majority of the editors of the American press.

It has been suggested many times that the reason for the President's determination that these groups must be ignored and their investments ruthlessly wiped out is a personal and a family one. It is well known, as the news reports have disclosed, that the President overruled his more sagacious legislative counselors in demanding that we Members of the House adopt the Wheeler-Rayburn bill in the annihilatory form approved by the Senate. Suggestions that the measure's death sentence be commuted to drastic regulation were peremptorily and sternly repulsed. Totally unmoved by the millions of pleas from Americans who thus see their little savings destroyed, the White House has actually demanded of us that we enact the most outrageously confiscatory bill ever forced through Senate or House, a bill that violates every known principle of moral and economic law and with one gesture, without compensation, destroys rights and property, preparing the path for Government ownership and radical socialism.

ADMINISTRATION PROPAGANDA

While condemning the little investor's protests as propaganda, the administration has unbarred the floodgates of its own propaganda to a mighty stream that, if unchecked here, will sweep away the savings of the people. Never before in history have the people of this country been subjected to such a deluge of propaganda as that which pours out of Washington daily. And nowhere is this more in evidence

than in the campaign of the Government to discredit the utility industry in order that it may smooth the ways for its pending legislation. The Federal Trade Commission, for example, has issued no less than 16 news releases on its hearings of some 2 years ago in the operation of the utilities, most of them carefully timed so that they will do the most good. On another front, down in the Tennessee Valley, the T. V. A. has flooded the countryside with elaborate and extravagant rotogravure releases rivaling in their pretentiousness the inspired releases of the Soviet Government. Backing up this campaign some 3,600 news releases have come out of Washington plugging the T. V. A. When an administration depends, itself, in an overwhelming measure, for its popularity on a colossal system of high-powered propaganda it might at least have the grace and judgment to overlook such tactics on the part of others.

THE PRESIDENT BEFORE HIS ELECTION

It is difficult to understand the motives behind the President's hostility to business. Certainly his attitude was not such before he attained to high office. I hold in my hand this prospectus of the Consolidated Automatic Merchandising Corporation, issued in 1928. At that time the President had no apparent idea of becoming President. This prospectus reveals the corporation to be incorporated under the laws of Delaware on May 29, 1928, under the auspices of the United Cigar Stores Co. of America and prominent parties interested in the Sanitary Postage Service Corporation, with a view to merging several large companies. In the consolidation of these companies are included the General Vending Corporation which, through its subsidiary company, holds, according to the prospectus, the exclusive contract with the Wm. Wrigley, Jr., Co., the chewing-gum concern, and also an exclusive contract for the automatic vending of the Life Saver products. Another of the companies mentioned in the merger is the Automatic Merchandising Corporation of America; a third is the Sanitary Postage Service Corporation, producers of a machine which sells stamps in various combinations and in book form, a machine which, the prospectus adds, does the work of a clerk at the cost of a dollar a day, thus "releasing human labor for more constructive purposes."

A fourth company is the Schermach Corporation of America, pioneer in the automatic postage field, and a fifth is the Remington Service Machines, Inc., a subsidiary of Remington Arms Co. The Remington Arms Co., according to this statement, is to serve as the principal manufacturing end of the consolidated company and has an important financial interest.

Why do I mention all this? Simply, Mr. Chairman, to point out that on the front page of this prospectus is a list of officers and directors which will interest and surprise you. Listen to this:

Albert C. Allen, New York, executive vice president and director United Cigar Stores Co. of America.

Robert E. Allen, New York, vice president Central Union Trust Co. of New York, director General Vending Corporation.

Albert M. Chambers, New York, F. J. Lisman & Co.

A. Granat, New York, vice president United Cigar Stores Co. of America.

F. J. Lisman, New York, F. J. Lisman & Co.; chairman General Vending Corporation.

Saunders Norvell, New York, president Remington Arms Co.

Stanley Nowak, New York, director General Vending Corporation.

Franklin D. Roosevelt, New York, vice president Fidelity & Deposit Co. of Maryland.

A. J. Sack, New York, chairman Automatic Merchandising Corporation of America.

Joseph J. Schermack, New York, president Schermack Corporation of America.

Nathan A. Smyth, New York, vice president and general counsel Smyth, Wise & O'Connell, attorneys.

Robert P. Sniffen, New York, formerly director Sears, Roebuck & Co.

And here are the voting trustees:

Robert E. Allen, New York, vice president Central Union Trust Co. of New York.

A. E. Bates, New York, vice president Equitable Trust Co., New York.

John Gaston, New York, Hirsch, Lilienthal & Co.

A. Granat, New York, vice president United Cigar Stores Co. of America.

F. J. Lisman, New York, F. J. Lisman & Co.

A. J. Sack, New York, chairman Consolidated Automatic Merchandising Corporation.

E. S. Steinam, banker, 52 William Street, New York.

So far as I know, all of these are reliable concerns and upright men. But is the eighth officer and director on this list the same Franklin D. Roosevelt who, in 1932, became President of the United States and inaugurated the war upon business? If so, does this explain his attitude in sponsoring legislation that sets aside the antitrust laws? Or his securities measure? Or his present stand toward industry? Perhaps some of you over there can tell the people the anwser to that.

I am not here to defend utility holding companies. They are a fact, not a theory. I never owned a share in any of them. As an attorney, I never represented one. But they represent the savings of millions of Americans. If there have been abuses, there should be correction, but correction does not demand annihilation.

PROHIBITION COMES BACK

Let us not again confuse use with abuse and prohibition with regulation. The Indian council which tried and convicted a bad tomahawk because it killed a good man was no more illogical than an administration which condemns a good industry without trial simply because some bad men have gone into it. It is at least foolhardy to administer a dose of potassium cyanide as a cure for indigestion.

THE POOR INVESTORS MUST PAY

My own city of Philadelphia has long had a soundly managed holding company called the "U. G. I." I have no interest in it in any way and never had. Now, what is the tyrannical power behind holding companies, which the President denounces, as applied to the U. G. I.? Is it the 100,000 citizens who, as stockholders, own the company? Is it the almost 40,000 women who are its shareholders? Is it the insurance companies which own nearly 185,000 shares of its common stock, or the educational, charitable, fraternal, and religious organizations which own thousands of shares? The holding companies, as well as the operating companies, are owned by the plain people. It is for these little investors that I speak—for the clerk and stenographer, the laborer and telegraph operator, the school teacher, the clergyman, the doctor—the poor people who have nothing else and who, if the Presidential edict be enforced, will find themselves robbed of even the tiny accumulation they had laboriously set aside through the long years.

PRESIDENT'S ADVISERS OPPOSE HIM

Some time ago, Mr. Chairman, at the President's suggestion, the Department of Commerce formed a Business Advisory Council composed of some 50 leading business men throughout the country. These men were to advise the Department of Commerce especially on legislative matters affecting American industry. They were asked to consider the public-utilities bill and to make a report. That report was for some time kept from publication at the request of the President and was finally introduced into the CONGRESSIONAL RECORD only on June 6. It was opposed to the public-utilities bill. The Council stated that the holding company was one of two principal causes in reducing the cost of electricity to the public. It said that the holding company, by owning properties in different territories, made possible a diversity of financial risk which "is one of the strongest points in favor of the holding company, making for the stability of its securities and consequently contributing to the

reduction of rates to consumers." Despite this report from the President's own economic advisers, the Democratic sponsors of this bill forced its passage through the Senate with provisions which would dissolve the utility holding company.

HIGHER PRICES IF DEATH SENTENCE PASSES

Passage of such a bill, Mr. Chairman, will very seriously affect the service which the people are receiving for lighting the house, running the radio, the refrigerator, the electric iron, the toaster, the washing machine. It will make that service less efficient and higher priced. Moreover, it will reverse the dial of progress and hurl back the great utility industry by a quarter of a century. Of all the industries, the public utilities today are probably the most important from the standpoint of recovery. Their program for expansion, which has been curtailed by the Government's attacks upon them, would require the employment of a large number of men and the purchase of huge quantities of materials. In halting this activity, this bill places another staggering burden upon the stooping shoulders of American business and, therefore, upon the taxpayer.

But, Mr. Chairman and my colleagues, there is another factor in this situation which will contribute to the impoverishment of the American people. I have alluded to the fact that there are millions of individuals—mostly men and women of small means—who have invested their savings in public-utility securities. For the most part, these people have an investment of only a few hundred dollars, a few shares; but this investment, especially in these evil days, is of vital importance to their welfare and to their desire to be independent of charity or relief.

ADMINISTRATION PURPOSELY DEPRESSED SECURITIES

The sponsors of this bill have issued many statements designed to allay the well-founded public alarm in regard to the safety of this investment. They have indicated, for example, that from the peak of 1929 the value of utility securities has very materially declined. That is true. But it is equally true of the securities in every other industry. The period from 1920 to 1929 was, as all now realize, a period of wild inflation when securities soared to fantastic heights. In the existing depression the prices of all securities are at a considerably lower level.

But there is an additional fact which the sponsors of this bill have sedulously refrained from mentioning. From the high point of September 1929 to the low point of July 1932 the price of the common stock of industrial companies and that of utility holding and operating companies declined in almost exactly the same degree. After July 1932 these two groups rose and fell in substantial unison until the spring of 1933. With the inauguration of President Roosevelt there began the major political attacks against the utilities and the value of utility securities precipitously declined, so that within the period of 2 years from March 1933, while industrial stocks increased more than 100 percent in value, the decline in the value of utility stocks amounted to about $3,000,000,000.

Is it not clear beyond a shadow of a doubt, Mr. Chairman, that there was some special factor depressing the value of utility securities while the value of other securities was moving upward? That special factor was the Government's assault upon the public utilities, finally resulting in the introduction into Congress of this bill, now passed by the Senate and awaiting consideration here today.

THE LITTLE FELLOW MUST SUFFER

The people who have suffered from this attack are the millions of small investors scattered throughout the country. In his testimony before the Senate Interstate Commerce Committee, the economist, Dr. David Friday, stated:

> That loss to the millions of innocent holders of utility stocks is staggering, and its effect in holding back the pace of general recovery has undoubtedly been very great. You cannot strike down the market value of securities of the second largest industry in the United States without seriously retarding the process of recovery. And if these attacks are continued and intensified by the enactment of the pending bill, which will throw the entire utility industry into a chaos of liquidation and receiverships, the loss to the holders of utility stocks will be practically complete and the process of recovery will be set back for many years.

In order to prevent the people from realizing what this bill will do to utility securities its proponents have thrown up a smoke screen of complicated devices whereby they aver that the dissolution of the utility holding company can be accomplished with only a minimum of loss to the investor. But, Mr. Chairman, there is no method whereby you can dissolve a holding company without largely destroying the value of its securities. There are 5,000,000 people who own these securities. Another 5,000,000 own the securities of operating utilities. The proponents of the bill have pretended that at least the owners of securities in operating companies will not be injuriously affected by this bill. In this they are in disagreement with those who are most concerned with the safety of investments, insurance companies and the mutual savings banks. There are, as I stated, 14,000,000 depositors in the 560 mutual savings banks of the Nation, and these banks hold $700,000,000 of utility bonds. The representatives of these banks stated before the House and Senate committees:

> Enactment of the proposed bill will injuriously affect the 560 mutual savings banks throughout the country and thus impair the investments of nearly 14,000,000 depositors.
>
> To decree the early demise of the owners of the companies which are our immediate debtors could not fail to injure or perhaps destroy the credit of scores of operating companies. It would convert a field of active enterprise into a moribund industry; it would injure savings depositors and other investors and limit the chances this business has to assist in relieving unemployment.

Similarly, the representative of some 23 insurance companies stated:

> From the standpoint of effective management, diversification in territorial risk, and economy in financing the holding company properly used for these purposes should not, in our opinion, be discontinued. Holding company control and management in which the investor has confidence may well be an added factor, in our opinion, in the rating of a sub-company security.
>
> We are directly concerned about this bill for the following reasons:
>
> First, it will result in drying up one of the most important and satisfactory outlets for further investment of institutional trust funds.
>
> Second, it will cause a serious shrinkage in market value of substantially all public-utility securities in greater or lesser degree.

In the difficult days that are before us, if this bill pass with a "death sentence" included, those who hold insurance policies, those who have savings accounts, those who have a few shares of utility securities, will rightly call to judgment the sponsors of this bill, to answer for the destruction which it will cause to the people's economic welfare.

The abuses that have occurred in certain utility holding companies upon occasion in the past have largely had to do with the flotation of unsound securities issues on the part of a few companies. To prevent that in the utility industry and, indeed, in all industry, the Congress of the United States passed the Securities Act of 1933 and the Securities and Exchange Act of 1934 whereby the issuance of and dealing in securities are regulated. If there are other abuses they should be regulated as well.

But destruction is not honest regulation. I am opposed to the principle of destruction in this bill. I think that the position of all of us—of the great majority of the people in this country—is well stated in the report by the Business Advisory Council for the Department of Commerce opposing this bill, to which I referred a few moments ago. This report set forth 15 regulatory principles for the holding companies which—and I quote from the words of the report itself:

> Will insure the abolition of the abuses that have been identified with them without destroying their enormous capacity for service, without destroying or impairing the value of their securities, now so widely held by institutions serving the public and by individual investors throughout the country.

UN-AMERICAN AND INDEFENSIBLE

Entirely apart from the unexplored fields into which investors may be led, if this bill be passed and later held to be unconstitutional as to the exercise of the power of Congress, under the commerce and due process clauses as interpreted in decisions of the Supreme Court, old and recent, and as to the fundamental question as to whether or not Congress has power to require the disintegration of these companies, the

administration's uncontrolled wrath against the utility companies is driving it upon a course which, devoid of the principles of justice and Americanism, is a threat to all industry, to all business, to all investors. It is un-American and indefensible from any aspect of common ethics and governmental integrity.

The inevitable result of the administration's desire for power to destroy one industry by arbitrary action is the extension on the same illogical grounds of that destroying power to any or all industries. Is it any wonder, Mr. Chairman, that millions of Americans find their courage shaken by the thought of the devastation which this death sentence will bring upon them and upon an enormous industry with almost $12,000,000,000 of investors' money at stake? For, garbed in the pious disguise of regulation, the pending "death measure" proposes not only to exterminate all holding companies, whether of utilities or not, but to fasten ironclad Government dictation upon all operating utility companies down to every last crossroad where the "commerce" clause can be stretched to extend.

ARE ALL POLITICIANS HONEST?

Such a theory assumes that men elected to office who have never built or managed a business are better able to do so than the man who organized and promoted it. It follows the common fallacy of the "mis-dealers" that business must be taken away from business men and put into the hands of politicians who, of course, will manage and regulate it with infallible honesty and unerring wisdom. It assumes that all politicians are honest, sincere, efficient, and above reproach.

What we need today, Mr. Chairman, both in our consideration of this bill and in all our deliberations in this House is a return to the old idea of better business in government and less government in business. The founders of this Republic were keen students of human nature in its relation to property and realized that the man who, to uphold his opinion, is careless of property rights will be equally careless of other rights if expediency seems to him to demand it. Did you ever hear of an incendiary ready to apply a torch to a building who took the trouble to ascertain whether there was a human being in the structure whose life might be destroyed by his act? The fathers of the Nation knew that to make the citizen safe, his property rights must be made secure. Under this doctrine, our country built up the most remarkable industrial institutions the world had ever known and, while there were errors and there were evils, I think I can unqualifiedly assert that the worst day for labor in America was incomparably better and brighter than the best day for labor in any other land.

LINCOLN VERSUS ROOSEVELT

Not without reason did Abraham Lincoln state the true American attitude toward individual property rights when he said:

> Property is the fruit of labor. Property is desirable; it is a positive good in the world. That some should be rich shows that others may become rich and hence it is a just encouragement to enterprise. Let not him that is houseless pull down the house of another, but let him work diligently and build one for himself; thus, by example, assuring that his own shall be safe from violence when built.

KEEP AMERICA AMERICAN

Mr. Chairman, let us not bid defiance to the lessons of the past or to the promptings of present justice and reason. If, by a timid obeisance to the theories of the totalitarian state, new in America, though discarded by the ages, we destroy individual rights and make the citizen and his affairs the creature of the paternalistic government; if we follow the dark road that other nations and peoples have trodden to dictatorship and oppression and ruin, then the only lamp that today guides the groping footsteps of humanity, the light of American constitutional liberty shall be extinguished forever from the eyes of man. Civilization, as Edmund Burke has said, is a contract between the great dead, the living, and the unborn. Deep calleth unto deep. Let us not consign ourselves to the obloquy that must inevitably be ours if we fail to preserve untarnished the political heritage we have received from our patriotic ancestors and which our posterity has a right to receive unimpaired from us. Property rights are also human rights and are considered sacred by all just men. Let us not violate them in the interest of party expediency or to sustain a spirit of personal vindictiveness. In these dark days, let us not be destroyers and obstructionists; but, "with malice toward none and charity for all", let us stoop down and bind up the wounds of industry, of the individual, of the Nation, and thus assist America to become truly American once again. [Applause.]

Mr. UTTERBACK. Mr. Chairman, I rise in support of the amendment to substitute section 11 of the Senate bill. I want to make my position a matter of record.

In my State, the State of Iowa, we have 82 municipally owned electric light plants, all serving the people of their respective communities in a satisfactory manner.

We have 50 privately owned, independent electric light plants. These municipal plants and these independent private companies furnish approximately 35 percent of the electric light and power produced and used in Iowa.

The balance of electric light and power produced and used in Iowa, approximately 65 percent, is furnished by 26 operating companies that are in turn owned or controlled by 32 intermediate holding companies and 9 top holding companies.

Clearly, the operating companies are supported by the consumers of electricity, to wit, the public, that has no other place it can buy electric light, power, and gas.

Obviously, the public is not only supporting the operating companies, but must also be supporting the series of overhead holding companies. Otherwise, these holding companies would not exist.

In my home city, Des Moines, Iowa, our electric service is furnished by the Des Moines Electric Light Co., which is serviced by the Iowa Power & Light Co., which in turn is controlled by the Mills County Power Co., which is a holding company.

The Des Moines Electric Light Co. is controlled and owned by the Illinois Power & Light Co., which in turn is controlled and owned by the Illinois Traction Co., which in turn is controlled and owned by the North American Light & Power Co., which in turn is controlled and owned by the North American Co., so that there are three intermediate holding companies and one top holding company or, all told, four holding companies superimposed upon this one operating company.

The same situation exists as to the utility furnishing gas to Des Moines, Iowa, to wit, the Des Moines Gas Co., except as to the names of some of the corporate structures involved.

I assert and maintain that this is a tremendous and indefensible burden to be placed upon and carried by this operating company and other operating companies similarly situated and burdened.

All the common stock of the Des Moines Electric Light Co. is owned by the Illinois Power & Light Co., and is pledged under that company's first- and refunding-mortgage bonds, likewise is all of the common stock of the Illinois Traction Co. owned and pledged by the Illinois Power & Light Co., and so on, up to the top holding corporation, the North American Co.

This represents directly and indirectly four controlling interests, ownership and possible management of and over one operating company, with, however, the common stock, the voting power of the latter pledged as collateral under security to mortgage bonds and intermediate holding companies.

These various holding companies have bonds, debentures, notes, preferred and common stocks outstanding, on which interest and dividends have to be paid.

From whence must come the money to meet these payments? Why, of course, from the operating company, the very foundation and creator of wealth for the holding companies.

This money is derived mostly from so-called "service charges" which are levied on the operating subsidiary of the holding company by the holding company and from dividends on the common stock of the subsidiary. So it is not surprising to learn, for example, in the case of the

Des Moines Electric Light Co., which, in effect, is a subsidiary of four holding companies, that for the past few years it has been paying yearly dividends of 15½ percent on its stated value of no par, common stock.

In addition to the North American Co. seven other top holding companies are operating in Iowa. Through ownership of common stock they either own or control the cream of the public-utility business in Iowa.

These companies are the (1) American Electric Power Corporation; (2) American Power & Light Co., which is a subsidiary of Electric Bond & Share Corporation; (3) Standard Power & Light Corporation; (4) United Light & Power Co.; (5) Utilities Power & Light Corporation; (6) Iowa Southern Utilities Co.; (7) I. B. Smith Properties.

In Iowa we have all the evils of holding-company domination in the electric light and power and gas industries. None have been omitted.

These holding companies have acquired the common stock, the voting power, of our Iowa operating companies, only in turn to pledge and use this common stock as collateral or security for issues of bonds, notes, or debentures which have been sold to the general public to raise additional money to buy the common stocks of other operating companies. Through this method, and on this basis, with the public furnishing the money, these holding companies, intermediate and top ones, have pursued their activities until they have become so strongly entrenched, so large and so powerful that they resent, oppose, and fight reasonable reorganization and regulation.

We need the protection in Iowa that this bill, with Senate sections 11 and 13 substituted for the House sections, will give the consuming public and investors.

Propaganda campaigns have been carried on in Iowa in an attempt to influence Iowa Congressmen against this bill. These campaigns have been carried on not only by the intermediate and top holding companies that own and control Iowa operating companies, but by all the other powerful holding companies who have stock or bond holders in Iowa.

Apparently nothing has been left undone that could possibly have been done. By creating fear, uncertainty, and dismay in the hearts and minds of their investors and stockholders these companies have influenced and impelled investors to protest to Members of Congress against this bill.

These companies, through their propaganda campaigns, have unwittingly paid a real compliment to the Membership of this Congress. They have thereby admitted that they do not and cannot control our Membership. They have had to beg and urge their employees and the stock and bond holders of companies, which in many cases they have exploited, to write letters or send telegrams to each Member of this Congress in an attempt to prevent the passage of this bill. Never in recent years prior to this administration was it apparently necessary for these powerful public-utility companies to do that.

I sincerely hope that no Member will permit this propaganda to influence his honest judgment or deter him from voting the way he believes to be right, having in mind the general welfare of all our people. If the Members of this House do that, I believe they will vote for the substitution of Senate sections 11 and 13 in this bill. [Applause.]

Mr. FISH. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FISH. Mr. Chairman, I introduced last week a bill authorizing the expenditure of $500,000 for the acquisition of a site, erection of buildings, and the furnishing thereof for the use of the diplomatic and consular establishments of the United States at Warsaw, Poland. The bill is known as "H. R. 8696."

During the Revolutionary War two great Polish patriots rendered distinguished service under Washington. One, Casimir Pulaski, gave his life in the Battle of Savannah, and the other, Thaddeus Kosciusko, a Polish engineer, helped lay out the fortification at West Point.

These Polish patriots who aided in establishing the independence of the United States have created a bond of sympathy and friendship between the American people and the Polish people that has lasted for 160 years. The American delegates to the peace conference supported the claims of Poland to become a free and independent nation.

Poland, with 33,000,000 people, stands fifth in population among the European nations. It not only has a greater population but is larger in size than most countries where diplomatic and consular buildings have been erected by our Government.

Why appropriate $1,200,000 to erect an embassy at Moscow, in Soviet Russia, and ignore Poland, a friendly nation with a republican form of government?

General Pilsudski, who died recently, was one of the most courageous, ablest, and best-loved leaders in any nation in modern times. It was Field Marshal Pilsudski who saved Poland and eastern Europe from the onrush of the Bolshevik armies in 1920. Many Americans of Polish origin served under him in both the World War and against the Communists. There are several million honest, industrious, patriotic American citizens of Polish descent who are in favor of cementing the bonds of friendship between the two republics, and who will support this proposal unanimously.

The building of proper diplomatic and consular buildings at Warsaw amounts to an act of friendship and accords to Poland the same recognition, dignity, and diplomatic service already provided other nations of equal size and importance.

Mr. MAPES. Mr. Chairman, at a time like this, when the atmosphere is surcharged with charges and countercharges, it is difficult to consider legislation temperately, but it is important that the House at such a time be careful not to allow itself to be driven through prejudice or otherwise into an impossible position. I think the agitation for this legislation in itself will have a very beneficial effect, whether any bill is finally enacted into law or not. I agree fully with the statement of our very able friend the gentleman from Indiana [Mr. PETTENGILL] in the report filed by him on this bill when he says that holding companies as they have been known are "on their way out", regardless of whether the Senate bill or the committee substitute bill is passed. But there is no reason why Congress should take an utterly indefensible and impossible position on the question.

What is the difference between section 11 of the Senate bill, which the gentleman from Iowa has moved to substitute, and section 11 of the House bill? It has been said that the Senate bill does not eliminate holding companies. Technically and in a very narrow sense, that statement may be correct, but at best it is correct in a very limited sense only. Section 11 of the Senate bill provides that promptly after January 1, 1940, it shall be the duty of the Commission, in the language of the bill—

> To require every registered holding company to take such steps as the Commission finds necessary or appropriate to make such company cease to be a holding company.

Up to that point there is absolutely no limitation upon the requirements that holding companies must cease to be holding companies, but there is a proviso that if the Commission finds it is necessary under applicable State laws in order to allow integrated systems to operate, then the holding company in the first degree may be allowed. What does that mean?

First, it means that holding companies must get rid of all of their nonutility properties or holdings. Second, it means that holding companies as we know them, that operate integrated systems in different States, must get rid of all separately integrated systems, and for all practical purposes it means that all holding companies as they are now known must be eliminated.

What does the House bill provide? It provides in substance that existing holding companies may continue as they are, whether they own public-utility properties or other properties, unless the Commission finds, according to the purposes of the act, that it is necessary in the public interest for those holding companies to divest themselves of some

of their properties, or all of them, for that matter, and that all future acquisition of utility or nonutility properties must be approved by the Commission.

How in reason can anybody contend that the Congress of the United States should go any further than that? As for myself, I should be glad to eliminate all of section 11, both from the committee substitute and the Senate bill. Then we would have an almost perfect regulatory bill. I do not believe that holding companies are bigger than the Government. I do not believe we should destroy legitimate investment. I think that a good regulatory bill, as this legislation would be without section 11 of either bill, would answer the purpose, but I shall vote for the committee substitute bill on final passage, with section 11 in it, as reported by the committee, in order to get a regulatory bill, but I shall vote against the bill if section 11 of the Senate bill is written into it.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. MAPES] has expired.

The Chair recognizes the gentleman from Indiana [Mr. GRAY].

Mr. GRAY of Indiana. Mr. Chairman, I want to take myself out of the shadow of this unrecorded vote. I want my position on this issue to stand out as clear as the noonday sun.

I do not want my stand on this question to be left to surmise and conjecture, subject to doubt or question in the future. And it is my purpose to state my position so plain, clear, and unequivocal that nothing will remain for intendment.

I realize that each Member of Congress must solve this problem and take his position on this issue, each from his own viewpoint, his viewpoint of natural rights, his viewpoint of the object and purpose of corporations and the service for which created to perform, together with the proper province of government and its relation to our industrial system.

I believe that the world was created for all people and not for a certain special few. I believe that every child born into the world inherits a part and portion of it—enough upon which to live, move, and have being, and which it takes by a natural and higher superior title over man-made laws and rules, with the right to labor upon the earth to live and the rights to enjoy the fruits of that labor.

I believe that the natural resources, the forces and powers of nature, the rivers, streams, and falling waters to furnish, provide, and carry light, heat, power, and water are a part of this inheritance and have become as vital and necessary today as the air we breathe in our everyday life, and which the people are entitled to take, use, and enjoy, free without restrictions, without burden for profits and at the lowest cost of production. And I believe that the proper province of government is to guarantee, safeguard, and defend this inheritance, title, and birthright for every man, woman, and child in such equitable share and portion as may be necessary for their interests and welfare.

The great natural resources of the world, the power and forces of the elements to produce light, heat, and power and the vital necessaries required to live have been and are being usurped and seized upon to hold for ransom and tribute, to take and exact from the people.

And now the power and forces of the resistless tides of the sea, following in the course of the moon and the revolutions of the earth, are to be harnessed and used to produce light, heat, and power for the use and service of men. But already the certain crafty few, the great power-holding corporations, are organizing a lunar monopoly to corner the moon and the forces of attraction of gravitation to take and exact even further tribute from the people.

Industry is a system grown up under which the earth and its fruits and the necessaries and comforts of life are apportioned out among the people according as they may be willing to toil and labor to live.

To better provide for the conduct of industry and to aid the people in their labors to live, the State has created artificial persons, which, under the law, are known as "corporations", and given great and multiplied powers over individual men or natural persons. In creating these artificial persons or corporations, it was the purpose under the law that the States, the power creating them, should always hold and maintain full and complete power to regulate and control the operations of the corporations created to safeguard the rights of natural persons; and during the early development of our system of specialized industry this power to regulate and control corporations was maintained full and supreme by the States and the rights of natural persons were safeguarded against imposition and encroachment from corporations and their greater force and power.

Corporations have been made or have become a part of our economic and industrial system and through which the people conduct many of their important business affairs and upon which they have come to rely for organized and concerted effort in commerce, industry, and trade.

But under new and changed conditions, such as the invention of the automatic machine, the concentration of great wealth in the hands of the few, these corporations exercising superpowers, have come to challenge the State creating them and to defy the Federal Government itself while the people are left helpless, powerless to resist, and at their mercy. Under the law creating corporations, corporations have been organized for purposes never contemplated or intended and instead of being in aid of legitimate industry, commerce, and trade, are being used to prey upon industry and through them to exact from the people.

And following the growth of corporations, a new form of corporations has been developed, the holding corporations, to usurp and take from the State its powers to control and regulate the course and operations of corporations, and to combine and organize such corporations for its own domination and control. Through the organization of holding companies, the power of control and direction has been taken away from the State and the purposes of the law defeated and annulled, by confusing and mystifying corporate operations until evils and abuses of holding companies have perverted the purpose for which corporations were originally created to serve.

The system of holding corporations organized over the operating corporations in effect creates a supergovernment, usurping and taking from the State its power to control corporations, and under which the State creating them is left helpless and at their dictation. But these great superpowered corporations, asserting their power in defiance of the State, are not only claiming the right to control their corporations and others, but they are assuming the sovereign power to exact charges and levy tribute and compel their underservient corporations to make and enforce collection from the people.

This is the industrial condition with which we are confronted today, and these are the corporation evils and abuses which brought on a great Nation-wide investigation of public-utility holding companies in 1928, and which has prompted this legislation to recover State control of corporations.

Operating public-utility corporations are corporations producing, furnishing, distributing light, heat, power, gas, and water for the use of the people of the country. They are a part of our local business affairs and of the different communities served or where they are operated and are carried on.

Holding-utility corporations produce nothing, furnish and distribute nothing. They are organized to manipulate and control the operating and producing companies, and to lay, levy, and exact tribute upon the operating and producing companies and compel its collection from the people.

A man who was caring for a turtle and feeding it for some of his friends was asked if the turtle required much food. "Yes", he says, "more than you would think, and I can show you why this is." Then he pulled the turtle out of the barrel and, holding it up with the tail, he pointed to several leeches which were clinging to the turtle's legs, saying, "The turtle must also eat for these." Then taking out a glass and holding it over a leech, he pointed to some parasites upon the

leech, saying, "The turtle must eat and digest not only for himself but for these leeches and parasites, and this is why it takes more food than you would think."

When this public-utility bill came up for consideration before the House, I recalled the man feeding the turtle. And it occurred to me at once that the turtle was a fair illustration of the public-utility industry. The man feeding the turtle would correspond to the people and patrons paying for light, heat, power, and water. His friends owning the turtle would correspond to the little stockholders who had been induced to become the owner; the turtle being cared for and fed would correspond to the operating companies. The leeches sucking its blood would correspond to the holding companies all pyramided upon the operating or producing companies. Then I must find a place for the parasites feeding off the blood of the leeches. And I placed them as the manipulating bankers using the holding companies for speculative investments and with which to gamble on the stock exchange.

Then, looking still further for the solution of the public-utility problem, I pondered, considered, and soliloquized: If these leeches on the turtle could speak like the holding companies speak through their lobby tools and puppets and their organized stock-buying victims are instructed and led to speak; if these leeches on the turtle could only subsidize the press with $28,000,000 a year, which has been shown by the Federal Trade Commission to have been paid out for publicity; if these leeches could finance and pay college professors and economic students for addressing the people in every State and to teach leech necessities in the schools, they could persuade the supporting turtle that leeches are a necessary evil and persuade them to raise the hue and cry against taking them off the turtle as a cold, cruel "death sentence" and a plea for regulation which they have ignored and defied.

The trouble with industry today, under great and powerful corporations grown up in violation of the intent of the laws, is there are too many leeches, there are too many blood suckers, there are too many parasites, there are too many hangers-on, who are performing no duty or service, but which the people must support and pay.

The pyramiding of holding corporations, piling up corporations one after another, sometimes as many as 10 deep, over and upon operating companies, with as many intermediate layers and strata, creates an intricate, confusing structure, a complex, bewildering legal entanglement. Through the meshes of such a maze and mass no responsibility can be fixed for control, no power can be exerted or directed for regulation. Earnings and income from the operating companies below cannot be traced up through the overlapping intricacies, nor can the benefits claimed furnished from above be followed down through the confusing strata.

Holding companies pyramiding above upon servient companies below have become a confusing legal monstrosity, a profiteering camouflage or smoke screen for the exploitation of helpless consumers of gas and electricity, for light and power, and through which stockholders cannot pierce the veil to claim dividends or make assets available to them. The one and only hope of regulation and control is the simplification of the corporate structure, confining them to one system, or organization, and making them directly subject and responsible to the regulatory powers of the State. All forms of supercorporations which exist only to exercise and usurp the sovereign powers of the State for the control and regulation of other corporations, to safeguard the rights of natural persons against corporate imposition and encroachment, should be outlawed and dissolved.

Here are a few items or examples taken from the hearings and reports showing how the holding companies milk the operating companies and through the operating companies profiteer upon the bona fide stockholders, impair and impoverish the service to the people, and exploit the consumers of gas and electricity. I first call attention to some of the salaries which have been paid and are still being paid to the presidents and high officers of these holding companies during the trying years of the depression by compelling the underoperating companies to raise their rates and charges to the consumers.

In 1925 a Mr. Foshay, as president of his holding company, received a salary concealed as a bonus of $306,000. These huge salaries were taken annually from the operating and producing companies secretly under holding-company manipulation and without any service performed to the consumers.

In the Electric Bond & Share Co., a holding company performing no service to the operating company or consumers, C. E. Groesbeck, president and director, received in 1929, $228,000, and in 1930, $251,260 as salary. S. C. Mitchell, chairman of the board of directors, received in 1929, $251,910, and in 1930, $276,560.

In 1929 H. C. Couch, as director of the Electric Bond & Share, a holding company, received $59,060, and in 1931 received $67,413 as salary. And this same director in the year of 1932, during the crisis of the panic and depression, claimed and took as his salary $67,883.

In 1929 P. G. Gossler, as president of the Columbia Gas & Electric Co., a holding company, received $251,335 and in 1930 received $233,383 salary. F. W. Crawford, vice president of this company, took $112,315 and in 1930, $106,903 as salary. In 1931 B. C. Cobb, chairman of the board of directors of the Commonwealth & Southern, a holding company, received $97,700 and in 1932, $110,200 salary. This was in the lowest depth and crisis of the panic.

In 1931 P. W. Martin, president of the Commonwealth & Southern, a public-utility holding company, received $72,600 and in 1932, $130,140 as salary. The Northern American Utility Co. is a holding company performing no service to the consumers, or is afraid to make such showing. In 1930 this company paid F. L. Dame as president $110,440 and in 1931 the sum of $106,506 as salary. This same company paid Edwin Gruhl, vice president, at the same time paid to Dame, in 1930, $91,468 and in 1931, $87,624 as salary.

In 1931 the Associated Gas & Electric Co., a holding company, paid its president, J. I. Mange, $60,156 and in 1932, $58,140 as salary. During these same years these same presidents and directors were acting as presidents and directors of other companies and from which other holding companies were drawing like salaries and pay.

These huge salaries were forced upon the bona fide operating and distributing companies, which companies were compelled to withhold from stockholders their full dividends due them and to raise the rates of service to the consumers.

In 1929, the Commonwealth & Southern Co., a public-utility holding company, was organized in the Southern States. The salary of the president was fixed at $43,000. From this time, the panic beginning and continuing, lowered all values, prices and wages, decreased all earnings and income of the people and their ability to pay for light and electric service. Yet in the face of this depression and the crisis of reduced earnings and income and the ability of the people to pay, this company steadily increased salaries until in 1932, the low crisis of the panic, the president's salary was raised to $139,000 with other salaries raised in proportion.

The Central Public Utility Group has collected so-called "management fees" from the operating and producing companies, and for which they can show no service, of more than a million dollars and all of which came off stockholders and consumers (Committee hearings, p. 213).

The Associated Gas & Electric Co. has been shown to have charged the operating and producing companies under it, interest at the rate of 8 percent per annum, compounded monthly in advance which the operating and producing companies were compelled to charge up against the consumers (Committee hearings, pp. 150–151).

The Byllesby Engineering & Management Corporation, for the Standard Gas & Electric Co., a holding company, collected so-called "legal fees" from 1919 to 1929 of $3,359,884, which, after paying the lawyers their fees, netted that company in profits $2,078,872. These fees were collected from the operating companies and came off the stockholders and consumers (Committee hearings, pp. 380–381).

Another means of the holding companies, perched upon the operating and producing companies, used to take huge profits from the people is by compelling the underoperating companies to buy from them all their material and equipment, and for which they charge double and extortionate prices.

The hearings and report upon this measure show that in 1926 the Appalachian Electric Power Co. took over the American Gas & Electric Co. at the book value of $72,000,000 and which was immediately revalued at $159,000,000. Under this double revaluation stock was issued and sold out to the unsuspecting public at a profit over the purchasing value of $66,000,000, and under which the new stockholders were exploited exactly to that amount.

These are the public-utility holding companies who are sending their representatives to Washington, objecting and making protest to Congress against the provisions of the Senate bill giving them 7 years' time in which to show that they are performing some necessary service, and that this requirement will mean a "death sentence" to them. Many good people of the country will be unable to understand why, if these corporations are performing such necessary service, they cannot show it to the Securities Commission in 7 years and why, if they are performing such service, this provision of the Senate bill would mean a "death sentence."

The Tacoma Electric Power Co. of Washington State is purely an operating and distributing company, free from the leech holding companies, and where the operating company cannot be forced to increase rates upon the people to make them pay dividends and high salaries for holding companies. Comparing the Tacoma service rates or charges, where the charges are $10.60 for 1,000-kilowatt hours, with the public-utility companies now operating in Indiana and carrying the pyramid of holding companies, the people of Indiana are being overcharged every year by the sum of $19,189,000.

The people of the State of Ohio are being overcharged over $47,000,000. The people of Illinois are being overcharged over $50,000,000. The people of Michigan are being overcharged over $33,000,000, all to pay salaries and dividends to useless holding companies.

The people of the United States, to support the holding-company octopus riding on the backs of the operating companies, are paying an overcharge of almost a billion dollars, which is being taken from them annually.

But a more important and significant part of this great propaganda-publicity program is explained, beginning at page 278 of the Federal Trade Commission report, showing the organization for a purpose of a great army of utility employees.

Looking ahead for the last 25 years to the developments of electricity seen coming, the public-utility holding company interests have been organizing to monopolize and control the production and distribution of electric power and have been building up their defense behind unsuspecting individual stockholders. Under this investigation it was found the policy carried out through an army of utility employees to sell and scatter a certain amount of their stock among single individual stock investors and then have their employees frequently contact or keep in touch with these small stockholders to urge the importance of upholding their companies to maintain the value of their shares of stock.

Classified lists have been made and kept of all persons to whom stock was sold, not only for the purpose of frequent contracts and to receive holding-company literature but for the purpose of prompting and calling them to aid in their defense against any unfavorable legislation. This system of creating scattered stockholders to be held ready and in waiting in every legislative and congressional district was known as the "Illinois plan", and was first perfected and sponsored by the Insull public-utility corporations.

As before explained, this plan was later adopted as the model plan and system by the National Utility Association, which completed its organization in 1927 to oppose "unfriendly legislation" in Congress, at that time for a trial of public ownership. This policy of public-utility corporations, using the employees to sell stock and to scatter shares among individual men, is all set forth in the Summary Report of the Federal Trade Commission, under Senate Resolution No. 83, and explains by whom and the system under which Congress is being bombarded on this bill at this time.

It was from behind the breastworks of these small public-utility stockholders that Samuel and Martin J. Insull joined the electric-power monopoly in its fight in Congress in 1927 against the development of Muscle Shoals as a step to try out public ownership. But the small stockholders of the Insull Public Utility Corporation must be exonerated from opposition to this bill. They have been busy keeping trace of Samuel Insull in his wanderings in Europe and over the seven seas, trying to escape trial in America, and only to be extradited and returned to trial and found "guilty but not proven" under the technicalities of corporate law.

Realizing the swift-coming developments in the production and distribution of electricity for use as light, heat, and power and its universal use coming as a vital necessity and its control as a power and vantage ground from which to take and exact from the people as a power greater than the taxing power, these powerful public-utility corporations have organized and carried on since 1919 a great Nation-wide propaganda campaign employing every form of publicity and secret aid to oppose single and independent power plants as well as all forms of public ownership. The policy observed and carried out has been to prevent and forestall the organization and construction of local power plants and to buy out all independent plants looking to one unified system of ownership and to complete an absolute monopoly of the production and distribution of electricity.

I call the attention of every Member of Congress and of every reader of the CONGRESSIONAL RECORD to the summary report of the Federal Trade Commission under Senate Resolution 83 for a better and more complete understanding of the means and methods employed to create and control public opinion in favor of public-utility holding companies; and I earnestly urge every Member of Congress to call for and read this summary report; and I likewise call upon the readers of the CONGRESSIONAL RECORD to write to the Federal Trade Commission, directed to Washington, D. C., and request a copy of this summary report no. 71–A.

The Dollings Co., a corporation organized under the laws of Ohio and operating largely in Ohio and Indiana, was not an operating or producing company. Like the Insull holding companies, it owned no property or tangible assets. It produced nothing and distributed nothing. Its sole and only purpose was to sell and manipulate the stock issued by other corporations. Like the utility-holding company, it was a leech and parasite upon industry, without serving any real useful purpose, but through which thousands of people have lost their entire life savings. And yet the day before its fall, the company was defended and upheld as a necessary agency of industry.

The Insull public-utility holding companies were not operating or distributing companies. They were great holding companies. They produced nothing and performed no service. They only held and manipulated the stocks of other companies, the same as the Dollings Co. held and sold other stocks. These Insull, nonservice, manipulating companies have brought loss to millions of people, millions of innocent, unsuspecting people as investors.

But such a hold did the Insull companies have upon the people of the country under its propaganda-publicity programs that any suggestion for restraint upon them, upon their operations and stock-selling manipulations, would have been resented by the very people deluded and now suffering great loss from them.

And there are many holding companies remaining, now holding and selling stock for manipulation, or for the control of operating companies which are following in the same course of the defunct Dollings and Insull companies. But before these companies can be restrained or controlled and the people protected from their abuses, millions more will have suffered loss and deprived of their life savings and earnings.

It is estimated that an average of $5,000 has been taken from the confiding and unsuspecting people of every county in the State of Indiana by the sale of Dollings, Insull, and like stocks, all operating in gross violation of the purpose and intent of corporation laws. But this is not all of the loss which has been suffered from these companies by the people of the State of Indiana. It has been shown that by reason of these holding companies, all claiming incomes from the earnings of the operating companies, the people of Indiana are and have been overcharged for gas and electric service $20,000,000 annually.

With the shadows of the Dollings and Insull companies and their movements, manipulations, and final failures hanging low in the investment horizon, the duty of this Congress is plain if the common people are to be protected from exploitation. There is only one hope remaining for the small, individual stock investor holding shares in great corporations. There must be intervention by the State and Nation to stay the hands of speculation and high finance and to compel open operations and administration and observance of honesty among corporations. Gambling and stock manipulation, watered- and diluted-stock issues, thrown upon the market without supporting assets, confiscatory salaries, and fees are incompatible with security and a stable basis for investments.

It is a most remarkable and very extraordinary coincidence that, coming simultaneously, the newspapers from coast to coast and from the Lakes of the North to the Gulf on the South, began a great hue and cry, all using the exact identical words or phrase without variation—"the death sentence"; and then, at the same identical time, in concert with this newspaper-propaganda campaign, many thousands or millions of small stockholders, widely separated and from every part of the country, began writing letters to their Congressman, all following the exact phrase of the newspapers and all alike protesting against "the death sentence."

This most mysterious and remarkable coincidence of the use of the phrase "the death sentence" and at the same time by thousands of newspapers and coming from millions of small stockholders shows a centrally organized campaign prompting the newspaper articles and editorials and the letters from the small stockholders. The use of the phrase, "the death sentence", in thousands of newspaper editorials and in millions of letters from small stockholders, coming all at one and the same time, shows something more than a mere coincidence. It shows a carefully prepared plan and system, carefully completed in advance, held in readiness to be used to meet an emergency apprehended to be met.

This is all the more significant when we read from the hearings of the Federal Trade report showing that these same utility-holding companies were paying newspaper editors over twenty-eight millions of dollars annually for prepared articles and editorials to be carried as their own editorials. And further showing the sale of public-utility stock to millions of unsuspecting individual investors and deliberately scattered throughout the country through and in whose name to make their appeal and behind whom to shield themselves to make their defense.

This measure does not eliminate or take away a single necessary or useful utility company, whether holding or separate operating company. It does not retire or take away a single laboring man, clerk, or officer necessary or required to carry on efficient service, nor retire a single dollar of investment, nor reduce the corporations actually engaged. This measure does not require a single holding company to retire and get off the backs of the operating company, or stop drawing upon or taking from the operating and producing companies its earnings and income from the people if the holding company can show in 7 years' time that it is performing any necessary service in producing or distributing gas or electricity, or any necessary or useful purpose to the people in exchange for the money that it is taking from the earnings of the operating companies paid in by the people using the service.

This is not destruction nor disorganization. This is in fact a house cleaning in the interest of bona fide stockholders, in the interest of the patrons paying for the service. This is to strike off the leeches. This is to sterilize the parasites and to relieve the people of their burden. This is only to take the evils and abuses out of the public-utility business. This is only to take the gambling operations out of the public-utility business. This is only to take the manipulation and high finance out of the public-utility business. This is to conserve the earnings and income of the legitimate public-utility business for the use and benefit of the bona fide stockholders and to maintain the value of their stock and to exempt the patrons from excessive charges for high excess salaries without benefit or service performed.

It is found that the investigation leading up to the preparation of this bill began back under the Coolidge Administration, on the 15th day of February 1928, when the Senate passed Senate Resolution No. 83. This resolution was prompted by the ever-growing evils and abuses of public-utility and holding companies, but more immediately and directly by the public-utility companies' lobby appearing in Washington in 1927 to oppose the enactment of legislation looking to a trial of public ownership. Under this Senate Resolution No. 83 the Federal Trade Commission was authorized and directed to make inquiry regarding the service performed by holding companies and the value and prices for such service and the activities of holding companies to control public opinion and legislation.

The Federal Trade Commission promptly entered upon this investigation under the powers and authorities of the resolution and continued its hearings and inquiry until sometime during 1934, in all a period of over 6 years. The report of this Commission was filed December 12, 1934; and on the convening of Congress in 1935 the matters were called before Congress by a special message of the President recommending that action be taken to remedy the evils and abuses of holding companies as shown to exist by this report. It was this inquiry and investigation of the Federal Trade Commission, authorized under Senate Resolution No. 83 in 1928, that brought out the evils and abuses of public-utility holding companies and their evil practices and made this legislation imperative to safeguard bona fide stockholders and the consuming public from their impositions.

But holding companies do not only use their confusing and bewildering strata to take from unsuspecting stockholders and to exact and take from the people, but to cover and conceal their property from taxation, with other evils and abuses.

Early in 1933, when Congress was called in special session, the vacant condition of the Treasury prompted a Senate inquiry of the causes. And it was found that the great financial interests had not been and were not paying taxes on their earnings and incomes for more than 3 years. And it was further found and disclosed under the inquiry of the Senate committee that incomes of many corporations were being hidden, covered, and concealed, and taxes due upon these incomes evaded by manipulation and jugglery through the means of holding companies. But at that time the Senate investigation under Resolution No. 83 was not complete and no report was made and the matter was postponed and further continued awaiting the completion of the hearing and the report of the facts found.

The Summary Report of the Federal Trade Commission, among other matters brought to light, shows that a publicity-utility association was organized prior to 1927, following after the Insull plan, and referred to in the hearings as the "Illinois plan", for the control of public opinion and legislation, in the interests of holding companies. Up to 1927 over $28,000,000 had been spent by this association annually, paid for expenses in obtaining personal contacts, with thousands of editors of the country. Another means of publicity shown followed was by financing a great army of local, State, and National speakers to present their facts to the public favorable to public holding companies, and this extended to great public meetings, to churches, school, and college audiences.

The following from page 391 of the Federal Trade Commission report referred to is included to show the general character of the investigation conducted and reported upon by the Commission:

The record in this investigation establishes conclusively that the electric and gas utilities since about 1919 have carried on an aggressive country-wide propaganda campaign. In it they have made use not only of their own agencies but have enlisted outside organizations in active, and often secret, aid. In it they have literally employed all forms of publicity except sky-writing, and frequently engaged in efforts to block full expression of opposing views.

The record shows that this propaganda had for its objective the disparagement of all forms of public ownership and operation of utilities and the preachment of the economy, sufficiency, and general excellence of the privately owned utilities.

The record establishes that, measured by quantity, extent, and cost, this was probably the greatest peace-time propaganda campaign ever conducted by private interests in this country. The record establishes that the activities were carefully considered and planned by responsible heads of the industries.

Numerous declarations and excerpts from minutes and committee reports show clearly that the character and objective of these activities were fully recognized by the sponsors and planners and the director of National Electric Light Association, the leading propaganda organization, boasted that the "public pays" the expense.

Often methods of indirect approach were employed and injunctions of secrecy given. All of these facts are established by the records of the utilities themselves. They are drawn not from adverse or conflicting testimony but from their own documents and declarations.

The CHAIRMAN. The gentleman from West Virginia [Mr. RANDOLPH] is recognized.

Mr. RANDOLPH. Mr. Chairman, I realize that I can add no contribution to the discussion of section 11 as it relates to the Senate bill and the House bill. However, because of the so-called "misunderstandings" which have been aroused as to how the Membership of this House stands on this question, I want to take the floor and say that as for myself I shall vote against section 11 as contained in the Senate measure. [Applause.] I do that well realizing the conditions which exist here this afternoon. I, as one member of the Committee on Labor of this House, am certain that I speak not alone for myself but others upon that committee when we shall soon vote on section 11. There are thousands of workers in my district who labor in this industry and they are to be considered.

A great deal has been said about pressure from those who are in favor of section 11 of the Senate measure and those who are against it.

As for me, I shall decide upon the question from the pressure which comes from within my own being. For me there is a solemn duty to be fair and just. I am certain that my record so far in the Congress of the United States has been liberal and progressive. I do not intend this afternoon on this question to add the word "destroyer" to the other two. I do not own a penny's worth of public-utility stock but I do owe a duty to those who have invested their funds.

To the Membership of this Committee let me say I have been in my own district 2 days this past week-end. I have a cross section of the country. I find the people knowing the conditions under which this legislation is being discussed. I am very certain that I speak for the majority of the people of my State when I say that regardless of the influences which are being brought to bear, they realize full well that the enactment of section 11 of the Senate bill will bring about the destruction of this industry in the United States. [Applause.]

I want to say just this before I yield the floor, that I realize, of course, the responsibility which is mine above all others on this question. I believe that here and now, this afternoon, we must determine that not as Democrats, not as Republicans, not as Progressives, not as members of any party, should we vote because of influences which are brought to bear upon us, but we should vote solely upon the question as it relates to our own sense of right.

By my stand I am not against the administration. I am for returning to the common-sense program upon which we came into national leadership.

I reiterate to the Membership of this Committee, that I have been a liberal, I have been a progressive. I shall never be a destroyer, if I know it. [Applause.]

Mr. WEARIN. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield.

Mr. WEARIN. The statement has been made by some of the opponents of the Senate bill, including the gentleman from Alabama, that it is a deflationary measure. The same individuals, I believe, voted against the bonus. They should, therefore, have no hesitation to follow the President and vote for the pending measure. They would be doing only that which they admitted upon a previous occasion to be advisable.

On the other hand, can anyone imagine a more deflationary situation than the one that exists today as a result of the doings of utility companies in the field of their excessive charges for electrical energy? The very fact that the per capita consumption of electrical power is so small is occasioned in part by the fact that the price charged for it is so excessively large. If the charges were to be reduced to somewhere near the T. V. A. yardstick rates, not only the consumption of the product would increase but the market for appliances such as refrigerators, irons, washing machines, pumps, and innumerable other articles would go up.

We have before us an excellent example of how high rates paid by every consumer for electricity that include charges for the services, salaries, and stock dividends that find their way into holding companies act as a pronounced deflationary tendency in the American market.

In our congressional district farmers are paying as much as $12 to $18 per month for a meager allowance of current—not to exceed 140 hours in some instances. Householders pay a correspondingly high rate. Under such circumstances they do not feel that they can afford many of the appliances they would like to use because of what it costs to operate them. Obviously the result is a continued curtailment of purchases in the equipment field that can be nothing else but deflationary.

If the Congress can, as President Roosevelt advises, eliminate unnecessary expense in the production of electricity, which is no more than fair to the consumer, when such a reduction should be reflected in his monthly light bill as well as increased revenue to the holders of stocks and bonds in parent companies, the result can be none other than advantageous.

The public might reasonably expect to witness a marked decrease in rates, because a percentage of every monthly light bill goes to the payment of expenses involved in the operation of pyramided companies, and such tribute would no longer be extracted.

An increase in equipment sales would naturally follow in the footsteps of a rate reduction, thus occasioning a condition in the market that not even a pessimist would dare to brand as deflationary.

Coupled with a decrease in rates to the consumer and an increase in the volume of electrical equipment in use would be an inevitable rise in the consumption of energy. Surely such a situation would be most satisfactory and profitable to the general public that pays the bill and the owners of operating companies, who constitute by far the largest percentage of investors in utility securities and who are entitled both to consideration and protection.

Mr. RANDOLPH. I have this to say to the gentleman from Iowa, that the rates charged for electricity in my district are fair and just in most cases.

Mr. PETTENGILL. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield.

Mr. PETTENGILL. Does the gentleman not know that as a matter of fact the consumption of electric energy has been increasing constantly for the past 3 months?

Mr. RANDOLPH. That is correct. I thank the gentleman.

Mr. RANKIN. Mr. Chairman, will the gentleman yield?

Mr. RANDOLPH. I yield.

Mr. RANKIN. That has been brought about, I will advise the gentleman, since the T. V. A. put on its yardstick. Rates have been reduced all over the country.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi [Mr. RANKIN].

Mr. RANKIN. Mr. Chairman, I was very much interested in the remarks of the two gentlemen from Kentucky [Mr. ROBSION and Mr. MAY] who presume to represent the coal interests.

The gentleman from Kentucky said he was with the President on the Democratic platform. This section 11 is exactly what that platform provides; it provides for regulation of these utilities. They can never be regulated until they are cut down to where the Government can regulate them.

Do not mislead yourselves! This is a political issue and will be from now on. Every man who votes against this amendment votes with the Power Trust, with the Republican Party, against the administration, and against the American people. [Applause.]

But I want to answer these two gentlemen who presume to represent the coal operators, the coal people of this country. I know that there is an unholy alliance between the coal operators and the Power Trust on this bill.

I say to the gentlemen from Kentucky that the people of Kentucky are overcharged $8,300,000 a year for electric lights and power.

But in Kentucky where these gentlemen live, those poor struggling people who go down into the depths of the earth and work all day long—and we have the same condition in Pennsylvania and other coal States—those poor people are sweltering in their homes at night because electric-power rates are so high they cannot even run fans, much less refrigerators. Notwithstanding this, coal is piled up at the mouth of the mine, coal that could be burned and turned into electrical energy and furnish these people at reasonable rates this current they so badly need and which could do so much for them. But the coal operators and the power interests will not do that.

Their policy is to get all the money the traffic will bear. They raise their rates. These companies are pyramided so high and have loaded the American people today with so much superstructure that the operating company is unable to charge a fair rate. As I said in the State of Kentucky, the people are overcharged $8,300,000 a year. Where does that money go? It goes into the pockets of these great overlords, these superholding companies that are bleeding the little companies to death. They in turn are forced to bleed the consumers of electric light and power. The only place on earth they can get any money is from the consumer, the ultimate consumer, the man who turns the switch, the man who switches on the light.

This is a supreme issue now and will be for the next 5 years. It is greater than any issue we have had in the last 25 years. You can take your stand, if you want to go along and join the old-line Republicans and receive the "kiss of death"; but I want to tell you it means that every one of you who vote against the administration on this proposition and vote for the Power Trust, for that superoctopus, that is bleeding the consumers of electric light and power to death, you are going to pay the penalty at the hands of the American people who are paying the bills. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. The gentleman from Michigan [Mr. MICHENER] is recognized for 5 minutes.

Mr. MICHENER. Mr. Chairman, we have had 8 hours of general debate on this bill. We are now operating under the 5-minute rule and it is very difficult to get recognition, and it is more difficult to say anything pertinent and worthwhile in the time available. I refuse to get "het up" about this whole matter. It is important. We have been told innumerable times that it is the most important legislation that has come before this body in a generation. It is distressing to observe the small amount of relevant matter covered in the debate. The speech just made by my good friend, the gentleman from Mississippi [Mr. RANKIN], is a patent illustration. The House has been discussing politics, lobbyists, the Power Trust, and kindred general subjects, in themselves worthy of discussion, but not germane to the real issues before us.

The gentleman from Mississippi [Mr. RANKIN] is a believer in public ownership of utilities and many other things. He is one of the few freetraders left in the House and you can always depend upon his speaking fearlessly and conscientiously and without concealment of his real purpose. If he had his say, the T. V. A. would extend over the United States, the Government would own and operate all public utilities, and I am sure he would not support any legislation affecting utilities that he did not believe would tend in that direction. I admire him for his candor and sincerity, even though I do not agree with him.

It has been repeated time and again in this debate, especially by the gentleman from Mississippi [Mr. RANKIN], that President Franklin D. Roosevelt desires this legislation with the "death sentence" included, and that it is our duty to support the legislation for that reason. We are even threatened by Mr. RANKIN and others that we will be held accountable on election day if we do not do the bidding and answer the beck and call of the President in this particular. My view is that the President of the United States should always be given consideration when public questions are before the Congress. His views should have weight, but they should in no case be controlling unless they coincide with the judgment of the direct representatives of the people in the legislative branch. I have attempted to support the President when I thought his views were correct and, at the same time, I have been perfectly free to oppose him when I felt otherwise. It seems to me that this is the proper function of a Representative in Congress.

More time throughout this debate has been devoted to the question of lobbying than to any other one thing. There has been lobbying on both sides, and of that there is no doubt. Personally, I cannot conceive of the President and the public-ownership group being permitted to use the radio night after night; to issue official newspaper releases day after day; to call in and confer with Members of Congress; to have the representatives of the administration in the galleries of the House and even on the floor of the House, buttonholing, persuading, and otherwise attempting to influence the Congress and, at the same time, denying to the owners, operators, security holders, and stockholders of public utilities the right to call attention to their views in reference to the subject matter.

It is true that I have received thousands of letters from constituents protesting against any public-utility legislation that would destroy or injure the securities held by the people writing to me. These letters come from the "average" man and woman, not from the wealthy. I have no extremely wealthy people in my district. Most of them are just common folks—the kind of people who believe in owning their own homes and sending their children to college. These folks cannot understand why Congress should pass legislation the result of which will be to wipe out their investments and life savings, without any chance or opportunity to come back after the depression—the same chance that other investors have. These investments were made in good faith and these people are honest people.

Personally, I believe thoroughly that holding companies should be regulated as well as utility companies and corporations of all kinds. If the State gives to a group of its citizens extraordinary powers to transact business, then those to whom this power is granted should submit to decent regulation and control. This bill, however, does not seek to control. Its very purpose is to destroy. There are many bad holding companies. Irregularities amounting to crimes have been committed by some of these organizations. This, however, does not condemn them all. There are good corporations and bad corporations, and we would not under any condition think of destroying all corporations because of misconduct of a few. The necessity of holding companies has been fully demonstrated within the last few months under the regime of the new deal. Under the guidance under the direction, and under the command, if you please, of President Roosevelt, we have established some of the greatest holding companies ever conceived in the mind of

man. I challenge anyone to question this statement. Take the T. V. A., for instance.

Mr. PETTENGILL. Will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Indiana.

Mr. PETTENGILL. Does the gentleman know that the men who participated in drawing this bill also participated in drawing the charter of the company which the gentleman has just mentioned?

Mr. MICHENER. I understand that to be the case. It has been stated by two or three members of the Committee on Interstate and Foreign Commerce that this bill was not prepared by Members of Congress but was drawn by Mr. Ben Cohen and Mr. Thomas Cochran. I do know that these gentlemen have been in the galleries, that they were in attendance upon the committee during the consideration of the bill, and that they are vitally interested in the adoption of the bill as passed by the Senate.

The bill as it passed the Senate contained what is commonly called the "death sentence" for holding companies. The House committee refused to favorably report to the House this plan and the House bill does not absolutely eliminate all holding companies. In short, it gives the holding companies a hearing before the "death sentence" is pronounced. This is some help, but in view of the attitude of the proponents of this legislation it must be conceded that the House bill is merely a gesture, a route used to bring the whole matter before the House, through the House, and into the conference committee, where the believers in the "death sentence" will predominate and control.

We were advised by the press on yesterday that the President would veto the bill if it did not contain the Senate provision. The same authority advised us that Senator WHEELER, the proponent of the Senate bill, would permit the bill to die rather than to see it enacted without the "death sentence." Let us face the facts and realize just what we are doing. The chairman of the committee, Mr. RAYBURN, reported the House bill, yet he has taken the floor and condemned the House bill and advocated the Senate bill. He will be the leading conferee on the part of the House. And, with Senator WHEELER, the leading conferee on the part of the Senate, one does not have to be a clairvoyant to guess what will happen.

I believe that these holding companies should be regulated the same as public utilities must be regulated. Most of the States have regulatory laws. But if Mississippi and Texas do not have proper regulatory laws, it would seem that those Commonwealths believing in State rights should put their own houses in order rather than ask for another commission or bureau in Washington to look after their State affairs. I will go as far as any man in this body in passing legislation to regulate holding companies that cannot be regulated by State regulation. I will not, however, destroy the life earnings of over 5,000,000 honest people when this is not necessary for the common good. We can pick out Insull and other holding companies that were extremely bad. No one justifies these evils, yet there are many splendid holding companies serving well in their respective communities.

Of course, that school of thought believing in public ownership and operation of all public utilities is for this legislation to a man. I do not criticize them for their belief. They are entitled to their judgment the same as I am entitled to mine; and if this legislation would bring their cherished Government ownership closer to consummation, then they may be justified in supporting this bill. I am opposed to the Government going into business in opposition to private capital and industry. I want our industries to continue to be owned by the people as individuals and not collectively as the State. I am thoroughly convinced that the enactment of this legislation will not only destroy the value of many securities but will be an advanced step in the setting up of more bureaus and commissions in Washington; and the turning over by the local communities to agents from Washington the conduct of the affairs which belong to the folks at home.

Many people do not understand just what is meant by "holding companies." I think it is fair to say that such an organization is a corporation primarily organized to own securities issued by other corporations. It has been aptly defined as follows:

> Any company, which by virtue of its ownership of securities, is in a position to control or substantially influence the management of one or more companies.

Holding companies are not of recent origin. They were legalized more than 50 years ago. The Baltimore & Ohio Railroad, the Pennsylvania Railroad, and many great corporations could not have functioned had it not been for the legality of holding-company provisions.

Shrewd lawyers have found ways whereby holding companies may be used for unholy purposes. This is not the fault of the law permitting holding companies, and should be cured by proper regulatory legislation. This bill could be made a proper regulatory bill, and I am convinced that such a bill would come nearer meeting the personal wishes of the Members of this body. The powers back of the bill, however, are determined to rule or ruin. They want no regulation. They want extinction. If this legislation is enacted and utility holding companies are destroyed, the next step will be public ownership and operation of all utilities and then will follow laws destroying holding companies for banks, for food production, insurance companies, for the steel and coal industries, newspapers, automobile manufactures, and many others.

This will mean State socialism and let there be no mistake about it. Is it consistent to condemn public-utility holding companies and point out the evil possibilities in one breath and at the same time organize, foster, and give life to the Electric Home and Farm Authority, the Tennessee Valley Authority, and other companies of a similar nature recently set up under the new deal? Oh, yes; holding companies are all right when they serve the purposes of the promoters of this new philosophy of government which is being foisted upon an apparently helpless people. It is not difficult to determine which way the wind is blowing when we realize that the P. W. A. has prepared legislation for the 48 States, creating power districts and announcing that the P. W. A. is ready to assist in financing publicly owned electric-power plants by contributing outright 30 percent of the construction cost and loaning 70 percent on long-time loans at a low rate of interest.

The President has said, and it has been said on the floor of the House, that the enactment of this legislation will destroy no values; that the interest of the investors which will be eliminated is worthless. It is true that worthless stock has been sold in many lines, and this naturally applies to utilities, but as business gets better and conditions improve there is every reason to believe that some of these stocks will regain at least a part of their former value. Would it be fair to make every investor in every security in the country cash in today at present values? This kind of legislation is a rank discrimination against the honest, though possibly the misguided, investor who bought public-utility securities.

Yes; these securities are owned by widows and orphans, but you must not forget that the hearings before the committee show that 560 savings banks with 14,000,000 depositors as well as religious organizations, churches, endowment funds, schools, colleges, insurance companies, and other investors owning these securities protest this legislation. None of them condone Insull and his kind. They do ask to be given an opportunity to protect their life savings, and it seems to me that this Congress, representing as it does the most of our people, would be doing much less than its duty if it did not heed these cries.

Lately we have been paying too much attention to what groups and blocs want. There are those among us who, apparently, are satisfied with any legislation that has the approval of the American Federation of Labor, and the same is undoubtedly true with reference to the Manufacturers' Association, the chamber of commerce, the farm bloc, and

other minorities. There are also those among us who treat lightly any suggestion with reference to the constitutionality of a law. Of course, these blocs and groups are speaking for their respective blocs and groups, and too often have the group or bloc view rather than the interest of all the people at heart.

It therefore becomes the duty of the Representatives of the people in this body to act for the people and not be demagogues. It has been pointed out on numerous occasions during this debate that those who exercise their judgment and vote as they conscientiously believe in this matter will be defeated in the next election unless they follow the direction of the President. I do not happen to be one of those who was elected to come down here to pull a lever indicating "yes" or "no" as directed by the President, by the Democratic National Committee, or by any other outside influence. I am sure that the people whom I represent do not want anything of that kind.

So far as the constitutionality of the so-called "death sentence" clause is concerned, I am firmly convinced that this provision, if enacted into law, will be held unconstitutional by the Supreme Court. Without extended discussion, I concur in the opinion of the distinguished, capable, and fearless gentleman from Indiana, which opinion is found on page 9787 of the current CONGRESSIONAL RECORD. In passing I want to observe that this Congress needs more men with SAM PETTENGILL's backbone. A man may have ability but if he lacks courage he has no place in Congress. The gentleman from Indiana is abundantly endowed with each.

I think most Members have given careful study to this bill and, unlike many other important pieces of legislation, the bill has been printed and we have had time to study it. The most apt description of the bill, I think, was given by the gentleman from Alabama [Mr. HUDDLESTON] in his argument before the House. Now, we may not agree with the gentleman from Alabama, but no one in this body would question his ability, his sincerity, and his discernment. In reference to the bill he says:

> The bill is a mystic maze. A man of average intelligence wandering into it will soon find himself hopelessly lost, without knowing east from west, or top from bottom. After weeks of study, the most intelligent man will still remain in doubt as to what the bill means. * * * It seems to me to be designed to baffle, to harass, to ensnare, to enmesh, to confuse, to produce a situation beyond the wit of anybody to get through with.

When a member of the committee, and a good lawyer, who has spent more than 10 weeks of constant study in the consideration of this bill, does not know what it is all about, what can be expected of the Members of the House who have been devoting their time to other committees? No wonder the proponents of the bill prefer to talk about Wall Street, Andrew Mellon, big business, the Power Trust, and even old man Grundy, of Pennsylvania. I learned long ago that when the Members have little to talk about on the merits of a bill, it is easy to take up some topic that may appeal to the prejudice of the unthinking, and that surely has been done in this debate.

The passage of this measure will not determine utility rates to the consumer. In most of the States of the Union that matter is now handled through efficient utility commissions, and it seems to me that in my State of Michigan, for instance, a utility commission, familiar with Michigan, with its conditions, its people, with its needs and its possibilities, is in better shape to make rulings in behalf of these people than would be some commission set up by the President of the United States down in Washington. I am sure that our people are against more bureaus and more commissions, as well as more Federal taxation and expense.

I shall vote against the pending amendment, which is the "death clause" in the Senate bill. If that amendment is adopted, of course I shall vote against the bill. On the other hand, if the amendment is not adopted, I shall still vote against the bill, because I do not believe that it is for the best interest of the country, reserving at all times, however, the right, and looking forward to the day when we may pass regulatory legislation, to be administered by those favoring regulation and not by those advocating extermination.

The CHAIRMAN. There are 20 minutes remaining. The Chair recognizes the gentleman from Iowa [Mr. EICHER].

Mr. EICHER. Mr. Chairman, I think I am revealing no improper secrets when I admit, from the knowledge that has come to me as a member of the full committee and of the subcommittee that considered title I, that this bill originally introduced as the Wheeler-Rayburn bill was prepared by Messrs. Cohen and Corcoran at the request and direction of the President of the United States for the purpose of carrying out the pledges of the Democratic platform. My good friend, the gentleman from Alabama [Mr. HUDDLESTON], in his speech last Friday stressed the point that he could go along with the administration so long as it would regulate, but could not go along with it to the point of destruction. He read an extract from the Democratic platform of 1932, but he did not emphasize the part of it that referred to "regulation of holding companies to the full extent of Federal power." That is in the Democratic platform, and the gentleman from Alabama [Mr. HUDDLESTON] did not emphasize the latter part of that phrase.

He tried to leave the impression with the House that regulation never could include prohibition, if it should be necessary to accomplish effective regulation. All lawyers know that the interstate-commerce clause of the Constitution confers only the power to regulate, and that this has repeatedly been interpreted and enforced by the courts to permit prohibition, when necessary to make regulation effective.

Mr. Chairman, since 1932 we have had the benefit of the Splawn report made to the House committee. We have had the benefit of the Federal Trade Commission report made to the Senate, and we have had the benefit of the National Power and Policy Committee report, all of them disclosing facts that the public had suspected, but did not positively know. Dr. Splawn appeared before our committee at its hearings and presented his written report, stating that in his judgment, after his years of investigation, he had reached the considered conclusion that no effective regulation will be possible unless preceded by compulsory simplification of the topheavy holding-company systems. During the hearings Dr. Splawn was subjected to the most exhaustive and critical examination by members of the committee opposed to all kinds of regulation, but Dr. Splawn stood up under the fire. I cite you to the record of his examination on the last day of the hearing. He gave convincing answer to every opposing claim, demonstrating to the satisfaction of any impartial mind that we could not hope to bring about effective regulation of the holding-company monstrosity without compulsory simplification to start with. Many of the systems have 50 to 250 companies in the pyramid. The Commission may ask them for a report. They will give a report to the Commission, furnishing such information as they please, but the information will be inadequate. Such orders as the Commission may make will in all likelihood be upset in the first court to which they are carried for lack of sufficient or accurate information preliminary to the making of the orders.

Dr. Splawn was employed by our Committee on Interstate and Foreign Commerce because he is regarded as a competent, impartial, and disinterested investigator. The majority of our committee, including the Republican membership, saw fit to reject his conclusions. One-half or more of the Democrats on the committee have been disfranchised so far as the committee report is concerned. Is this the kind of committee report that the Membership feels bound to follow, even to the extent of repudiating the President's leadership?

The repeated insistence that the issue is regulation versus destruction is utterly without foundation and is deliberately misleading. Forty percent of the total fixed capital of all public-utility holding and operating companies will not be affected by the act, and this is shown by the following table:

EXHIBIT A

*Preliminary and partial list of public-utility holding and operating companies which are exempt as to dissolution under the provisions of the Public Utility Act of 1935*

| Company | State | Book value, fixed capital |
|---|---|---|
| Bangor Hydro-Electric Co | Maine | $17,437,180 |
| Commonwealth Edison Co | Illinois | 294,246,042 |
| Connecticut Power Co | Connecticut | 22,813,177 |
| Consolidated Gas, Electric Light & Power Co. of Baltimore. | Maryland | 133,108,538 |
| Consolidated Gas Co | New York City | 1,249,967,500 |
| Detroit Edison Co | Michigan | 289,605,836 |
| Duke Power Co | North Carolina | 188,961,390 |
| Edison Electric Illuminating Co | Massachusetts | 167,833,938 |
| Hartford Electric Light Co | Connecticut | 27,372,370 |
| Long Island Lighting Co | Long Island, N. Y | 118,668,759 |
| Nevada-California Electric Corporation | California-Nevada | 44,436,721 |
| Niagara-Hudson Power Corporation | New York | 571,824,908 |
| Pacific Gas & Electric Co | California | 660,146,704 |
| Pacific Lighting Co | do | 227,728,686 |
| Pennsylvania Water & Power Co | Pennsylvania | 28,938,066 |
| Public Service Corporation of New Jersey | New Jersey | 626,504,062 |
| Public Service Co. of northern Illinois | Illinois | 172,718,692 |
| Southern California Edison Co., Ltd | Southern California | 346,035,490 |
| Tampa Electric Co | Florida | 16,961,259 |
| Total as of Dec. 31, 1934 | | 5,207,309,318 |

[1] The above $5,207,309,318 fixed capital in itself amounts to and represents over 40 percent of total fixed capital, of public-utility holding and operating companies, as reported by the Electrical World and Moody's Public Utilities, 1934-35.

Source: Moody's Public Utilities, 1934.

Furthermore, all physical assets devoted to the industry remain intact and the bill strikes at nothing except the holding-company control thereof. After relinquishment of control all outstanding securities will still be supported by the same asset and earning power values.

Considerable discussion has been pointed toward creating fear in investment circles. The gentleman from Indiana [Mr. PETTENGILL] made reference to a statement by the Association of Mutual Savings Banks. Following is some interesting statistical information as to the attitude of life-insurance companies toward public-utility investments since the introduction of the Wheeler-Rayburn bill:

EXHIBIT B

STATEMENT OF INVESTMENTS MADE BY LEADING LIFE-INSURANCE COMPANIES IN BONDS OF PUBLIC UTILITIES

| | |
|---|---|
| Investment made since the introduction into Congress of the Wheeler-Rayburn bill and up to June 1 (last date reported) | $108,737,505 |
| Investment made since Jan. 1, 1935, to June 1 | 116,791,673 |
| Investment made for same period last year (1934) | 36,650,075 |
| Investment made for entire year 1934 | 129,065,248 |
| Investment made for entire year 1933 | 51,812,852 |
| Investment made for entire year 1932 | 50,052,092 |

Referring to the foregoing statement of investments, it is hardly possible that any of the bonds purchased were or are those of public-utility holding companies.

The laws of the many States prescribing what are legal and safe investments for life-insurance companies and savings banks, practically exclude holding-company bonds.

The latter are really nothing more than debenture bonds or debentures; in effect, only a direct obligation of the issuing company.

Some debenture bonds may be secured by deposit, with the trustee of same, of the common stock of the subsidiary operating company, but this does not qualify them as legal or safe investments for life-insurance companies.

There may be a few holding-company bonds secured by deposit with the trustee of the bonds of the operating company—usually known as "first lien" or "collateral" bonds—but they are not entirely acceptable as legal investments or purchased by the larger and more conservative life-insurance companies.

Altogether it is reasonably certain that the bonds referred to on the accompanying sheet are those of operating electric and gas companies.

I wish to emphasize the purchase by these leading life-insurance companies of over $100,000,000 worth ($108,737,505) of public-utility bonds since the introduction of the Wheeler-Rayburn bill, or in a period of about 3½ months, and as against $129,065,248 purchase of similar bonds for the entire year of 1934, when no public-utility bill was pending.

This large investment by life-insurance companies at such a time, i. e., since the introduction and fight against the Wheeler-Rayburn bill, should certainly outweigh in the minds and judgment of fair-minded people the direful predictions of opponents of the bill as to what will happen to public utilities, operating electric and gas, should the pending measure be passed.

Life-insurance companies are not investing over a hundred million dollars in bonds of public utilities that they are in any way apprehensive about or whose future stability and earning power they question or feel that they have any real cause to question.

Mr. SISSON. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for 5 additional minutes.

The CHAIRMAN. Before the gentleman submits that request the Chair will state that there are only 15 minutes remaining. The Chair has agreed to recognize three other Members, two of whom are members of the committee, within that 15 minutes.

Mr. SISSON. Mr. Chairman, I ask unanimous consent that the time may be extended 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. WADSWORTH. Mr. Chairman, I object.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland [Mr. COLE].

Mr. COLE of Maryland. Mr. Chairman, as a member of the Committee on Interstate and Foreign Commerce and as a Member of this House, I have tried from the outset, during the serious and lengthy consideration of the bill by the committee, to approach this legislation and come to a final decision solely upon the basis of fact, and not have my decision dictated by debate involving a lot of personalities or by statements that the rates in one section of the country were high as compared with the low rates of another section of the country, as though because a cow in one section of the country milks 2 gallons that all cows should do the same.

I want the members of the Committee, before they vote in a few minutes, to understand this. Seven or eight years ago Congress ordered an investigation of the utility companies, including the holding companies thereof. Judge Healy was one of the principal men conducting that investigation, serving as attorney for the Federal Trade Commission. He is today a member of the Securities and Exchange Commission, appointed to that office by President Roosevelt. He will therefore assist in the administration of title I of this act if you leave it as the committee has reported it to this House. It took 78 volumes—more volumes than you could stack on that table—to report the results of the investigation of the Federal Trade Commission. Judge Healy, in addition to this, appeared before the committee, and in his testimony recommended the regulation of these companies and not the abolition of them. This comes from a member of the Commission which you favor in the future, whether you are for the Senate bill or the House bill, to administer this act. The written report from Dr. Splawn, acting for our committee in investigating the Federal Policy Committee report or that of any other investigation, has not recommended legislation of this character. In the testimony before the committee there was some testimony by gentlemen associated with the various investigations endorsing the bill. I conclude, Mr. Chairman, with this thought: In my address on this subject and the bill in general last Friday I pointed out that the briefs prepared as part of the reports by the Federal Trade and so-called "Splawn investigation" by nationally known attorneys did not in the remotest manner address themselves to anything of this character. I see no occasion for the Members of Congress to shoulder, as they face their constituents, the responsibility of defending the present low value of the stock they own and the failure of that stock to enhance in value. On the contrary, I ask you to return to those constituents from whom you have heard so much in recent months and take the formula or the standards we lay down in the House bill, a standard which defines what is detrimental in the public interest, and when you are talking to a real man he will say to you, "If my company in which my savings are invested cannot live under that standard, then I am willing for it to die."

Why reverse this problem? Why should we take this responsibility? I have heard no one answer this on a basis of merit and I know that in the remaining short time no one will. Let us maintain our decision on this most important bill and by all means vote against what I am certain you will find an unconstitutional law should section 11 of the Senate bill be inserted as an amendment. [Applause.]

[Here the gavel fell.]

Mr. DONDERO. Mr. Chairman, like many other Members of this House, I have been flooded with letters, telegrams, and petitions from a district including 330,000 people, in which the people of my district have expressed their opinion upon the bill now before the House seeking the destruction of public-utility holding companies. I want them to know my stand on this important question.

If this Congress is solicitous about doing something for the American people, may I respectfully suggest that somebody in the administration bring in a bill to this House which shall include the "death sentence", not for private business of the country, but the "death sentence" against the excessive cost and expense of government to the American people. [Applause.] I say that it is known that since 1913 the cost of electrical current in America has gone down 38 percent and the cost of government has gone up 830 percent. Electricity that cost $54.20 in 1913 cost but $33.48 in 1934. The burden of local, State, and Federal taxes in 1913 was $48.40 per family, and has increased to $455 per family in 1934. May I respectfully submit that the Government of the United States ought to put its own house in order, bring in a bill that would mean death immediately to every unnecessary bureau, commission, and board in our Government, with their topheavy personnel that takes the money from the taxpayers of the country and places a burden upon their shoulders which today is one of the things impoverishing the American people, and not the cost of electrical current and the cost of gas.

In my judgment, to say on the floor of this House, Mr. Chairman, that utilities cannot be regulated, simply means to say to the American Nation that the Government of the United States is futile, that it is unable to cope with the situation. If that is so, how is it we can regulate the railroads and not regulate public utilities.

As between the two measures before the House and the amendment of the gentleman from Iowa [Mr. EICHER], one means compulsory death, and the other means permissive death of public utility holding companies and I am not willing to place in the hands of any bureau or board in Washington the right to destroy the investment and savings of millions of our people, whose only offense seems to be that they have invested their money in public utilities.

Oh, Mr. Chairman, 5 minutes is not a sufficient length of time in which to discuss this measure. Is it necessary because the steering gear might be loose on the automobile that you should abandon the entire car? Is it necessary, Mr. Chairman, to tear down the whole house because the porch needs repairing? The same question is before the House now. You either vote to destroy or you vote simply to permit a bureau or board here in Washington to dispose of the investments of the people as they may see fit.

I am not opposed to regulation, and, to that extent, I go along with the Democratic platform of 1932, Republican though I may be. I am willing that they should be regulated to the fullest extent under any law that might be passed by the Congress of the United States, but I am not willing they should be destroyed. There is nothing before the House to justify it.

There is no demand on the part of the millions of Americans who have their money invested in holding companies for their destruction nor is there an appeal from the millions of American people who are consumers of the product and service furnished by holding companies. The destruction of these companies would mean the pauperization of many of them.

This bill would destroy big business and make the Government big business.

Who is best trained to carry on this service to the public of public utilities such as gas, light, and power? The people who have conducted the work and service for nearly three-quarters of a century or a bureaucratic commission or board here in Washington which may or may not have had any experience whatever?

I am not willing that we should go backward, but I am willing that we should go forward, and I hope that the compulsory death amendment may be defeated by the vote of the House this afternoon. [Applause.]

[Here the gavel fell.]

Mr. RAYBURN. Mr. Chairman and members of the Committee, for some of us this is the day we long have sought and mourned because we found it not. [Laughter and applause.] This has been to us members of the committee a long and in many instances a bitter struggle. For some of us, out in our district next year—I know it will be for me—a long and a bitter struggle, because I know I am one of those marked for disfavor.

I know the power, political and financial, of the people with whom we deal. But as far as I am concerned, I want to say today to them in closing this debate that for the propaganda, for misrepresentation, for the falsehoods that have been circulated in my section of the country, I despise their methods and defy them. [Applause.]

We are faced here at this hour with the question of whom we will follow and with whom we will serve.

Some say this business of holding companies has been one racket. I have never called it that. There are some men in the United States who have been using the consumers and the investors as the basis for a racket, and one of them is named Magill. He looked around and saw men in what he thought was a racket and he got into it and was generous enough to ask the millions of security holders in the United States for a dollar or more. He has taken it, and that is the money that he is using. He is the man that is castigating the President of the United States.

Whom will you stand by today, the chosen leader of the American people, the President, or follow the man who has fleeced the American people in this business?

You talk about investments. What we claim is this: The holding companies make money in three ways. One is by the holding companies manipulating stocks. Another way is out of the operating companies, and therefore out of the investors in utility companies.

I want to say to this House that what we want to do is what we did to the security bill, what we did in the stock-exchange bill. When these people came to talk to me, I said, I am not an enemy of your business, but I want to get the desperadoes out of it who are disgracing it. [Applause.]

Since the passage of that security bill you have heard no more talk over the country of the issue of securities not justified, and you have heard no more talk about the Stock Exchange of New York bringing about the panic of 1929 and being ready to bring about another because it is controlled. What I want to do with this great, this fine, this growing business is to take from its back these leeches, these blood suckers, these milkers, and let it stand alone, free from these influences that have made the very name of utility an anathema in the minds of many American people. [Applause.]

The CHAIRMAN. All time has expired.

Mr. MONAGHAN. Mr. Chairman, I rise to propound a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MONAGHAN. Did not the Chairman agree to recognize me as a member of the committee for 5 minutes on this bill?

[A demand was made for the regular order.]

The CHAIRMAN. The Chair would prefer to answer that inquiry. The gentleman from Montana approached the Chair this morning, as did others. The Chair took down the name of the gentleman from Montana and all other members of the committee. When they desired recognition they rose, and the Chair took it that the gentleman from Montana, by not rising, as in the case of several other members of the committee, did not desire to speak on this amendment. Therefore, the Chair did not call upon him. After this amendment is disposed of the Chair will be very glad to recognize the gentleman from Montana.

The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and Mr. DUNN of Pennsylvania demanded a division.

Mr. KVALE. Mr. Chairman, I demand tellers.

Tellers were ordered and Mr. EICHER and Mr. COOPER of Ohio were appointed to act as tellers.

The committee again divided; and the tellers reported—ayes 146, noes 216.

So the amendment was rejected.

Mr. NICHOLS. Mr. Chairman, ladies and gentlemen of the Committee, in but a few short minutes the membership of the House of Representatives will vote, and by their vote will be determined whether or not section 11, as contained in the bill known as the "Wheeler-Rayburn public utility holding company bill", as passed in the Senate or as passed in the House, shall become section 11 of the bill under consideration. If section 11 as contained in the Senate bill is adopted and finally enacted into law, it will provide for what is commonly referred to as the "death sentence" to public utility holding companies. If section 11 as contained in the House bill, is adopted and finally enacted into law, this section will provide for regulation of the operations of public utility holding companies by some commission of the Government.

While the vote that will be taken in just a few minutes will not be a record vote, I am ready at this time to make known to my constituents what my vote will be, and I am ready to state to them frankly my reasons for casting that vote.

In the first place, I think there is no one who is at all familiar with the facts but who will agree that for the most part public utility holding companies, and truly most other holding companies, have been guilty of practices which have worked gross injustices to both the public and to the holders of the securities offered by said companies.

This bill has been under consideration on the floor of the House for the past week, and I have been making every effort to ascertain which one of these sections would best do the thing which most everyone agrees should be done. That is, to completely regulate, and in the end to abolish, illegitimate and blood-sucking holding companies.

My consideration of this bill has not been directed to whether or not the holding companies should be protected, but it has been directed to the proposition of how best to protect the holders of the stock of these companies, and the public generally.

I am not one of those who believe that if the "death sentence" were enacted into law that it would destroy the investment of the small investors in public-utility securities; and on the other hand I do not believe that by the enactment of the regulatory measure that those small investors who hold these securities will see their investment enhance in value. My opinion is simply this:

That public-utility holding companies are on the toboggan and are fading rapidly out of the picture. Their stock will not advance in price, regardless of what legislation is enacted, because the purchasing public has lost confidence in holding-company securities—not by reason of the securities themselves, but by reason of the unwarranted pyramiding of the capital structure of the parent corporation by the holding company. For this reason I feel sure that holding-company securities will not advance in price. If this be true, then this legislation will have no effect upon the value of the securities held by the investors in the United States.

This being my opinion, you would naturally think that I would probably support the "death sentence." My reasons for not doing so are these:

If the "death sentence" were enacted into law, you would give the crooks, the profiteers, and the blood suckers of these companies a perfect alibi to more completely rob and pilfer the holders of these securities during the interim between the enactment of this legislation and their final abolishment; and the blame for the losses sustained by these small investors would then be laid at the door of the present Democratic administration, instead of remaining the responsibility of the directors of these holding companies, who have by their own actions robbed and pilfered the purchasers of their securities.

Certainly I favor regulation. I favor regulation to the point that when these holding companies fail to comply with the regulations as laid down by the regulatory body, that they be refused license to operate their business. That thing over which you have regulatory power, you also have the power to destroy. Thus it is my opinion that section 11, as contained in the House bill, in the final analysis is a stronger measure for the protection of the public and the investor than is section 11 contained in the Senate bill.

I think that one of the great evils of our modern business era has been the practice of first setting up a parent corporation which acquires property of value, and then transferring that property after its value had been pyramided several times upon purely fictional basis to another corporation as a holding company, and many times repeating this operation until you find several holding companies holding portions of the stock of but a single parent corporation. This practice cannot continue, and is bound to be, now that the matter has been called to the attention of the American public, discontinued. Therefore, knowing that it must be discontinued, I for one am not willing to give this bunch of crooks an out by offering them an alibi whereby they can say to the investors whom they have already robbed that had it not been for the action of the Congress of the United States in passing a "death sentence" against their business we would have come out of the hole. I would rather place strict regulation on them so that they cannot repeat in the future what they have done in the past, and then when the holders of these securities have failed to realize an enhancement of value of their stock, the blame for their not realizing an enhancement in its value can and will remain where it belongs—at the feet and on the doorstep of these public-utility holding companies who first sold to the innocent and unsuspecting public these overwatered, inflated, and pyramided stocks.

In most instances where public-utility companies were organized, had they been permitted to operate as a parent company independent in themselves and not be forced to pay tribute to and become a part of a holding-company group, they probably would have delivered to the consumer their service at a very much reduced rate, and the earnings which they made from the sale of said service would have paid to the holders of their securities, in the form of dividends rather than to high salaried officials of the holding companies who became their overlords.

In the event the House of Representatives should by its vote adopt the regulatory section contained in the House bill, it will then probably on final passage of the bill by this body be adopted containing this regulatory section. But this does not mean that it will become the law, because the Senate adopted the Senate section, which is known as the "death sentence."

Therefore, there is a difference of opinion between the two Houses, which will necessitate that the bill as is finally adopted by the House will have to be agreed to by the Senate. This will call for a conference between the two Houses. What those conferees will do with these two bills is entirely problematical. They might agree to adopt either the "death sentence" or the regulatory measure. In either event, both branches of Congress might adopt and agree to their conference report, in which event, after the President had signed the bill so agreed to, that bill would become law.

Realizing the possibility that the conferees might agree on the section contained in the Senate bill, and that the two Houses might agree to said conferees' report, and that the President might sign said bill, which would even, despite the action of the House of Representatives, enact into the law the so-called "death sentence", I want to warn you holders of holding-company securities that even though these holding companies use this as an excuse for your not realizing more on your investment, you would not have realized more on your investment had the so-called "death sentence" not been enacted into law, because the public-utility companies,

through their holding companies, have so conducted themselves that there is not now a chance, regardless of what legislation comes from the Congress, that you can ever get back anything like the amount of money that you put in your original investment in public-utility securities.

Let the outcome of the pending legislation be what it may, the people of the United States have surely by now come to the same conclusion that I have. That is, that they will ever be against octopuslike corporations, who by deceit and misrepresentation of the value of the securities they offer, dupe an unsuspecting public into purchasing at an inflated and exorbitant value their offerings of securities, which, by reason of the manipulation of the very company who offers them, is falsely enhanced to many, many times its real value.

If anyone should say to you that by my vote I am deserting that group of men who are fighting the condition above portrayed, you may state to them for me that they are entirely wrong and that I will ever be found on the side of the fight which is lined up against special interest and the privileged few, and those who are guilty of dishonest dealing with the public at large.

Through honest and efficient regulation I am of the opinion that we can more rapidly reach the point of destroying the evils caused by the operation of holding companies with the least pain to the holders of their securities than we can by at this time enacting legislation to abolish them at a time 5 years from now, during which interim they can through manipulation fatten their already overstuffed purses at the continued expense of the holders of their securities.

Mr. FORD of California. Mr. Chairman, if I understand the purpose of a utility company, and I believe I do, it is a corporation, operating under a charter, primarily for the purpose of generating or manufacturing and distributing either electric energy or gas, unless it be natural gas, in which case it takes its product from the earth and distributes it to communities for domestic and industrial use.

Section 11 of the Senate bill, which we intend to substitute for section 11 of the House bill, does not in any way interfere with the legitimate operations of utility corporations engaged in that class of business.

No proponent of section 11 of the House bill has had the hardihood to stand before this Committee and assert that section 11 of the Senate bill will in any way interfere with or put out of business any utility so engaged.

It is beyond my comprehension that Members of this House, who have time and again shown their opposition to permitting monopoly to exist, should at this time advocate the retention of holding companies as such, for the very essence of the holding company's existence is dependent on its monopolistic control of operating companies.

In upholding this type of company you sanction absentee ownership. You uphold the hands of a group who have, and if the House bill prevails without amendment, depended for their very life on monopoly and absentee control.

Much has been said about the "death sentence." That is just plain, arrant nonsense.

What the Senate amendment does do is to divest these holding companies of control.

What does that mean? It merely means that these leeches will be forced to get off the backs of the operating companies, whose revenues they have been siphoning off—not for the benefit of the holding company stockholders, nor for the benefit of the operating company stockholders, but for the benefit of a little group of insiders, who, fine respectable gentlemen that they are personally, have been for years engaged in a species of legalized robbery that surpasses any form of thievery as yet devised by the best legal minds of the Nation.

Now section 11 does not confiscate their holdings at all. It gives them the privilege of converting their corporations into legal investment trusts.

If the assets they hold are valuable, and if the returns they receive are legitimate, based on their stock ownership in operating companies, then they are not in the least hurt by this section.

But this section, by denying them control; by denying them the right to levy tribute, to which they are not entitled, on stock for which they as individuals paid not a dime, restores to the owners of genuine utility operating company stock, the dividends to which they are entitled, because of their actual investment of real hard-earned money. Those dividends should be theirs, but the insiders of the holding-company racketeers have stolen them.

That, my friends, is the question you are called upon to decide.

If you adopt the House bill, these pirates will continue to suck the lifeblood of honest investors.

If you adopt the Senate amendment, they will be forever estopped from robbing honest investors.

The choice is yours—I for one am for the Senate amendment.

Mr. LEWIS of Maryland. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. LEWIS of Maryland: Page 197, line 1, after the word "one", strike out the words "or more."

Mr. LEWIS of Maryland. Mr. Chairman, I have just voted for section 11 of the House bill in preference to section 11 of the Senate bill, but I voted with the reservation which is now presented in the form of this amendment. The ruling object of this legislation is to secure single, integrated operating organizations. Under House section 11 in the last line of paragraph (a) are found the words, "one or more integrated public-utility systems", which would be allowable under the House section 11. My amendment proposes to strike out the words "or more" so that only one integrated system may be allowed to a single holding company.

I regret that I cannot approach you this afternoon with the feeling that I am an expert in this subject matter or offer the opinions of an authority, because my energies have had to be devoted to other subjects.

Therefore, I submit only my own thought. Just one sentence in explanation of my objection to section 11 of the Senate bill. If it should happen that some of the holding companies have not voluntarily reorganized, and the Commission has not yet proceeded against them effectually in the courts, then by a legislative decree in the Senate section, at a given moment, they will be deprived of their corporate lives without their day in court as prescribed in the Constitution. The veriest criminal is assured his day in court. I do not believe that the case of company or individual should be tried by a legislative tribunal. Ours, as lawmakers, to lay down the rules that should be applied, and the duty of the courts to apply those rules. And I trust the courts may find it their duty a little more in the future to apply the rules provided here in the public interest rather than to nullify them at the instance of private litigants.

Now, with regard to my amendment providing that not more than one integrated system be allowed under House section 11: I do not see any reason why two different integrated systems in different parts of the country need be operated by the same president, or the same board of directors. I sense only a dream of power. Must these power presidents have castles everywhere like the King of England?

Today he is at his castle in Scotland, tomorrow in his castle in England, and next week to another castle in Wales. In the ancient days a castle in Ireland was reserved to him, but its hinges are rusty now.

I have said all I can in the way of argument. To allow two integrated systems in a holding company is to defeat the ruling objective of this bill, a bill which I think should commend itself to us in view of the unhappy history of this subject matter in the past. [Applause.]

The CHAIRMAN. The time of the gentleman from Maryland [Mr. LEWIS] has expired.

The question is on the amendment offered by the gentleman from Maryland.

The question was taken; and on a division (demanded by Mr. KVALE) there were—ayes 36 and noes 61.

So the amendment was rejected.

The Clerk read as follows:

INTERCOMPANY LOANS; DIVIDENDS; SECURITY TRANSACTIONS; SALE OF UTILITY ASSETS; PROXIES; OTHER TRANSACTIONS

SEC. 12. (a) It shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, to borrow, or to receive any extension of credit or indemnity, from any public-utility company in the same holding-company system or from any subsidiary company of such holding company, but it shall not be unlawful under this subsection to renew, or extend the time of, any loan, credit, or indemnity outstanding on the date of the enactment of this title.

(b) It shall be unlawful for any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly, to lend or in any manner extend its credit to or indemnify any company in the same holding-company system in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(c) It shall be unlawful for any registered holding company or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to declare or pay any dividend on any security of such company or to acquire, retire, or redeem any security of such company, in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate to protect the financial integrity of companies in holding-company systems, to safeguard the working capital of public-utility companies, to prevent the payment of dividends out of capital or unearned surplus, or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(d) It shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to sell any security which it owns of any public-utility company, or any utility assets, in contravention of such rules and regulations or orders regarding the consideration to be received for such sale, competitive bidding, fees and commissions, accounts, disclosure of interest, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(e) It shall be unlawful for any person to solicit or to permit the use of his or its name to solicit, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, any proxy, power of attorney, consent, or authorization regarding the voting of any security of a registered holding company or a subsidiary company thereof in contravention of such rules and regulations or orders as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(f) It shall be unlawful for any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to negotiate, enter into, or take any step in the performance of any transaction not otherwise unlawful under this title, with any company in the same holding-company system or with any affiliate of a company in such holding-company system in contravention of such rules and regulations or orders regarding reports, accounts, costs, competitive bidding, disclosure of interest, duration of contracts, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provision of this title or the rules and regulations thereunder.

Mr. MONAGHAN. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. MONAGHAN: On page 203, after line 2, at the end of section 12, insert two new subsections, as follows:

"(g) It shall be unlawful for any registered holding company, or any subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, directly or indirectly—

"(1) To make any contribution whatsoever in connection with the candidacy, nomination, election, or appointment of any person for or to any office or position in the Government of the United States, a State, or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing; or

"(2) To make any contribution to or in support of any political party or any committee or agency thereof.

"The term 'contribution' as used in this subsection includes any gift, subscription, loan, advance, or deposit of money or anything of value, and includes any contract, agreement, or promise, whether or not legally enforceable, to make a contribution.

"It shall be unlawful for any person employed or retained by any registered holding company, or any subsidiary company thereof, to present, advocate, or oppose any matter affecting any registered holding company or any subsidiary company thereof, before the Congress or any Member or committee thereof, or before the Commission or Federal Power Commission, or any member, officer, or employee of either such Commission, unless such person shall file with the Commission in such form and detail and at such time as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers, a statement of the subject matter in respect of which such person is retained or employed, the nature and character of such retainer or employment, and the amount of compensation received or to be received by such person, directly or indirectly, in connection therewith. It shall be the duty of every such person so employed or retained to file with the Commission within 10 days after the close of each calendar month during such retainer or employment, in such form and detail as the Commission shall by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers, a statement of the expenses incurred and the compensation received by such person during such month in connection with such retainer or employment."

Mr. SNELL. Mr. Chairman, I make a point of order against the amendment. I could hear only a small part of it, but from what I could hear it is not germane to this section of the bill.

Mr. BLANTON. Will the gentleman yield?

Mr. MONAGHAN. I yield to the gentleman from Texas.

Mr. BLANTON. I would vote for the amendment if it provided a penalty for violations specified in it. Suppose the gentleman's amendment should be passed, and suppose every feature of it were to be violated, what is the punishment? There is no punishment for any of these violations provided in his amendment. It would be futile to pass such an amendment without a penalty for violations.

Mr. MONAGHAN. I would say there is a general punishment section in the bill which would cover that.

Mr. SNELL. Mr. Chairman, I insist on the point of order.

Mr. MONAGHAN. Section 29 of the bill provides the punishment, if the gentleman is worried about that at all. As to the germaneness of this provision, I do not believe it is necessary to even submit an argument on it. The very statement of the amendment should be sufficient to convince that it is within the scope of this bill.

We are trying to regulate. We are trying to control. We are trying to destroy the economic and political control of the holding companies and operating companies and large utility companies; and judging by the vote this afternoon, there is no better way to destroy that control than to prevent contributions to political candidates in the future. [Applause.]

The CHAIRMAN (Mr. MCMILLAN). The pending section of the bill deals with several matters which are made unlawful, and the amendment offered by the gentleman from Montana, it seems to the Chair, is sufficiently related to the propositions contained in the section to be in order. The Chair feels, in view of that, that the amendment is in order, and therefore overrules the point of order.

The gentleman from Montana is recognized.

Mr. MONAGHAN. Mr. Chairman, the argument that has impressed me throughout this whole debate has been one which I have heard echoed, as one of the youngest legislators in the State of Montana, and which I have heard reechoed since I came to the National Congress. The cry of all corporate interests, the cry of big business and Wall Street has ever been, "If you regulate us, you will destroy us." Further, their threat has always been, which I pray God was not the reason for the vote cast against the meritorious strong section 11 of this bill, "If you, Mr. Politician, dare oppose us, we will defeat you." I say in answer, "I would rather go down to defeat fighting for the right than be a willing slave."

In 1928 I was in Great Falls, Mont., speaking for Alfred E. Smith for the Presidency of the United States when Dr. Shanley, who was ably handling his campaign in Montana, came to me and stated, "We have received word from the headquarters of the Democratic National Committee that they were compelled to curtail the expenses of conducting the campaign by at least $2,000,000, because those who indirectly were interested in the election of Alfred E. Smith to the Presidency of the United States withdrew that sum in pledges and refused to contribute further to his election fund for the Presidency of the United States because he made the famous Denver water-power speech, wherein he said, "If I

am elected to the Presidency of the United States, I will see to it that the power sites of this country are returned to the people, their rightful owners." Al Smith was right when he said that. The power sites are the people's property and should be returned to them by law.

I say to you the trouble with this measure is not that it goes too far, but that it is too weak. The House bill is weak. It has been emasculated. It has been torn to shreds in the committee, of which I am a member. I only wish the measure were really strong. The only semblance of a strong bill is the Wheeler Senate measure. I hope when it comes to the final vote as between the people of the United States and the Power Trust of this country, that the Membership of this House will go on record nobly as standing in support of the President of the United States in his great fight for the people of this country and against the vested interests. I hope they will vote down the committee amendment to the Senate bill and thereby restore not only section 11 but all semblance of control and regulation and gain back for the people of this country their right to control the natural-power sites of this country which should belong, and do belong, to them and not to the small chosen crowd which controls the power interests of our country.

There is only one issue in this, and that is the issue of the people against the Power Trust. Anyone who does not vote down the committee substitute, the amendment to the Senate bill, is in effect voting for the Power Trust of this country.

Mr. Roosevelt is leader of the Democratic Party. A true leader leads and is no camp follower. He is responsible for the progressive development of the principles of his party and intelligent application to the facts that change from day to day.

But no one can fairly charge that Mr. Roosevelt's policy is more than a realistic and practical application of the principles that underlie the Democratic platform of 1932. Since 1932 we have had the completion of the Federal Trade Commission's report on utility-holding companies, the report of Dr. Splawn to the Committee on Interstate and Foreign Commerce, and the report of the National Power Policy Committee to the President, which was submitted to the Congress with his message of March 12. From those reports we know far more about the actual ways and means of carrying out that regulation of holding companies demanded in the platform of 1932 than we knew in 1932. And a party platform in favor of "regulation" means "effective regulation" and "regulation" that accords with the best knowledge of the subject. Mr. Roosevelt's policy is the Democratic platform of 1932 interpreted in the light of knowledge of 1935. And that is why Mr. Roosevelt's power policy will be the Democratic platform of 1936. Because Franklin D. Roosevelt follows not the letter that killeth but the spirit that giveth life.

Those who are opposing the amendment before the House are contending that regulation of utility holding companies as advocated in the Democratic platform of 1932 is a matter where form should govern and principle should abdicate. Franklin D. Roosevelt does look beyond the form to the substance of living issues. The essence of the Democratic platform was that the use of the holding company should be controlled in the public interest. The National Power Policy Committee, acting under the directions of the President, made a careful study of how the use of the holding company could be controlled in the public interest. That committee came to the conclusion that the use of the holding company for financial purposes unrelated to the sober operating problems of a local region was found to be not only unnecessary but productive of evils far outweighing any possible good. The recommendations of the National Power Policy Committee were corroborated and supported by the conclusions reached by Dr. Walter M. W. Splawn, special counsel for the House Committee on Interstate and Foreign Commerce as a result of independent investigation carried out by him under the directions of that committee. It makes little difference in the substance whether you want to call the only effective method of controlling the public utility holding companies the elimination of unnecessary holding companies or the effective regulation of holding companies. The indisputable fact is that the utility-holding company with its present powers leads inevitably to an undue concentration of economic power which defies and discredits any attempt at regulation.

There are men who will speak boldly against the undue concentration of economic power, who will cry out against the evils of absentee management but who protest against any effective action to eliminate those evils. I would warn all true Democrats against associating themselves with such protests. Such an attitude does not represent the attitude of the rank and file of the Democratic Party nor does it represent the attitude of the recognized and responsible leadership of the Democratic Party. Let Democrats who vote against this amendment ponder how they will explain to their constituents their repudiation of the President's message of March 12, which certainly conforms with the best Jeffersonian tradition.

Let those who denounce the Senate bill as the work of demagogues beware that their words are not turned against them. This bill represents the considered policy of Franklin D. Roosevelt, the recognized leader of the Democratic Party, and those who denounce this amendment may find that they are denouncing the Democratic Party. All good Democrats profess to follow Thomas Jefferson. But the issues of today must be applied to the facts of today. Let us not forget that Thomas Jefferson was accused of being a demagogue in his time. The Democratic Party must be judged today not by the stand that it took upon the vital issues in the days of Jefferson but upon the stand it takes on vital issues today, just as the Republican Party cannot be judged by the stand it took upon the issues in the days of Abraham Lincoln but must be judged upon the stand it takes on issues today.

But I venture to assert that the stand taken by Franklin D. Roosevelt on the power issue conforms more nearly and more truly with the spirit of Thomas Jefferson than the stand taken by those who oppose his views on this subject. Can any good Democrat have any doubt as to the abhorrence with which Thomas Jefferson would have viewed the growing concentration and centralization of economic power in this country? Can any good Democrat believe that Thomas Jefferson would resist the effort of Government to break down that concentration and centralization of economic power in face of the unquestioned inability of the States to break down that concentration and centralization or even stand up against it? If Thomas Jefferson were living today, he would be fighting the battle of Franklin D. Roosevelt to break down that concentration and centralization of economic power before it destroyed the effective powers of the States and of their governments. State rights with Jefferson was not a fetish but a reality. The giant utility holding company, with powers greater than any State, has proved in practice to be beyond the control of the State. And Democrats who view with alarm the growing impotence of our State governments know that the only way to restore the vitality of State and local government is to use the national political power to break down that concentration and centralization of economic power until the State and local governments can once more control the economic power within their borders.

Mr. HUDDLESTON. Mr. Chairman, we could not hear the reading of the amendment offered by the gentleman from Montana [Mr. MONAGHAN]. We have no fair idea of its significance. The gentleman from Montana did not choose to explain it in his remarks; he did not choose to tell us what its significance was. He chose, rather, to devote himself to the discussion of section 11, the subject which has just been voted upon by the House. To accept his amendment under these conditions would be farcical and would make of the House a laughing stock. The thing for us to do is to bear in mind where these amendments come from and the purpose of those who present them, and to beware of Greeks bearing gifts. [Applause.]

As I said at the beginning, I support this bill in toto.

Mr. MONAGHAN. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. No; I cannot yield.

Mr. Chairman, I am against any amendment to the bill whatsoever. Let us protect it. We have the majority in this House. [Applause]. Let us show our will by protecting this vote throughout these proceedings.

The single contribution made by the convention which adapted the Constitution of the United States to the science of government was that we should have three separate and independent branches of government, the executive, the judicial, and the legislative. This House, by a splendid majority, has just shown that it is its will that this system of government shall be preserved and made perpetual. [Applause].

We have taken back into our hands the right to legislate for the United States. We have shown that we are unwilling to submit to the dictation of outside influences, even of the Chief Executive or his spokesmen. [Applause.]

Again has the House of Representatives shown that it is worthy and worth while. Again we have shown our loyalty to our institutions. Let us preserve this bill and vote down these amendments that come from those who, having been defeated in an open, fair fight, now seek to snipe us from the rear. [Applause.]

Mr. McFARLANE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I favor this amendment.

For the benefit of any who were listening when it was read, as I understood the amendment it says in effect that we will try to insure that the legislative branch of the Government, which the gentleman from Alabama seems to be so interested in preserving, shall, in fact and in truth, prevail. We want to clip the wings of the Power Trust to the extent of prohibiting them from contributing in any way to the campaign funds of any candidate for office. If we do this it is my opinion that we will stop this iniquitous practice; we will stop the racket they have carried on, lo these many years, in backing candidates for office who do their bidding. This will prevent the Power Trust from in any way contributing to their campaign as far as it is possible.

The Power Trust always back every candidate for office who will let them, and, of course, they back the ones under the circumstances who they believe have the best chances of success, then they win regardless of who wins whenever you accept aid from them or permit them to pay any of your campaign expenses, directly or indirectly. This is a wholesome amendment. It ought to pass without a single vote against it.

(There were cries of "Louder.")

Some of you fellows who are hollering "louder" were very deaf when it came to voting for sections 11 and 13 of the Senate bill. There ought not to be a single vote against this amendment, especially if you believe in honest government, if you believe that the corporations of this country, the trusts of this country, should not be allowed to contribute directly or indirectly to any campaign fund, and in this way control all legislation in which they may be interested. If you believe in this principle, my friends, you should go down the line and vote for this amendment.

Mr. Chairman, at the time I served in the Senate of Texas we had this same battle trying to get an adequate regulatory commission to regulate the utilities in Texas. We had the Power Trust, the same group that is up here now lobbying, trying to defeat any measure of this kind. The same bunch was down there. I offered in the Senate of Texas a measure similar to the one I offered here, seeking to put these gentlemen on record, trying to force these lobbyists to register, seeking to compel them to disclose how much money they were being paid, whom they were entertaining, and all about it. I wanted the background.

On February 25, 1930, I offered a resolution in the Senate of Texas, which would have required full and complete information of all paid lobbyists, their name, age, address, occupation, the person, firm, or corporation they represent, the pay or fee received, and whether or not contingent, together with other necessary data, to be filled out on a questionnaire provided for that purpose. The resolution provided full publicity to be given the information thus received. This resolution created quite a stir on the floor of the senate at the time it was offered, and I was threatened with impeachment because of offering it.

I have always favored the fullest kind of publicity for all lobbying activities and trust that the House Judiciary Committee will soon hold hearings on S. 2512 calling for complete information on all lobbying activities before Congress. This resolution passed the Senate May 28.

The common people, the taxpayer, whom we too often forget, is the person paying this bill. He is entitled to know what is going on up here. This is a good, wholesome amendment. It ought to be adopted in the interest of fair play, in the interest of the country, in the interest of the people back home knowing the kind and character of the men they are to vote and are voting for. The men sent here to represent the people should not be hindered in any way in casting an untrammeled vote on any subject. And the people should know the complete background of all candidates before they are asked to cast their vote. No man can serve two masters, and the people should have all light possible, to aid in deciding whom he will probably serve.

Mr. Chairman, I hope this amendment will be adopted. [Applause.]

[Here the gavel fell.]

Mr. RANKIN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. HUDDLESTON. Mr. Chairman, I move that all debate on this amendment do now close.

Mr. RANKIN. Mr. Chairman, I rose in opposition to the amendment, and I was recognized by the Chair. The gentleman from Alabama has no right to interrupt.

The CHAIRMAN. The Chair had already recognized the gentleman from Mississippi.

Mr. RANKIN. Mr. Chairman, the gentleman from Alabama [Mr. HUDDLESTON] is not running this Congress. [Applause.] The gentleman from Alabama contemptuously refers to the "President and his minions"——

Mr. HUDDLESTON. Mr. Chairman, I rise to a point of order. The gentleman is not discussing the amendment.

Mr. RANKIN. Mr. Chairman, the gentleman from Alabama just a moment ago discussed this amendment.

The CHAIRMAN. The gentleman from Mississippi will proceed in order.

Mr. RANKIN. I am making a reply to what the gentleman from Alabama said in reference to this amendment.

The CHAIRMAN. The gentleman from Mississippi will proceed in order.

Mr. RANKIN. Mr. Chairman, the gentleman from Alabama [Mr. HUDDLESTON] spoke on this amendment. I want to know if I have the right to answer the gentleman?

The CHAIRMAN. The Chair will state that the amendment offered by the gentleman from Montana is pending.

Mr. HUDDLESTON. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The gentleman will state his point of order.

Mr. HUDDLESTON. The matter pending before the House is the motion of the gentleman from Texas to strike out the last word. The gentleman from Mississippi rises. Debate is exhausted upon the original motion, which has been debated on both sides under the 5-minute rule.

Mr. RANKIN. Mr. Chairman, the last word is "thereunder."

The CHAIRMAN. The motion of the gentleman from Texas was to strike out the last word, which is the last word of the pending amendment of the gentleman from Montana. The gentleman from Mississippi has risen in opposition to the pro forma amendment and is recognized for 5 minutes.

Mr. RANKIN. Mr. Chairman, the last word is "thereunder", which covers as much ground as the speech of the gentleman from Alabama. So I presume it will cover and touch just about as much as his speech covered or touched.

Tomorrow when we go back into the House, this House bill has to be adopted as a whole as an amendment to the Senate bill. We are going to vote against adopting the House bill as an amendment. Then when we call the roll we will see who votes for this measure. We will see whether or not the Power Trust is going to continue to dominate the Congress of the United States. All of you be here tomorrow and vote. We will have a roll call on this matter, because it is going to be a campaign issue from now on until the people win. [Applause.]

Mr. HUDDLESTON. Mr. Chairman, I move that all debate on this section and all amendments thereto do now close.

The CHAIRMAN (Mr. WARREN). The gentleman from Alabama moves that all debate on this section and all amendments thereto do now close.

The question was taken, and on a division (demanded by Mr. MONAGHAN) there are ayes 142, noes 51.

So the motion was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana, Mr. MONAGHAN.

The question was taken, and on division (demanded by Mr. MONAGHAN) there were ayes 54, noes 114.

Mr. O'MALLEY. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed Mr. HUDDLESTON and Mr. MONAGHAN to act as tellers.

Mr. SWEENEY. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SWEENEY. May we have the pending amendment read?

The CHAIRMAN. The gentleman's request comes too late. The Committee has divided.

The Committee again divided; and the tellers reported that there were—ayes 114, noes 104.

So the amendment was agreed to.

The Clerk read as follows:

SERVICE, SALES, AND CONSTRUCTION CONTRACTS

SEC. 13. (a) After April 1, 1936, it shall be unlawful for any registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract by which such company undertakes to perform services or construction work for, or sell goods to, any associate company thereof which is a public-utility company.

(b) The provisions of subsection (a) shall not apply to such transactions, involving special or unusual circumstances or not in the ordinary course of business, as the Commission by rules and regulations or order may conditionally or unconditionally exempt as being necessary or appropriate in the public interest or for the protection of investors or consumers.

(c) It shall be unlawful for any subsidiary company of a registered holding company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to negotiate, enter into, or take any step in the performance of any service, sales, or construction contract with any other company in the same holding-company system, in contravention of such rules and regulations or orders regarding the consideration to be paid and other terms of such contracts, accounts, reports, costs, competitive bidding, disclosure of interest, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

(d) It shall be unlawful for any person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies, by use of the mails or any means or instrumentality of interstate commerce to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility company, or for any such person, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility company engaged in interstate commerce, or with any registered holding company or any subsidiary company of a registered holding company, in contravention of such rules and regulations or orders regarding reports, accounts, costs, competive bidding, disclosure of interest, duration of contracts, and similar matters as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

(e) The Commission, in order to obtain information to serve as a basis for recommending further legislation, shall from time to time conduct investigations regarding the making, performance, and costs of service, sales, and construction contracts with holding companies and subsidiary companies thereof and with public-utility companies, the economies resulting therefrom, and the desirability thereof. The Commission shall report to Congress, from time to time, the results of such investigations, together with such recommendations for legislation as it deems advisable. On the basis of such investigations the Commission shall classify the different types of such contracts and the work done thereunder, and shall make recommendations from time to time regarding the standards and scope of such contracts in relation to public-utility companies of different kinds and sizes and the costs incurred thereunder and economies resulting therefrom. Such recommendations shall be made available to State commissions, public-utility companies, and to the public in such form and at such reasonable charge as the Commission may prescribe.

Mr. EICHER. Mr. Chairman, I offer an amendment which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. EICHER: Strike out all of section 13 extending from line 3 on page 203 to and including line 20 on page 205 and insert in lieu thereof the following:

"SERVICE, SALES, AND CONSTRUCTION CONTRACTS

"SEC. 13. (a) After April 1, 1936, it shall be unlawful—

"(1) for any registered holding company, or subsidiary company thereof (other than a mutual service company), by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract by which such company undertakes to perform services or construction work for, or sell goods to, any associate company thereof which is a public-utility or mutual service company;

"(2) for any registered holding company or subsidiary company thereof, which is a public-utility company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract, by which such company undertakes to receive services, buy goods, or accept construction work from any person (other than a mutual service company) engaged in the business of performing service, sales, or construction contracts for public-utility or holding companies if such business is, or purports to be, carried on by such persons for such company as a cooperative, mutual or nonprofit enterprise.

"(b) The provisions of subsection (a) shall not apply to such transactions, involving special or unusual circumstances or not in the ordinary course of business, as the Federal Power Commission by rules and regulations or order may conditionally or unconditionally exempt as being necessary or appropriate in the public interest or for the protection of investors or consumers.

"(c) It shall be unlawful for any affiliate of any public-utility company, by use of the mails or any means or instrumentality of interstate commerce, or for an affiliate of any public-utility company engaged in interstate commerce, or of any registered holding company or subsidiary company thereof, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to negotiate, enter into, or take any step in the performance of, any service, sales, or construction contract, by which such affiliate undertakes to perform services or construction work for, or sell goods to, any such company of which it is an affiliate, in contravention of such rules and regulations or orders regarding reports, accounts, costs, maintenance of competitive conditions, disclosure of interest, duration of contracts, and similar matters, as the Federal Power Commission finds necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder.

"(d) It shall be unlawful for any person, a substantial part of whose business is the performance of service, sales, or construction contracts for public-utility or holding companies, by use of the mails or any means or instrumentality of interstate commerce, to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility company, or for any such person, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to enter into or take any step in the performance of any service, sales, or construction contract with any public-utility company engaged in interstate commerce, or any registered holding company or any subsidiary company thereof, in contravention of such rules and regulations or orders regarding reports, accounts, costs, maintenance of competitive conditions, disclosure of interest. duration of contracts, and similar matters as the Federal Power Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this title or the rules, regulations, or orders thereunder. Such rules and regulations shall require any such person engaged in interstate commerce in the business of performing service, sales, or construction contracts for public-utility or holding companies on a cooperative, mutual, or nonprofit basis to be approved under this section as a mutual service company.

"(e) A person may apply to be approved as a mutual service company for the purpose of making and performing service, sales, or construction contracts with public-utility or holding companies by filing with the Federal Power Commission an application in such form and containing such information, classified and in such detail, and accompanied by such documents, as the Federal Power Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers, in respect of—

"(1) the articles of incorporation, agreement, association, or cooperation under which the applicant will do business and its

bylaws or rules or instruments, whatever the name, corresponding thereto;

"(2) the ownership of the applicant, whether by ownership of securities or otherwise, and the relations and agreements between the applicant and its owner or owners;

"(3) the identity of the member companies of the applicant, and the agreement or agreements under which such member companies are to share in its expenses and revenues and the method by which such shares are determined and to be maintained or adjusted;

"(4) the kinds of service, sales, or construction contracts to be performed by the applicant; and

"(5) the business, if any, other than the performance of service, sales, or construction contracts with member companies, in which the applicant purposes to engage.

"(f) Within such reasonable time after the filing of an application as the Federal Power Commission shall fix by rules or regulations or order, the Federal Power Commission shall enter an order either approving or, after notice and opportunity for hearing, disapproving the applicant as a mutual service company, unless the applicant shall withdraw its application. Amendments to an application may be made upon such terms and conditions as the Federal Power Commission may prescribe.

"(g) The Federal Power Commission shall not approve, or continue the approval of, the applicant as a mutual service company unless (1) in the judgment of the Federal Power Commission the applicant is so organized as to ownership, costs, revenues, and the sharing thereof as reasonably to insure the efficient and economical performance of service, sales, or construction contracts by the applicant for member companies, at cost fairly and equitably allocated among such member companies, at a reasonable saving to member companies over the cost to such companies of comparable contracts performed by independent persons, and (2) membership of the applicant is to be open on substantially similar terms to all public-utility companies similarly situated, except for such limitation on membership, in cases where an increase therein would result in a disproportionate increase in cost, as the Federal Power Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

"(h) The Federal Power Commission, in any order approving a company as a mutual service company, may prescribe such terms and conditions regarding the continuance of such approval, the nature and enforcement of the agreements of such mutual service company for the sharing of expenses and the distributing of revenues among member companies, and matters relating to such agreements, and the nature, character, and extent of the business which may be carried on by such mutual service company as the Federal Power Commission may find necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this section or the rules and regulations thereunder.

"(i) Every mutual service company shall file with the Federal Power Commission such information and documents in respect of its service, sales, and construction contracts, the composition of its membership, the manner and method of sharing expenses and distributing revenues, and similar matters, as the Federal Power Commission may by rules and regulations or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

"(j) It shall be unlawful for any mutual service company, by use of the mails or any means or instrumentality of interstate commerce, or otherwise, to engage in any business, or enter into or perform any transaction, in contravention of such rules and regulations or orders regarding the nature and types of businesses and transactions in which such companies may engage, the manner of engaging therein, the limitation of membership in such companies for one or more purposes to specified classes of member companies or to member companies carrying on business in a limited region, maintenance of competitive conditions, costs disclosure of interest, relations with member companies and affiliates, and similar matters, as the Federal Power Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of this section or the rules, regulations, or orders thereunder.

"(k) The Federal Power Commission, after notice and opportunity for hearing, may revoke, suspend, or modify the approval given any mutual service company if it finds that such company has violated any provision of this title or any rule, regulation, or order thereunder, or that such company is not operated efficiently, economically, and in good faith, solely in the interest of its member companies. The Federal Power Commission, upon its own motion or at the request of a member company or a State commission, may, after notice and opportunity for hearing, require a reallocation or reapportionment of costs among member companies of a mutual service company if it finds the existing allocation inequitable and may require the elimination of a service or services to a member company which does not bear its fair proportion of costs or which, by reason of its size or other circumstances, does not require such service or services.

"(l) The Federal Power Commission shall from time to time conduct investigations regarding the making, performance, and costs of service, sales, and construction contracts, the economies resulting therefrom, and the desirability thereof. On the basis of such investigations the Federal Power Commission shall classify the different types of such contracts and the work done thereunder, and shall make recommendations from time to time regarding the standards and scope of such contracts in relation to public-utility companies of different kinds and sizes and the costs incurred thereunder and economies resulting therefrom. Such recommendations shall be made available to State commissions, public-utility companies, and to the public in such form and at such reasonable charge as the Federal Power Commission may prescribe."

Mr. EICHER. Mr. Chairman, this amendment assumes particular significance in view of the fact that so far section 11 of the House bill remains.

The difference between section 13 of the House bill and section 13 of the Senate bill is that in the House bill the formation of mutual service companies is not required. The Senate bill contains a mandatory requirement that all intercompany services shall be furnished by a mutual, nonprofit, at-cost service company to the operating company. This provision is changed in the House bill; and although top holding companies are prevented from rendering service to operating companies, yet subsidiaries may render these services under the approval of the Commission.

Now, if this Congress does not have the courage to say what holding companies shall remain in existence and what holding companies shall not, we may expect that little will be accomplished in the years to come by the Commission in the reduction of the existing pyramided holding-company systems.

Therefore it is all the more vital that we have in this bill a specific interdiction against the continuance of intercompany relationships where the top holding company and its management are on both sides of the bargaining table. It is from profits of this kind that the holding-company system has thrived. It is from sources of this kind that it has been able to obtain its income, which has been the milk upon which it has fed, taken away, without consideration, from the consumers and the investors of the country.

Therefore, I want to emphasize the importance, in view of the emasculated section 11 that we have left in the bill, which leaves it discretionary with the Commission to permit the continuance of any number of systems of pyramided holding companies, that there be inserted a direct, mandatory provision by the Congress that no contracts may be entered into between a management company and the controlled operating company without conditions of competition and with no independent yardstick for measuring the fair values and compensation provided for in the contracts.

We will have a repetition of instances such as were disclosed before our committee where, in one case, a top holding company charged its operating companies $2,000,000 for legal services rendered to the operating companies, but the report of the holding company showed that it paid the lawyers who actually did the work only $1,000,000 and put the other $1,000,000 in its pockets. This is the sort of practice we are driving at and it can only be eliminated by compelling the organization of independent, nonprofit, mutual service companies.

I therefore urge the adoption of this amendment to substitute for section 13 of the House bill, section 13 of the Senate bill.

[Here the gavel fell.]

Mr. HUDDLESTON. Mr. Chairman, the House bill requires that all intercompany contracts be subject to the approval of the Commission, which is given the power to see to it that all such contracts are absolutely fair and that all unjust charges and exactions are eliminated.

As a concession to the chairman and to obtain his support for the rewritten section, those of us who favored it conceded to him the provision that the holding company should make no contracts with any subsidiary, and section 13 (a) forbids all such contracts upon the part of holding companies.

The point is amply covered. It is covered in the best possible way. There is no excuse for offering any change in the bill on this point.

Again, Mr. Chairman, I rise in my capacity as a substitute for a sort of orphan asylum. The chairman has seen proper to walk out on this bill. It is not my job to defend the bill, but it is necessary that some member of the majority stand up and defend this bill as reported by the House committee.

I ask the House, Is it your purpose to put through this bill as the committee has reported it, or do you propose to have comprehensive changes made without any proper consideration by anybody who chooses to make them? Such procedure would be preposterous. I ask you gentlemen to stand by the committee's bill.

Mr. HOOK. Mr. Chairman, will the gentleman yield?

Mr. HUDDLESTON. I do not want to yield.

[Here the gavel fell.]

Mr. HUDDLESTON. Mr. Chairman, I move that all debate on this section and all amendments thereto do now close.

The question was taken; and on a division (demanded by Mr. HOOK) there were—119 ayes, 69 noes.

So the motion was agreed to.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Iowa.

Mr. DUNN of Pennsylvania. Mr. Chairman, I demand tellers.

Tellers were ordered.

The Chair appointed as tellers Mr. EICHER and Mr. HUDDLESTON.

The Committee again divided; and the tellers reported that there were 101 ayes and 163 noes.

So the amendment was rejected.

Mr. ROBERTSON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

On page 204, line 6 and 7, strike out the word "principal" and insert in lieu thereof the word "sole."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The question was taken; and on a division (demanded by Mr. ROBERTSON) there were—15 ayes, 61 noes.

So the amendment was rejected.

Mr. ROBERTSON. Mr. Chairman, I offer a further amendment.

The Clerk read as follows:

On page 205, after the last word in line 20, add the following new paragraph:

"(f) Any holding company, or any subsidiary company thereof, desiring to simplify its corporate structure, or to remove complexities therefrom, or to reduce the number of corporations constituting a system of which any such corporation may form a part, or to dissolve, reorganize, or to eliminate interlocking directorates or to distribute voting power, shall, pending such operations or proceedings and in furtherance thereof, be eligible for loans from the Reconstruction Finance Corporation, provided adequate security is furnished for such loans, and the applications for such loans are approved by the Commission."

Mr. HUDDLESTON. Mr. Chairman, I make the point of order that the amendment is not germane. There was so much confusion that back here we could not hear the whole reading of the amendment. Therefore, I ask a ruling of the Chair whether it is germane or not.

The CHAIRMAN. The Chair will hear the gentleman from Virginia on the point of order.

Mr. ROBERTSON. Mr. Chairman, under this bill it is contemplated that certain holding companies will be dissolved, broken up into the component parts. It has been suggested that in that process stockholders may suffer a great loss. Certainly occasions will arise when the small stockholders will need financing if they are to be able to preserve their investment. The purpose of this amendment is to protect them and permit them to go to the R. F. C. and get financed. I think the amendment is in accord with the general purpose of the bill to protect the small stockholder when holding companies are dissolved even though not germane to the principal purpose of utility company regulations.

The CHAIRMAN. The Chair is ready to rule. The Chair sustains the point of order on the ground that the amendment is not germane, certainly to this section of the bill.

The Clerk will read.

The Clerk read as follows:

ACCOUNTS AND RECORDS

SEC. 15. (a) Every registered holding company and every subsidiary company thereof shall make, keep, and preserve for such periods such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this title or the rules, regulations, or orders thereunder.

(b) Every affiliate of a registered holding company or of any subsidiary company thereof, or of any public-utility company engaged in interstate commerce or not so engaged, shall make, keep, and preserve for such periods such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records relating to any transaction of such affiliate which is subject to any provision of this title or any rule, regulation, or order thereunder, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this title or the rules, regulations, or orders thereunder.

(c) Every person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies shall make, keep, and preserve for such periods such accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records relating to any transaction by such person which is subject to any provision of this title or any rule, regulation, or order thereunder, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers or for the enforcement of the provisions of this title or the rules and regulations thereunder.

(d) After the Commission has prescribed the form and manner of making and keeping accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records to be kept by any person hereunder, it shall be unlawful for any such person to keep any accounts, cost-accounting procedures, correspondence, memoranda, papers, books, or other records other than those prescribed or such as may be approved by the Commission, or to keep his or its accounts, cost-accounting procedures, correspondence, memoranda, papers, books, or other records in any manner other than that prescribed or approved by the Commission.

(e) All accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records kept or required to be kept by persons subject to any provision of this section shall be subject at any time and from time to time to such reasonable periodic, special, and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. The Commission, after notice and opportunity for hearing, may prescribe the account or accounts in which particular outlays, receipts, and other transactions shall be entered, charged, or credited and the manner in which such entry, charge, or credit shall be made, and may require an entry to be modified or supplemented so as properly to show the cost of any asset or any other cost.

(f) It shall be the duty of every registered holding company and of every subsidiary company thereof and of every affiliate of a company insofar as such affiliate is subject to any provision of this title or any rule, regulation, or order thereunder, to submit the accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records of such holding company, subsidiary company, or affiliate, as the case may be, to such examinations, in person or by duly appointed attorney, by the holder of any security of such holding company, subsidiary company, or affiliate, as the case may be, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

(g) It shall be the duty of any person whose principal business is the performance of service, sales, or construction contracts for public-utility or holding companies, insofar as such person is subject to any provision of this title or any rule, regulation, or order thereunder, to submit the accounts, cost-accounting procedures, correspondence, memoranda, papers, books, and other records of such person to such examinations, in person or by duly appointed attorney, by any public-utility or holding company for which such person performs service, sales, or construction contracts, as the Commission deems necessary or appropriate in the public interest or for the protection of investors or consumers.

Mr. ROBERTSON. Mr. Chairman, I move to strike out the last five words. The last five words I moved to strike out are "protection of investors or consumers", in which connection I desire to call to the attention of the House section 13 (d) that we have just read, and the amendment that I offered to it, to protect investors in small private companies whose principal business is the furnishing of supplies to utility companies. My amendment was voted down, but I want here to register a protest against and to go on record as opposing any subterfuge to take jurisdiction over a purely State matter by coming in the back door of the interstate-commerce clause or of the power to regulate the mail.

We have seen that tried at this session all too frequently. The favorite language to take jurisdiction under the commerce clause has been "in any way affect interstate commerce." The Post Office Committee had a bill sponsored by certain insurance companies that wanted to regulate the companies doing business by mail and to say, "You cannot use the mails unless you submit to Federal regulations." The Post Office Committee refused to report that bill. Now, in this power bill, in section 13 (d), we say to a lumber com-

pany engaged in a purely State operation, viz, furnishing cross arms or poles to a utility company, "You cannot use the mails unless you submit to Federal regulations, unless you come to Washington for the examination of your books, and of your contracts, and of all things pertaining to your dealings with a utility company." The lumber company might say, "We want $5 apiece for our poles", and the Commission might answer, "We think $3.50 is a fair price. If we are going to cut down the rate of these utility companies they must not pay more than $3.50 for poles. And should the lumber company ask, "Why are we subject to your regulation?" the reply is, "You have written letters to a power company that crossed a State line, and therefore we have jurisdiction over you under the Federal power to regulate the mails."

Everybody knows that that is not a proper principle on which to legislate, and when we write that principle into this bill it will rise to confront us for many years to come. I say to the Cohens and the Corcorans and all others who want to wipe out all vestige of State rights, Come in the front door of the Constitution with an amendment to that effect, and not through the back door of the commerce clause or the power to regulate the mails. [Applause.]

While there are no decisions of the United States Supreme Court which set a limit to the power of Congress to regulate the mails the cases cited below are the ones most often cited and referred to.

The power vested in Congress "to establish post offices and post roads" has been practically construed, since the foundation of the Government, to authorize not merely the designation of the routes over which the mail shall be carried, and the offices where letters and other documents shall be received to be distributed or forwarded, but the carriage of the mail, and all measures necessary to secure its safe and speedy transit, and the prompt delivery of its contents. The validity of legislation prescribing what should be carried, and its weight and form, and the charges to which it should be subjected, has never been questioned * * *. The power possessed by Congress embraces the regulation of the entire postal system of the country. The right to designate what shall be carried necessarily involves the right to determine what shall be excluded" (*Ex parte Jackson*, 96 U. S. 727, 732).

"It is insisted that the express powers of Congress are limited in their exercise to the objects for which they were intrusted, and that in order to justify Congress in exercising any incidental or implied powers to carry into effect its express authority, it must appear that there is some relation between the means employed and the legitimate end. This is true, but while the legitimate end of the exercise of the power in question is to furnish mail facilities for the people of the United States, it is also true that mail facilities are not required to be furnished for every purpose. When the power to establish post offices and post roads was surrendered to the Congress it was as a complete power, and the grant carried with it the right to exercise all the powers which made that power effective. It is not necessary that Congress should have the power to deal with crime or immorality within the States in order to maintain that it possesses the power to forbid the use of the mails in aid of the perpetration of crime or immorality" (*In re Rapier*, 143 U. S. 110, 133, 134).

"While it may be assumed, for the purpose of this case, that Congress would have no right to extend to one the benefit of its Postal Service and deny it to another person in the same class and standing in the same relation to the Government, it does not follow that under its power to classify mailable matter, applying different rates of postage to different articles, and prohibiting some altogether, it may not also classify the recipients of such matter, and forbid the delivery of letters to such persons or corporations as in its judgment are making use of the mails for the purpose of fraud or deception or the dissemination among its citizens of information of a character calculated to debauch the public morality" (*Public Clearing House* v. *Coyne*, 194 U. S. 497, 507, 508).

*Milwaukee Pub. Co.* v. *Burleson* (255 U. S. 407, at 411) upheld the section of the espionage act prohibiting the mailing of any newspaper published in violation of that act.

There are many small lumber and other companies doing a purely State business but whose principal business is the furnishing of supplies to utility companies. Every lawyer in this House is bound to recognize that the decisions of the Court quoted above do not indicate that the Court would uphold the right of the Federal Government to take jurisdiction over these intrastate transactions through prohibiting to the companies so engaged the use of the mails in the transaction of their business. If the Congress has the right to acquire jurisdiction over purely State transactions in that manner, there is no limit to the Federal encroachment upon the rights of the States and upon the rights of the individual to use the mails for any legitimate purpose. I contend that to acquire jurisdiction in this manner is a subterfuge to which we should not resort, however strongly we may believe that not only should utility companies, but likewise those who do business with them, be regulated by the Federal Government.

Mr. ZIONCHECK. Mr. Chairman, I rise in opposition to the pro forma amendment. I have no specific reason to speak at this time, because the particular section to which I wanted to direct my attention was section 13. That, in my opinion, is one of the most important sections of the bill, and the amendment offered by the gentleman from Iowa [Mr. EICHER] providing for mutual service nonprofit corporations was allowed 10 more minutes on this floor, and that was an amendment that would thoroughly protect these investors in subsidiary holding companies that you gentlemen have been shedding crocodile tears over as well as the consumer.

The amendment of the gentleman from Iowa would have done away with the racket of the holding company having its service company come in and build a dam for one of their subsidiaries that would cost them $5,000,000 on the open market and charge fifteen or twenty million dollars for it, and then demand a reasonable return on that and at the same time deprive these poor little stockholders you gentlemen have been crying about from getting any interest or any return on the common stock as it went on up.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. ZIONCHECK. Yes.

Mr. MOTT. Does not the gentleman know that neither in the gentleman's State, the State of Washington, nor in my State, the State of Oregon, can any rate be based on property acquired by a holding company to increase its holdings? The rate in my State and in the gentleman's State is based entirely on the useful use of the property of the utility company and nothing else.

Mr. ZIONCHECK. In the State of Washington the only way that we can regulate a utility company is by public ownership. You can talk about regulations until the end of time, but the only way to regulate them is by public ownership, because as soon as you undertake to regulate these companies, with their various ramifications, very soon they are regulating the regulators.

I make this comment on the vote had today. Tell me what kind of bread a man eats and from whom he gets it and I will tell you the title of his song. This vote today on the death sentence of the utility companies shows that there is no fundamental difference between a reactionary Republican and a reactionary Democrat. When it comes to the issue of power companies, party lines do not mean anything.

Mr. HOEPPEL. Mr. Chairman, will the gentleman yield?

Mr. ZIONCHECK. Yes.

Mr. HOEPPEL. In order to remark that in my opinion the vote cast today is a testimonial to the intelligence of the Democrats who voted with the Republicans.

Mr. ZIONCHECK. The gentleman from California has a right to his own guess, but in my opinion those on this side that voted with the Republicans today voted against the best interests and welfare of the consuming and investing public, as well as the administration.

Now, Mr. Chairman, I want to get back to a discussion of the amendment to section XIII that would have substituted the Senate section providing for nonprofit mutual service companies for the House section which does not so provide.

To start with, it is conceded by all that the operating companies are the only ones which have any tangible assets and that three-fourths of the investment held by the public in utility companies is in operating company bonds, debentures, and preferred stock. The holding companies and the subsidiary holding companies merely own the common stock or the majority stock of the operating company. The subsidiary holding company in turn will issue bonds and preferred stock and common stock on its holdings in the securities of the operating companies of which common stock the next sub-

sidiary company or holding company will own this common stock or the controlling interest for the purpose of control and management.

The top holding company of a pyramided structure, under the present set-ups, have sales, financial, engineering, and construction service companies which render service to their operating subsidiaries. The fact of the matter is the only justification that the proponents for holding companies have for the holding-company structure is the service rendered by the holding companies to their subsidiaries.

If the charge of the holding company for this service of its service corporation to its subsidiaries is exorbitant, one can readily see that not only the consumer of the electrical energy will be penalized by increased costs but the holders of the common stock of the subsidiary operating companies will receive a smaller return. When the holders of the common stock of the subsidiary operating companies receive a smaller return, it is logical that the holders of bonds, debentures, preferred stock, and common stock of the subsidiary holding companies, who hold the common stock of the operating companies, will receive a smaller return on their investment. Everyone with a bowing acquaintance with the financial structure of the utility corporations knows that the bondholders have a senior lien upon the physical property and assets of the corporation and receive a relatively small return because of their secure position. The preferred stockholders' lien upon the physical assets of the operating company is junior to that of the bondholders, and, therefore, pays a larger return, while the common stock of such a corporation is junior to both the bonds and preferred stock so far as the physical assets are concerned and receive a dividend only after the bondholders and preferred stockholders are first paid. We have had numerous examples of the holding companies charging exorbitant fees for services of their service companies to their operating companies without any check whatsoever of open competition from independent concerns.

Let us take a very simple example: The operating company files upon a power site for a nominal sum and immediately puts it upon their books at a value of $10,000,000. By contract they must allow the engineering corporation of the holding company to perform all the engineering services without competition. Let us say that an outside engineering concern could have rendered the service for $1,000,000. The holding company, instead of charging $1,000,000, can and has in many instances charged five times its worth, or $5,000,000.

When it comes to the construction of a dam, power house, and transmission lines the holding company has its own construction corporation do the work without competitive bidding and builds the dam, power house, and distributing lines with approximately $5,000,000 and charges the operating company fifteen or twenty million dollars. Upon these excessive costs the rates charged to the consumer are determined and the value to the owners of the stock and bonds in the subsidiary-holding companies is thereby diluted.

The further service rendered by the service corporation to the operating companies by way of sales, finance, legal and technical advice is a drain upon the profits of the operating companies and leaves less to be distributed to the holders of the common stock. Thus, both the investors and the consumers are penalized by the tribute that is exacted by the holding company from the operating companies for such service, as well as by construction contracts.

The Senate provision would make it necessary for the holding companies to render this service to their subsidiaries without profit, except as it might derive a profit through increased dividends which would come from the increased efficiency and economies of their operating subsidiaries, and thus the investors as well as the consumers would be beneficiaries.

To think that the gentleman from Alabama would move that all debate on such a vital amendment and section should close after 5 minutes' discussion, 5 for and 5 against, shows the attitude of the proponents of the House measure. To my mind it is a conclusive demonstration that it is the intention of the Republicans and a large bloc of Democrats, who are in favor of the emasculated House bill in preference to the Senate bill, to ruthlessly stop all discussion on these vital issues and railroad a measure through which they know to be but a weak attempt to regulate, which the utility companies have never feared, for their past experience with the State regulatory bodies has demonstrated to them that they have no difficulty in controlling the actions of such parties.

It is my hope that we will be able to obtain a roll call on these amendments so that the Members of the House will be put on record as to their attitudes on this vital measure, so that their constituents in turn might know how their representatives are representing them in the Congress of the United States.

Mr. SAUTHOFF. Mr. Chairman, I offer the following amendment, which I send to the desk:

The Clerk read as follows:

Amendment by Mr. SAUTHOFF: On page 210, line 3, after the word "consumers" and the period, add the following:

"(h) The Federal Power Commission and the Securities Exchange Commission shall examine and make copies for their files of all Federal income-tax returns of registered holding companies and all subsidiary companies thereof, together with the returns of the officers of such companies."

Mr. RAYBURN. Mr. Chairman, I think the gentleman's amendment is clearly subject to a point of order. The amendment is not germane.

Mr. SAUTHOFF. Does the gentleman wish to urge the point of order?

Mr. RAYBURN. I will reserve the point of order if the gentleman desires to discuss the matter.

Mr. SAUTHOFF. I thank the gentleman.

Mr. Chairman, the point I want to make is this: A majority of this House has declared itself, in the debate, as being in favor of regulation. Inasmuch as that is the will of the majority, that prevails. One of the most effective ways of ascertaining facts upon which to regulate is an examination of income-tax reports. I have offered this amendment adding this section solely for the purpose of giving both the Federal Power Commission and the Securities Exchange Commission the right to go in and examine Federal income-tax reports of both the companies and their subsidiaries, and also of those men and women who are registered as officers of those companies. I think this would be of material assistance to both commissions, to gather facts upon which to base their findings.

Mr. WADSWORTH. Will the gentleman yield for a question?

Mr. SAUTHOFF. I yield.

Mr. WADSWORTH. I am asking this question for information. Does the gentleman's amendment propose that the Federal Power Commission shall have the right to examine income-tax reports of registered holding companies?

Mr. SAUTHOFF. Certainly.

Mr. WADSWORTH. Would it not be sufficient to permit the Securities Exchange Commission to do that, as they have exclusive jurisdiction over registered holding companies?

Mr. SAUTHOFF. I think that is correct, but let me add this: The Federal Power Commission makes its reports, of which we have copies. In order that those reports may be as broad and comprehensive as possible, I want them to have this information also.

Mr. WADSWORTH. Will the gentleman yield for another question?

Mr. SAUTHOFF. Certainly.

Mr. WADSWORTH. It seems to me that if we are to be consistent in this matter we should follow the set-up of this bill, which draws a sharp distinction as to jurisdiction. The Securities Exchange Commission has charge of the regulation of registered holding companies and not of the operating companies engaged in interstate transportation of electrical energy. The Federal Power Commission has that jurisdiction given to it under title II of this bill. If we are to have income returns of the registered holding companies open to any other Federal agency, they should be open to

the agency which alone regulates them. If the income-tax returns of the operating companies are to be open for examination, they should be open to the Federal Power Commission alone. Why duplicate?

Mr. SAUTHOFF. But the gentleman from New York fails to make this one distinction: The operating companies are not set up over here and the holding companies over here, separate and distinct from one another. They are interlocked and they should be kept together where they belong.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. SAUTHOFF] has expired.

Mr. RAYBURN. Mr. Chairman, I make the point of order that the amendment is not germane. It brings in the Federal Power Commission which is not mentioned in title I.

The CHAIRMAN (Mr. WARREN). The Chair sustains the point on the ground that it certainly could not be germane to this particular section of the bill.

Mr. HOFFMAN. Mr. Chairman, I move to strike out the last word.

The gentleman who just preceded the last speaker said there was no difference between a reactionary Republican and a reactionary Democrat. That raises the question as to whether there is any difference between those gentlemen who, under the banner of one party or the other, slipped into office under the banner and on the platform of one or the other, now follow neither the platform of the one or the other, or any other recognized platform, but seem to have a roving commission and vote just as they please on every question, apparently, without responsibility to any party.

The gentleman from Mississippi [Mr. RANKIN], after the vote was taken, told us that there would be a day of reckoning and he named the day—tomorrow. I am wondering if he has forgotten that the celebration of the Declaration of Independence comes pretty soon—just 3 days from today—and that the House is not subject to that criticism so often made by the gentlemen of the press that we are slow and do not know what we are doing. They should advise their readers that you have today, for once at least, exercised your right to defy the orders of the administration. After 6 long months this House, under the leadership of the gentlemen on the committee, has finally been induced to cast aside that rubber stamp and declare its independence. [Applause.] From the gentleman from Mississippi let me inquire whether we should wait until tomorrow to get our orders or stray over into room 1333, New House Building, and see what we can learn there from those who may have been sent down to give us our orders. If he has any information on that, those who desire to follow those orders I am sure will be glad to have it.

But this question comes to my mind: Here you are intending to give some commission power over business, to not only regulate but to destroy.

Is there any reason in the world why we should intrust this power to the same administration which selected those gentlemen who are fooling around with the triple A, who hatched, may I say, raised to maturity, perhaps, then buried the Blue Eagle? Is there any reason why business should be placed under the regulation of an administration which has made so many failures? Which retarded recovery with the N. R. A. I fail to find it.

Mr. KELLER. Mr. Chairman, will the gentleman yield for a question?

Mr. HOFFMAN. Yes; if it is about fishing. [Laughter.]

Mr. KELLER. Did the gentleman say "fishing"?

Mr. HOFFMAN. Yes; because I know something about fishing.

Mr. KELLER. Has the gentleman seen the vote of caucus on the A. A. A.?

Mr. HOFFMAN. Yes; and the farmers in my district voted down hog contract because they said some of their neighbors in adjoining districts were cheating the A. A. A.

Mr. KELLER. The gentleman's is the only district in the United States which voted that way.

Mr. HOFFMAN. It is regrettable that the discussion of the merits of the proposed legislation could not be undertaken and carried on without charges that improper pressure had been used to influence Congressmen and improper motives entertained by them in their consideration of this subject.

A portion of the press has repeatedly and persistently charged that gentlemen in the employ of the Power Trust have held out improper inducements to Congressmen who would oppose this or the Senate bill. Human nature is weak and it may be that such instances exist. Individuals may yield to temptation; there is no assurance that Government officials are immune. It may be equally true that Congressmen are seeking personal advantage through the authority given them to pass upon this question, but the record so far is barren of any evidence justifying either proposition.

Gentlemen of the press who make these charges might well exercise that Christian virtue known as "charity" to the extent of conceding that the percentage of honest Congressmen is as great as is the percentage of honest reporters, journalists, and editorial writers. No Congressman has yet suggested that, because some newspaperman receives compensation based upon the length of the story printed and the length of that story often depends upon its sensationalism, therefore, the reporter is influenced to make unsubstantiated charges of graft and corruption by hope of financial gain.

This morning's Washington Post reports the President as saying that "the power lobby is spreading propaganda against the 'death sentence' that is frightening some persons", but that such propaganda "was not deceiving anybody." If correctly quoted, his statement carries its own refutation, for propaganda of the nature suggested, if known to be untrue, cannot be "frightening" to anyone, if no one is deceived thereby.

We may assume that holding companies and utility interests have exerted every legitimate, and, perhaps, some questionable, methods to defeat this legislation. Such action on their part is no more than that which would be taken by any person influenced by self-preservation and interested in the subject matter.

It is matched, on the other side, by the statements of the Chief Executive and his supporters, in favor of this legislation. It is not a violent presumption to say that the expressed wishes of the Chief Executive, controlling as he does, $4,000,000,000, soon to be expended, having, through his subordinates, at his command, the disposal of thousands of positions, are more potent than all the efforts of the Power Trust.

It is not necessary to attribute improper motives to any of the parties to this controversy. Their efforts may be explained on the ground that much is fair in politics, which would otherwise be reprehensible; that each is deeply, and sometimes vitally, interested in the issue. No doubt, the Executive and his supporters find ample reason in their own minds for their conduct in their expressed conviction, justified or not, that the purpose is good, and they offer the excuse that the end justifies the means.

Doubtless, there is much of pretense on each side, as so eloquently pointed out by the gentleman from Alabama, who entertained and instructed the House on that momentous occasion of yesterday morning. The group that is raising the battle cry that the common people are exploited by the wicked, by the vicious and unconscionable Power Trust, as he said, assumes the mantle of defenders of the masses, and so struts the stage demanding publicity, while, on the other hand, it may be true that some are opposing the legislation because they or their friends are interested financially in these companies.

In considering this legislation, it may be assumed, for the purpose of the discussion, that some holding companies have robbed the people, that their successors will continue so to do. It is equally true that other holding companies have rendered great public service.

Perhaps few in the House have a more intimate personal experience with the methods of one of the operating companies than has the speaker. For more than 8 long years, the little city of Allegan, my home town, has been attempting to establish a municipal hydroelectric plant to supple-

ment the one it already owns. With the Kalamazoo River flowing through it, with power unharnessed, it sought to avail itself of this natural resource, the gift of the gods.

Consumers Power Co., a subsidiary of the Commonwealth & Southern, if my information is correct, owns one dam site, undeveloped, within the city. It owns another, undeveloped, just below the city. According to the sworn testimony of its general manager, it owns between 25 and 30 undeveloped power sites in the State of Michigan, none of which, according to his testimony, that company intends to develop.

Yet, like the dog in the manger, it sits astride the rivers of our State, prevents development, holds for itself these natural resources, which the people might otherwise use, creates a monopoly and is enabled, through its manipulation of its bookkeeping, to raise the price of current far beyond what it otherwise might equitably be.

When our city first considered the establishment of this plant, the officials of the Consumers Power Co. were consulted and they gave their statement, the general manager and its general counsel and its attorney, to me personally that, if the people of our city voted in favor of municipal ownership, they would gladly leave the local field open to us. A gracious concession that we, the city, might serve ourselves, exercise the right they enjoyed, a promise they repudiated.

Acting upon that assumption, an election was held and the project was endorsed by the taxpayers, who mortgaged their city and their individual property to secure the repayment of the bonds issued to build such a plant. Five times through the circuit court, four times through the Supreme Court of the State of Michigan, through the district Federal court, through the Federal circuit court of appeals; yes, to the United States Supreme Court, the Consumers Power Co. carried its fight to deprive the people of their right to develop the river which flowed through the city, to enjoy the same privileges enjoyed by Consumers Power Co.

Through election after election, where it attempted, by fair means and foul, to thwart the will of the people, that company fought this little city and it is fighting it today. Seven years ago, before the Federal Power Commission, it almost succeeded in blocking the project. Before the R. F. C. it opposed us. Before the P. W. A. its friends employed disreputable methods in their opposition. But thanks to the integrity and the vigilance of the Secretary of the Interior, Harold L. Ickes, its efforts were defeated and, today, that municipality is far on the road toward the accomplishment of its object, the construction and the operation of its own hydroelectric plant.

So, you will see that there is every personal reason why there should be no love on my part for that or like companies when this matter is under consideration. There is, however, another side to the picture, and it is the contemplation of that picture, in connection with my lack of faith in the operation of this law, which leads to the views I hold and which will cause me to vote against this destructive legislation.

Throughout my district there are hundreds of stockholders of the Consumers Power Co.; and if this bill becomes law and be administered in the manner in which we have reason to believe it will be administered, those stockholders will be deprived of the savings of a lifetime; and be they rich or poor, they stand before the law entitled to justice, to the privilege of keeping for themselves that which they have earned, that which by thrift and self-denial they have accumulated.

Legislation should be understandable; it should be workable. This bill is neither. It is admitted by the gentleman from Alabama, who evidently knows as much about it as anyone, to be a bad bill. He expressed grave doubts of its constitutionality; in fact, from his argument many of us gained the impression that it was unconstitutional. Many of us were convinced by his argument that it was, to use a common expression, a "rotten bill."

It would be presumptuous for me to question his statement of the facts. During his argument the gentleman from Alabama expressed distrust of those in authority and doubt as to the constitutionality of the bill, apprehension as to its workability, and yet his conclusion was that, being the best he could now hope for, he would support it.

If his conclusion that the bill is unconstitutional be correct—and it apparently is—why pass legislation which the courts will declare void? If the bill be unworkable, why accept the domination of those who sponsor it? Why let our respect, our admiration for old friends, determine the decision which must be made? Why should not Congress once more assert itself and insist that legislation must pass the test, first, of constitutionality; second, the test of whether it will, if enacted, accomplish the purposes for which it was drafted; and, third, whether those charged with its enforcement can be trusted to carry it out in the spirit in which it was enacted?

As judged by these tests, the gentleman's conclusion is erroneous, and the result of application of each of the three tests, if his statements be accurate—and no doubt they are—condemns the bill.

The gentleman from Alabama left nothing to be said in opposition to this bill. He covered the ground completely and thoroughly. But, at the risk of repetition, let me again say that he condemned it as being unconstitutional, also as being a bad bill in its practical aspects. Then why vote for it?

Let me go one step further. The present administration has deserted the principles of the party which it enumerated in order to secure an election. The party platform has been scrapped; the pledges of the party candidates have been repudiated. No need to again recite the evidence of this. It is an accepted fact.

Within the past 10 days, sad, sad spectacle, we have seen the loyal, the faithful, hard-working, and self-sacrificing Democratic leaders march up the hill to the White House, receive and repeat their orders, start the legislative machinery in motion to carry them out, and then learn through the morning papers that they were given no orders. It may be one thing to repudiate a party platform and campaign promises. It is something else again to desert unselfish, self-effacing party leaders, who are personal friends, and place them in a position where they would be ridiculous were it not for the fact that their comrades and associates—yes, even those of the opposition—know of their integrity and their loyalty to the party they serve.

The Democratic Party is no longer in authority. A new group holds the helm, steers the ship, and the course it follows leads only to destruction, is as far from that of the stanch, patriotic, and honorable Democrats as is Hell from Heaven. It acknowledges no guiding star of principle. It has respect neither for the principles of the Constitution nor for the rights of the governed. It makes its rules as it proceeds, and its every act, its every policy, and all its methods of carrying those policies into effect indicate but one goal, and that the gathering into its hands of all the power of government, to the end that in the final analysis it will be found that the citizen has surrendered his liberty and is but the subject of a tyrant.

By the making of loans, by the collecting of taxes from one group and giving of those taxes to another, the process of "robbing Peter to pay Paul", which the President, in his Wisconsin speech, so justly condemned; by its distribution of relief and public-works money; by its policy of creating discontent and a demand for and a reliance upon public funds for private advantage, a practice which the President stated would, if continued, sap the "vitality of our people", it has become and continues to be the first great governmental vote-buying agency in the history of this country, and, through that agency, their acts indicate that those in power now hope to increase and perpetuate their authority until it becomes all-inclusive and permanent, so long as they may live.

A peaceful revolution they have termed it; a revolution in truth. A revolution which as effectively and completely subjects a free people to the domination of bureaucrats as though it were accomplished on the fields of battle.

For me, admitting that those in charge of some holding companies have stolen the public funds, that others, if in-

trusted with these great accumulations of wealth and power, will do likewise, I cannot forget the Tweed ring, the corruption of Tammany Hall, our own Albert Fall and Harry Doherty, our Teapot Dome, and the other scandals which have been connected with the administration of our Government. But, if I must choose between individuals who steal, who rob, who oppress, on the one hand, and Government authorities who, by virtue of their official position, steal and rob and oppress in no lesser degree, and with it all grasp the power of arbitrary government, then I choose to leave that corruption in private hands, where it is far easier to try, convict, and punish than in the hands of a group of high Government officials who, by their own misdeeds, may not only destroy the rights of individuals, but perpetuate themselves in power by the very spoils so unlawfully wrested from the citizen, and some of whom are already seeking to evade the decisions of the Supreme Court and to destroy that safeguard of the people.

If it be said that there is an inconsistency in favoring the ownership by municipalities of public utilities while opposing Government ownership, the answer is that, in the former case, the ownership is by a small group, under the eye of those to whom the operators are responsible, where they can be easily and quickly reached, prosecuted and punished for any misdeeds, while in the latter case, that of Government ownership, the very size, the scope of the project is so vast, the number of those involved so great, their authority so high that responsibility may be easily shifted and the guilty, because of their political power, escape prosecution.

The Clerk read as follows:

VALIDITY OF CONTRACTS

SEC. 26. (a) Any condition, stipulation, or provision binding any person to waive compliance with any provision of this title or with any rule, regulation, or order thereunder shall be void.

(b) Every contract made in violation of any provision of this title or for any rule, regulation, or order thereunder, and every contract heretofore or hereafter made, the performance of which involves the violation of, or the continuance of any relationship or practice in violation of, any provision of this title, or any rule, regulation, or order thereunder, shall be void (1) as regards the rights of any person who, in violation of any such provision, rule, regulation, or order, shall have made or engaged in the performance of any such contract, and (2) as regards the rights of any person who, not being a party to such contract, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the making or performance of such contract was in violation of any such provision, rule, regulation, or order.

Mr. RAYBURN. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. RAYBURN:

AMENDMENT TO SECTION 26

Page 225, after line 15, insert the following new subsection:

"(c) Nothing in this title shall be construed (1) to affect the validity of any loan or extension of credit (or any extension or renewal thereof) made or of any lien created prior or subsequent to the enactment of this title, unless at the time of the making of such loan or extension of credit (or extension or renewal thereof) or the creating of such lien, the person making such loan or extension of credit (or extension or renewal thereof) or acquiring such lien shall have actual knowledge of facts by reason of which the making of such loan or extension of credit (or extension or renewal thereof) or the acquisition of such lien is a violation of the provisions of this title or any rule or regulation thereunder, or (2) to afford a defense to the collection of any debt or obligation or the enforcement of any lien by any person who shall have acquired such debt, obligation, or lien in good faith for value and without actual knowledge of the violation of any provision of this title or any rule or regulation thereunder affecting the legality of such debt, obligation, or lien."

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

The Clerk read as follows:

SEC. 202. Section 4 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 4. The Commission is hereby authorized and empowered—

"(a) To make investigations and to collect and record data concerning the utilization of the water resources of any region to be developed, the water-power industry and its relation to other industries and to interstate or foreign commerce, and concerning the location, capacity, development costs, and relation to markets of power sites, and whether the power from Government dams can be advantageously used by the United States for its public purposes, and what is a fair value of such power, to the extent the Commission may deem necessary or useful for the purposes of this Act.

"(b) To determine the actual legitimate reasonable original cost of and the net investment in a licensed project, and to aid the Commission in such determinations, each licensee shall, upon oath, within a reasonable period of time to be fixed by the Commission, after the construction of the original project or any addition thereto or betterment thereof, file with the Commission in such detail as the Commission may require, a statement in duplicate showing the actual legitimate original cost of construction of such project, addition, or betterment, and of the price paid for water rights, rights-of-way, lands, or interest in lands. The licensee shall grant to the Commission or to its duly authorized agent or agents, at all reasonable times, free access to such project, addition, or betterment, and to all maps, profiles, contracts, reports of engineers, accounts, books, records, and all other papers and documents relating thereto. The statement of actual legitimate reasonable original cost of said project, and revisions thereof as determined by the Commission, shall be filed with the Secretary of the Treasury.

"(c) To cooperate with the executive departments and other agencies of State or National Governments in such investigations; and for such purpose the several departments and agencies of the National Government are authorized and directed upon the request of the Commission to furnish such records, papers, and information in their possession as may be requested by the Commission, and temporarily to detail to the Commission such officers or experts as may be necessary in such investigations.

"(d) To make public from time to time the information secured hereunder and to provide for the publication of its reports and investigations in such form and manner as may be best adapted for public information and use. The Commission, on or before the 3d day of January of each year, shall submit to Congress for the fiscal year preceding a classified report showing the permits and licenses issued under this part, and in each case the parties thereto, the terms prescribed, and the moneys received if any, or account thereof. Such report shall contain the names and show the compensation of the persons employed by the Commission.

"(e) To issue licenses to citizens of the United States, or to any association of such citizens, or to any corporation organized under the laws of the United States or any State thereof, or to any State or municipality for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in any of the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam, except as herein provided: *Provided*, That licenses shall be issued within any reservation only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as the Secretary of the department under whose supervision such reservation falls shall deem necessary for the adequate protection and utilization of such reservation: *Provided further*, That no license affecting the navigable capacity of any navigable waters of the United States shall be issued until the plans of the dam or other structures affecting navigation have been approved by the Chief of Engineers and the Secretary of War. Whenever the contemplated improvement is, in the judgment of the Commission, desirable and justified in the public interest for the purpose of improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, a finding to that effect shall be made by the Commission and shall become a part of the records of the Commission: *Provided further*, That in case the Commission shall find that any Government dam may be advantageously used by the United States for public purposes in addition to navigation, no license therefor shall be issued until 2 years after it shall have reported to Congress the facts and conditions relating thereto, except that this provision shall not apply to any Government dam constructed prior to June 10, 1920: *And provided further*, That upon the filing of any application for a license which has not been preceded by a preliminary permit under subsection (f) of this section, notice shall be given and published as required by the proviso of said subsection.

"(f) To issue preliminary permits for the purpose of enabling applicants for a license hereunder to secure the data and to perform the acts required by section 9 hereof: *Provided, however*, That upon the filing of any application for a preliminary permit by any person, association, or corporation the Commission, before granting such application, shall at once give notice of such application in writing to any State or municipality likely to be interested in or affected by such application; and shall also publish notice of such application once each week for 4 weeks in a daily or weekly newspaper published in the county or counties in which the project or any part thereof or the lands affected thereby are situated.

"(g) Upon its own motion to order an investigation of any occupancy of or evidenced intention to occupy public lands, reservations, or streams or other bodies of water over which Congress has

jurisdiction under its authority to regulate commerce with foreign nations and among the several States by any person, corporation, State, or municipality, and to issue such order as it may find appropriate, expedient, and in the public interest to conserve and utilize the water resources of the region."

Mr. REECE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REECE: Page 235, line 5, after the word "the", strike out the remainder of the line and all of lines 6 and 7 and insert in lieu thereof the following: "navigable waters of the United States."

Mr. REECE. Mr. Chairman, the effect of the amendment which I have proposed is to leave the power of the Federal Power Commission to issue licenses as is now provided in the present Federal Water Power Act. Section 4 of the Water Power Act provides that the Federal Power Commission shall have licensing jurisdiction over all navigable waters of the United States. The present bill proposes to change this and instead of using the phrase "navigable waters of the United States" use the following: "the streams or other bodies of water over which Congress has jurisdiction under its authority to regulate commerce with foreign nations and among the several States."

Mr. KELLER. To what page is the gentleman referring?

Mr. REECE. Page 235, line 5.

Mr. Chairman, under the act of 1899 the War Department was given jurisdiction over all streams which affected the navigability of streams further down. No one challenges or disputes the propriety of the War Department exercising that jurisdiction. Under my amendment the War Department would continue to have this jurisdiction.

When the Federal Water Power Act was enacted in 1920, there was purposely inserted the provision that the Federal Power Commission should have the licensing jurisdiction only on the navigable waters of the United States, although the War Department's power to regulate navigation was not interfered with. When that bill was under consideration in the Senate, Senator KING, during the debate, expressed apprehension that the Federal Power Commission might try to exercise licensing jurisdiction over nonnavigable streams. The apprehension doubtless grew out of the fact that the War Department—and likewise section 23 of the Federal Power Act—continues to give nonlicensing jurisdiction over nonnavigable streams.

The present Water Power Act does not give licensing power to the Federal Power Commission over nonnavigable streams, and if the language now incorporated in the pending bill should be enacted into law, the Federal Water Power Commission will be given a licensing jurisdiction over all streams, because in some degree at least the upstreams do affect the navigability of the streams below. The Commission now has power to regulate the upstreams if the flow is interfered with in such a way as to affect the navigability of the down streams. But it does not have licensing power over nonnavigable streams; that jurisdiction belongs to the States.

The Federal Government, in the first place, does not have authority to interfere with the authority of the States in this respect and it ought not to exercise it if it does have authority to do so.

Mr. RANDOLPH. Will the gentleman yield?

Mr. REECE. I yield to the gentleman from West Virginia.

Mr. RANDOLPH. May I say that I am in agreement with the gentleman. The Attorney General of West Virginia has so ruled and we believe that in West Virginia.

[Here the gavel fell.]

Mr. CROSSER of Ohio. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the language contained in this amendment simply clarifies what is already the law of the land. What the opposition would like to do is to limit the authority of the Power Commission to the navigable waters and to only those parts of the streams that are actually navigable. This gives the Power Commission the right to regulate not only the waters that are actually navigable but other waters over which Congress has jurisdiction by virtue of its right to regulate interstate commerce.

Mr. Chairman, I think it would be a great mistake and would do great harm if this amendment were to be adopted. There can be no possible doubt that those who are interested in real regulation of water power desire to vote down this amendment, and I urge them to defeat it overwhelmingly.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. REECE].

The amendment was rejected.

Mr. RANKIN. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, may I propound an inquiry of the gentleman from Texas, Chairman of the Interstate and Foreign Commerce Committee? I would like to find out, if I can, how far we are going to read this bill this evening and whether or not there will be a vote on the bill tonight?

Mr. RAYBURN. It is not the intention of the Committee to have a vote tonight.

Mr. RANKIN. If the reading of the bill should be completed this evening, the vote will be postponed until tomorrow?

Mr. SNELL. Mr. Chairman, I cannot hear the gentleman.

Mr. RANKIN. I was asking the gentleman from Texas, Chairman of the Interstate and Foreign Commerce Committee, whether there would be a vote on this bill tonight if the reading of the bill should be concluded, and he said there would not be.

Mr. SNELL. Is that definite?

Mr. RAYBURN. Yes. I have already told several gentlemen we would not have a vote on it this evening. I do not think we will get through reading the bill tonight.

Mr. CONNERY. Right along that line, when we finish the reading of the bill, then in the Committee of the Whole House, comes the question of substituting the House bill for the Senate bill?

Mr. RAYBURN. Yes.

Mr. CONNERY. Does the Chairman of the Interstate and Foreign Commerce Committee intend to have a vote on that proposition tonight?

Mr. RAYBURN. No.

Mr. KNUTE HILL. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman, I want to speak on the subject of regulation, which is in this bill. We have been fighting this proposition in our State for the last 25 years. We have about one-sixth of the potential water power of the entire United States in our State and we are vitally interested in that question. Our people understand the public-utility question very thoroughly, and to show you how they understand it, may I say that when 3 years ago the senior Senator from our State, Mr. BONE, was a candidate for election, he had the Power Trust against him, as he had had for 15 years, yet he received a larger majority in 1932 than did President Roosevelt. That is the way the people in our State stand. In fact, in our State of Washington, if you have the Power Trust and the big daily newspapers against you, you are sure to win. It should be noticed that our Senators voted for the Wheeler-Rayburn bill in the Senate. In our House delegat.on, consisting of six, five voted for the Wheeler-Rayburn bill. So it may be seen by that just how our people stand and how their Representatives vote.

The question of taxation came up about 2 days ago, and I would like to spend just a minute on that matter. The utilities say that they pay a lot of taxes. In a little city in our State, called Puyallup, the question of condemnation came up. They were going to condemn the power site and take it over. An official of the power company under oath said that the valuation of the site and their equipment was $450,000 and that they were receiving good dividends on that valuation. Senator BONE went to the courthouse to find out on what valuation they were paying taxes. Now get this: Whereas under oath it was testified the site was worth $450,000, they were actually paying taxes on a valuation of

$15,000, or one-thirtieth of the valuation placed upon it by an official of the company. The court records show the first statement and the county records show the second statement.

In our State in 1924 the Bone power bill came up. The Northwest Electric & Power Association put out a poster to the effect that if the Bone power bill carried, $300,000,000 worth of valuation would be taken off the tax rolls. In 1929 the average levy in our State was 70 mills. We found that all the utilities in the State, 22 of them, were paying only $661,568. At the rate of 70 mills they were paying on a valuation of $9,450,000. In other words, they were paying on one thirty-first of the valuation claimed by the Northwest Electric & Power Association. When they said they had a valuation of $300,000,000 they were paying taxes on only $9,450,000. And so I could go on down the line and show that they do not pay taxes on the valuation which they place on their properties for rate-making purposes.

May I go a step further? They do not pay the taxes. The consumer, every time he turns on a switch, pays the taxes. I had a letter from one of the men in Washington saying, "That is true, but the wheat farmer passes it on, too, to the consumer." Of course, that is not true of the wheat farmer. He takes what he can get and in the past few years he has not even received the cost of production. But the power companies have a minimum rate in our State and in every other State, and we have to pay that minimum rate and that includes all overhead expenses, including taxes. If we had the Massingale cost-of-production bill, then the wheat farmer might include his overhead expenses also.

As my colleague from Washington [Mr. ZIONCHECK] stated just a few minutes ago, the only way you can regulate the utility companies is by competition from municipally owned utilities. This has been our experience during the past 20 years in Tacoma and Seattle. Rates have come down from 20 cents per kilowatt hour to below 2 cents per kilowatt hour in those cities. Every time the city light has reduced its rates the private companies have followed. And they are still earning profits, otherwise they would go out of business. Squeezing out watered stock and greatly increased volume of business (on account of lowered rates) has made this possible. But in the Yakima Valley and the Inland Empire (Spokane) there is no competition and we pay about four times as high a rate.

We find also that every time there is a threat of public ownership there is a corresponding decrease in rates. This was true in 1924 when the Bone power bill was advocated; again in 1934, when we passed the Bone bill by an overwhelming majority. The substantial decrease in power rates throughout the country mentioned by those supporting the House bill is due alone to the T. V. A. and the Wheeler bill advocated by the President. It is the same old story:

When the devil was sick, the devil a saint would be
When the devil was well, the devil a saint was he!

Two years ago big business and the United States Chamber of Commerce were down here in Washington on their knees begging and pleading with the President and the Congress to save them from ruin. Now, due to our aid, they are on the road to recovery and they are doing their best to prevent a reform that will forever preclude a recurrence of this depression which has so vitally affected every man, woman, and child.

Who pays the bill for the expensive lobbyists here in Washington? The consumer. Who pays for the special-delivery letters to us? The consumer. Who pays for the telegrams, costing hundreds of thousands of dollars? The consumer. I have here an immense post card, 14 inches by 22 inches, similar to others sent to all the Members. It is from a banker in Miami, Fla. But who pays the bill for the printing and stamps to send this propaganda? The consumer.

The only way to stop this propaganda and regulate these operating companies throughout the United States is to carry out the plan of the President by developing Muscle Shoals as a yardstick for southeastern United States; the St. Lawrence-Great Lakes project as a yardstick for northeastern United States; Boulder Dam—and, mark you, it is Boulder Dam—as a yardstick for southwestern United States; and Coulee Dam as a yardstick for northwestern United States. With the development of this water power at reasonable rates 10 times as much power will be used, and both private companies and Government-owned utilities can prosper and serve the people of the United States.

To show the advantage to the people of my State, I quote from a speech by Hon. JOHN RANKIN, of Mississippi, on Friday, May 24, 1935:

WASHINGTON

The people of the State of Washington used 1,576,070,000 kilowatt-hours of electric energy last year, for which they paid the sum of $24,615,571.

Under the T. V. A. rates the cost would have been $12,427,571, a saving of $12,188,000 a year.

Under the Tacoma rates the cost would have been $12,954,571, a saving of $11,661,000 a year.

Under the Ontario rates the cost would have been $9,825,735, a saving of $14,789,836 a year.

Under the Winnipeg rates the cost would have been $10,406,571, a saving of $14,209,000 a year.

The Clerk read as follows:

SEC. 208. Section 17 of the Federal Water Power Act, as amended, is amended to read as follows:

"SEC. 17. (a) All proceeds from any Indian reservation shall be placed to the credit of the Indians of such reservation. All other charges arising from licenses hereunder, except charges fixed by the Commission for the purpose of reimbursing the United States for the costs of administration of this part, shall be paid into the Treasury of the United States, subject to the following distribution: 12½ percent thereof is hereby appropriated to be paid into the Treasury of the United States and credited to 'Miscellaneous receipts'; 50 percent of the charges arising from licenses hereunder for the occupancy and use of public lands, national monuments, national forests, and national parks shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the act of Congress known as the "Reclamation Act", approved June 17, 1902; and 37½ percent of the charges arising from licenses hereunder for the occupancy and use of national forests, national parks, public lands, and national monuments, from development within the boundaries of any State shall be paid by the Secretary of the Treasury to such State; and 50 percent of the charges arising from all other licenses hereunder is hereby reserved and appropriated as a special fund in the Treasury to be expended under the direction of the Secretary of War in the maintenance and operation of dams and other navigation structures owned by the United States or in the construction, maintenance, or operation of headwater or other improvements of navigable waters of the United States. The proceeds of charges made by the Commission for the purpose of reimbursing the United States for the costs of the administration of this part shall be paid into the Treasury of the United States and credited to miscellaneous receipts.

"(b) In case of delinquency on the part of any licensee in the payment of annual charges for a period of 30 days a penalty of 5 percent of the total amount so delinquent may be added to the total charges which shall apply for the first month or part of month so delinquent, with an additional penalty of 3 percent for each subsequent month, until the total of the charges and penalties are paid or until the license is canceled and the charges and penalties satisfied in accordance with law."

Mr. CROSSER of Ohio. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. CROSSER: Page 247, line 11, after the word "lands", strike out the comma.

Page 247, line 12, strike out the words "national monuments" and insert the word "and"; and after the word "forests" strike out the comma and the words "and national parks."

Page 247, line 17, after the word "forests", strike out the comma and the words "national parks" and insert the word "and."

Page 247, line 18, after the word "lands", strike out the comma and the words "and national monuments."

The committee amendment was agreed to.

The Clerk read as follows:

ISSUANCE OF SECURITIES; ASSUMPTION OF LIABILITIES

SEC. 204. (a) No public utility shall issue any security, or assume any obligation or liability as guarantor, indorser, surety, or otherwise in respect of any security of another person, unless and until, and then only to the extent that, upon application by the public utility, the Commission by order authorizes such issue or assumption of liability. The Commission shall make such order only if it finds that such issue or assumption (a) is for some lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant of service as a public utility and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes. The provisions of this section shall be effective 6 months after this part takes effect.

(b) The Commission, after opportunity for hearing, may grant any application under this section in whole or in part, and with such modifications and upon such terms and conditions as it may find necessary or appropriate, and may from time to time, after opportunity for hearing and for good cause shown, make such supplemental orders in the premises as it may find necessary or appropriate, and may by any such supplemental order modify the provisions of any previous order as to the particular purposes, uses, and extent to which, or the conditions under which, any security so theretofore authorized or the proceeds thereof may be applied, subject always to the requirements of subsection (a) of this section.

(c) No public utility shall, without the consent of the Commission, apply any security or any proceeds thereof to any purpose not specified in the Commission's order, or supplemental order, or to any purpose in excess of the amount allowed for such purpose in such order, or otherwise in contravention of such order.

(d) The Commission shall not authorize the capitalization of the right to be a corporation or of any franchise, permit, or contract for consolidation, merger, or lease in excess of the amount (exclusive of any tax or annual charge) actually paid as the consideration for such right, franchise, permit, or contract.

(e) Subsection (a) shall not apply to the issue or renewal of, or assumption of liability on, a note or draft maturing not more than 1 year after the date of such issue, renewal, or assumption of liability, and aggregating (together with all other then outstanding notes and drafts of a maturity of 1 year or less on which such public utility is primarily or secondarily liable) not more than 5 percent of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this subsection shall be the fair market value as of the date of issue. Within 10 days after any such issue, renewal, or assumption of liability, the public utility shall file with the Commission a certificate of notification, in such form as may be prescribed by the Commission, setting forth such matters as the Commission shall by regulation require.

(f) The jurisdiction of the Commission granted in this section with respect to securities shall not extend to a public utility organized and operating in a State under the laws of which its security issues are regulated by a State commission.

(g) Nothing in this section shall be construed to imply any guaranty or obligation on the part of the United States in respect of any securities to which the provisions of this section relate.

(h) The provisions of the Securities Act of 1933, as amended, shall not apply to any security issue which is subject to the jurisdiction of the Commission under this section; and any public utility whose security issues are approved by the Commission under this section may file with the Securities and Exchange Commission duplicate copies of reports filed with the Federal Power Commission in lieu of the reports, information, and documents required under sections 12 and 13 of the Securities and Exchange Act of 1934.

Mr. LEA of California. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Committee amendment offered by Mr. LEA of California: On page 262, lines 8 and 9, strike out the words "The jurisdiction of the Commission granted in this section with respect to securities" and insert the words "The provisions in this section."

The committee amendment was agreed to.

The Clerk read as follows:

SEC. 206. (a) Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that any rate, charge, or classification, demanded, observed, charged, or collected by any public utility for any transmission or sale subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory or preferential the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order.

(b) The Commission upon its own motion, or upon the request of any State commission, whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transmission of electric energy by means of facilities under the jurisdiction of the Commission in cases where the Commission has no authority to establish a rate governing the sale of such energy.

Mr. MASSINGALE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I seek this opportunity to say just a word about this bill due to two or three reasons. I know what the disposition of the bill is going to be, but unusual conditions have prevailed during this hearing to which I wish to call attention; and it occurs to me that the people of the country ought to know the exact attitude of every Member of the Congress on this bill.

Mr. McFARLANE. Mr. Chairman, will the gentleman yield?

Mr. MASSINGALE. Yes.

Mr. McFARLANE. If the gentleman and all the other Members of the House will help us to get a record vote tomorrow when we vote on the question of whether or not we will substitute the House bill for the Senate bill we can get a record vote on that question, and I hope the gentleman and other Members will do this. Those favoring adequate legislation should vote for the Senate bill.

Mr. MASSINGALE. I shall do that; and here is my attitude on the matter: I never saw a condition existing such as we have had during the debate on this bill. Members of this House have got up and abused the President of the United States because of his activities in pushing this matter before the Congress. On the other hand, in the newspapers of Washington, the representatives of the Power Trust or the holding companies have openly assailed him and said they had a right to come before the Congress and give their views without any interference from him.

Now, another thing has occurred. I have the very highest regard for the gentleman from Alabama. I am not censuring him, but I never saw such a turn-over in the Republican Party in my life as that man has caused on the floor of this House. Why, he took a broadside shot into the Republican bunch over there and he winged every darned one of them in his assault on the Democratic attitude on this bill, and I want to condole the Republican Members of this House on the loss of their leader. They deserted the gentleman from New York [Mr. SNELL], and even the Republican candidate for President did not seem able to rally them around himself, and they are now following the leadership of the distinguished and brilliant gentleman from Alabama [applause], and I congratulate them on showing good enough judgment to come to a Democratic leader to see if he cannot help them pull their scheme to bring defeat to the President of the United States in his effort to bring about the passage of this bill.

You know this is a serious matter down in my part of the world. It is a serious matter and it is going to be serious to all of us. I do not give a darn about the political consequences of it. I have lived in the United States for over 60 years and this Congress has been able to get along without me, and I imagine you can get along for another 60 years without me, but I will tell you something. Whenever you reckon on the people of the United States being darn fools, you are badly mistaken. They know what is going on here in Congress and they know the inspiration behind this bill. I am not impugning the motives of anybody, but they know where the power and the pressure is coming from, and I want it understood, whether there is a record vote or not, I am for the Senate provision. [Applause.]

THE PEOPLE'S ENEMY IN AMBUSH

Mr. SABATH. Mr. Chairman, I rise in opposition to the pro forma amendment. I know the gentleman from Oklahoma means well, that he is able, honest, and sincere; but he is wrong when he says that the gentleman from Alabama [Mr. HUDDLESTON], my old friend, whom I loved to hear in years gone by when he worked so earnestly and appealingly against certain great corporations, is today the leader of the Republican Party. I do not think the gentleman from New York [Mr. SNELL] has yielded his leadership.

What has actually happened is that for the time being the Republicans have succeeded in securing the cooperation of the gentleman from Alabama [Mr. HUDDLESTON]. [Applause.]

I regret exceedingly that that able Democrat, who, in the past, has rendered such valuable services to the people of his State and to the country, should not be with us now when we really need him so badly. Well do I remember when he opposed in the most strenuous fashion and with much ability the holding corporations that were then by no means as vicious and powerful as those of the present. I recollect when he, only 2 years ago, bitterly assailed the withdrawal

by foreign corporations of large sums of money from his city, which money found a resting place in Wall Street, the self-same Wall Street that, in the hour of need, has never contributed a single penny to the needy of his large city.

Mr. Chairman, the gentleman from Alabama [Mr. HUDDLESTON], on December 9, 1931, giving his views on President Hoover's policies, stated:

HOW MAY ABSENTEE OWNERS BE CALLED TO DUTY?

The President insists that the Federal Government owes no duty to those who are suffering for food. Then I ask, How are communities which have been exploited by those who reside in distant States, and who have derived the profits out of labor and resources of such communities—how are they to get at these absentee owners and make them do their duty by their idle workers whom they have abandoned to starvation? [Applause.]

Again that same day the gentleman from Alabama expressing his view as to what the thoughtful American would do to remedy conditions, stated:

He would destroy the monopolies which you have fostered. He would strike down the trade barriers which you have built up. He would scatter by lawful and legitimate means the vast concentrations of wealth which it has been your pride to encourage. He would return to a time when real individualism and real democracy would have opportunity.

The gentleman from Alabama, with his usual zeal and persuasiveness, has laid great stress upon the fact that our Government is built upon the theory of checks and balances by and between the legislative, the executive, and the judicial branches; but he failed to mention that at this very time there is a fourth power, a superpower, unanticipated and unprovided for in the Constitution, and that such superpower seems to be fast becoming far more powerful than all the other forces of the great vested interests.

This fourth estate is usurping and exerting, slowly but surely, if I read the times aright, a greater power than the three branches of the Government provided for by the Constitution.

The annual salaries and bonuses of the officials of this supergovernment, salaries ranging from $100,000 to $1,000,000 each a year, each far exceed the compensation of our Chief Executive or each of the Members of our national legislative and judicial branches of government.

Up to a few years ago all these corporations condemned any effort toward governmental regulation. Today, faced by realities and the claims of potential justice, they plead for regulation. Fortunately or unfortunately, experience has proven that we cannot effectively ameliorate or regulate such dishonesty, but not only that they cannot be regulated but that they feel that the House provision which they advocate may be held unconstitutional. That is the underlying reason why they have forced this legislation through the committee and the House. I cannot understand how that important constitutional question has not received consideration by the able gentleman from Alabama [Mr. HUDDLESTON].

Let us tomorrow substitute the Senate bill and demonstrate that we have confidence in our President.

The only way that we can force the release of the iron grasp of these monsters is by elimination. Let us have elimination.

I hear hoorays and cheers on the Republican side. I hear a few Republicans, and especially do I notice the gentleman from Minnesota [Mr. KNUTSON], cheering vociferously behind the rear railing. Why not do so in the open?

Mr. Chairman, I had not intended to take the floor at this time; but in view of the vote taken and the many unwarranted attacks upon the President and those faithfully cooperating with him in the interest of the Nation, I feel that it is my bounden duty, in my humble way, to help to bring about, if possible, a reversal of the vote taken earlier this afternoon. [Applause.]

I feel that the vote to be taken tomorrow is to be of greater importance, save one, than any other vote taken during my long service in this House.

DICTATORSHIP OF PLUTOCRACY

Tomorrow we shall be called upon to say whether we should follow the dictatorship of one of the most destructive and avaricious groups of financiers, whose manipulations from behind the scenes of a previous administration brought ruin to our Nation and despair to the American people generally, or whether we will stand by the most courageous and the most humane President who has ever headed this great Republic. That question faces each and every Member of this House, and he will be called upon to decide it on the morrow. The issue is plain; the responsibility is ours.

Familiar as I am with the heartless, dishonest, corrupt, conspiring, monopolistic, tax-dodging Wall Street financiers on the one hand and the praiseworthy achievements and the great desire of America's greatest humanitarian to save the Nation from the further vile machinations of these avaricious and destructive forces, I shall unhesitatingly cast my vote in favor of the understanding one who has the welfare of the whole people of this country at heart.

I STAND BY THE PRESIDENT

I am 100 percent with President Roosevelt and I do hope that tomorrow I may be able to cast one of the votes whereby the action of the Committee late this afternoon will be reversed and the Senate bill adopted in lieu of the House bill.

Regardless of what some of our misguided Democratic colleagues, and the Republican leaders, who, in and out of season, for years, have been the servants of the special and vested interests that would trip us today, may say, I am satisfied that the intelligent American people will continue to believe in and follow President Roosevelt.

Mr. Chairman, it is to be regretted that this all-powerful corrupt propaganda and lobby have been able to mislead so many Members of the House who in former years consistently remained true to the cause of democracy and the best interests of our people. Some of those Democrats, under the pretense and excuse that they are following the Democratic platform and the principles of the father of democracy, Thomas Jefferson, have seen fit to attack President Roosevelt and his sincere aims and honest efforts to release the suffering people from the clutches of these unscrupulous financiers who, in the first place, devised the scheme of holding companies and who have, through that nefarious plotting, been able to destroy hundreds and hundreds of small companies and corporations and to rob millions upon millions of worthy investors by unloading upon them through clever manipulation and unimaginable conspiracies millions upon millions of worthless shares and bonds of their own controlled corporations and holding companies.

I am sure that if Thomas Jefferson, if Andrew Jackson, if Abraham Lincoln, if Woodrow Wilson were here today, they would join hands with President Roosevelt and march in regular step with him in breaking down these destructive and powerful plunderers.

The pretext of some of those who are allegedly standing by Jeffersonian democracy, judging by a half a century of close observation, will not avail anything. I am impelled to say that their lack of fealty to the President and the humane policies he is advocating will surely come back to plague them in after years.

THE PAST RISES BEFORE US

Mr. Chairman, I recollect the Sixty-first Congress, 25 years ago, when 23 Democrats were misled by the Republicans in the fight against Cannonism, and those Democrats, swayed by a selfish group of special interests then protected by iron rule of Cannonism, voted against the Democratic leadership of Champ Clark, Claude Kitchin, Henry T. Rainey, and others, and, although strong in their districts, they thereafter properly suffered defeat at the hands of outraged constituencies; and I feel that the same fate will befall many of those who now yield to the prevailing temptation and are being led astray by the threats, cajolery, promises, and false representations of the greatest and most powerful lobby that has ever infested our National Capital. I know that most of the gentlemen here are sincere, but, unfortunately, many cannot, apparently, resist these powerful influences at work against the most important features of the pending bill.

Most of you gentlemen are old enough to remember the crash of 1893, the destructive panic of 1907, and all know

what the money-changers did in 1920 and what these men who are here represented by more than 1,500 lobbyists did to the country in shameful fashion in 1929. They are parasites; they are without honor or conscience. They have black hearts and guilty consciences.

They have destroyed many outstanding worthy public men; they have debauched our State officials and legislatures; yes, they have in many instances debauched even our judiciary; they have reduced millions of thrifty, provident, deserving Americans, including widows and orphans, to unjustifiable want; and they are trying to destroy the effectiveness of the greatest deliberative legislative body in the world, namely, the House of Representatives. Did not this self-same group buy two seats in the Senate of the United States for citizens of my own State and of Pennsylvania? That same group is here in full force, and are endeavoring by every conceivable and inconceivable method to have us do their bidding; that is to say, prevent the adoption of pending legislation that aims to eliminate the holding companies. They are even using thousands of unfortunate stockholders whom they have robbed and betrayed to influence us under the pretext that by the abolishing of holding companies they may suffer a loss.

It is unbelievable to what extent they will go and how brazen they are in their efforts. During the consideration of this bill I have received thousands of letters and telegrams, in one instance, the 18th of June, I received 186 telegrams against the Senate bill—all sent from one office, at the same hour, yes, the same minute, under fictitious names, and bearing no addresses. I wonder whether these imposed upon, defrauded stockholders and bondholders, whose interests they claim to be protecting, paid any part of this cost of propaganda.

Mr. Chairman, I have listened with great attention to these advocates for the salvation of these indefensible holding companies, yet I did not hear one make bold enough to defend the nefarious, dishonest practices of the object of their solicitude.

As in every such campaign, in this campaign an epigrammatic phrase has been coined in the headquarters of the utilities companies to impart another unwarranted shudder to the unfortunate. That phrase is, of course, "death sentence." Now we of experience at once identify that phrase as the product of a highly paid rhetorician in the headquarters of the utilities companies.

THE "DEATH SENTENCE"

How about the "death sentence" that many worthy men and women were meted out when they were swindled out of their life savings by these self-same pleaders that are here today? Memory of the many suicides attendant upon the dastardly manipulations of these special advocates before us today is still green.

The truth is that shareholders and bondholders will not suffer by the adoption of the Senate bill, which will prevent the holding companies from continuing their reprehensive, dishonest operations. I am convinced, after mature consideration, that the adoption of the Senate bill would be a real benefit to the shareholders and bondholders.

I recollect the time the Supreme Court of the United States forced the Standard Oil Co. to dissolve; when the packing interests were forced to divorce themselves from certain activities; when railroads were required to divest themselves of certain property. The allegation then, as now, was that the dissolutions would cause loss and ruin to shareholders and bondholders; but that is exactly what did not happen. In no instances did a shareholder or a bondholder suffer by reason of those dissolutions.

Some Republican Members claim that the State commissions and the "blue sky" laws can and will provide reasonable rates and regulations for utility companies. I want to call to their attention that in a majority of the States these all-powerful men controlling the holding companies have been able to prevent, through bribery and tremendously large campaign contributions, proper action by State commissions and other regulatory bodies.

Nobody has yet given and nobody can give an honest and fair reason why these holding companies should continue to mulct and rob millions of consumers and investors.

Therefore, I ask what reason any Member will be able to give to his constituents when asked why he voted to perpetuate the holding companies in their grasp of the absolute necessities of the Nation? I repeat, I wish I possessed the power and the force of language to bring home to all of you the transcendent seriousness and importance of the impending vote.

The line of demarcation, ladies and gentlemen, is clearly drawn. Shall we follow these avaricious, heartless, soulless financiers and bankers or follow the one who really and unselfishly has the best interests of all the people at heart, and whose duty it is, as it is also our duty, to promote and maintain the common welfare of the whole people, the President of the United States?

SHALL CONGRESS BE FREE?

Again, shall the Congress of the United States remain an independent, virile body or shall it be placed under the control and domination of these special interests who have been responsible in such a very large degree for the country's unhappiness and misery? Many governments have suffered bloodshed in efforts to effect a betterment of their peoples, yet we have, under the leadership of our great, fearless President, fortunately worked out our plans for the common welfare without bloodshed; but what the result might be, with millions of willing workers deprived of labor, if the long-suffering people of this Nation should in large numbers conclude that we have yielded to the pressure and the power at this crucial moment of the designing Wall Street manipulators and malefactors, nobody can tell.

Regardless of the continuous and combined attacks of the vested interests and the Republican leaders, aided by the erstwhile Democratic leaders who originally opposed President Roosevelt's candidacy and who have opposed every constructive and helpful measure advocated by him, I am satisfied that the vast majority of the American people do appreciate the President's courageous, honest, and unselfish efforts to improve conditions; that they will continue to aid and trust him and will again by an overwhelming vote, as in 1934, prove that confidence in him. [Applause.]

The Clerk read as follows:

USE OF JOINT BOARDS; COOPERATION WITH STATE COMMISSIONS

SEC. 209. (a) The Commission may refer any matter arising in the administration of this part to a board to be composed of a member or members, as determined by the Commission, from the State or each of the States affected or to be affected by such matter. Any such board shall be vested with the same power and be subject to the same duties and liabilities as in the case of a member of the Commission when designated by the Commission to hold any hearings. The action of such board shall have such force and effect and its proceedings shall be conducted in such manner as the Commission shall by regulations prescribe. The board shall be appointed by the Commission from persons nominated by the State commission of each State affected, or by the Governor of such State if there is no State commission. Each State affected shall be entitled to the same number of representatives on the board unless the nominating power of such State waives such right. The Commission shall have discretion to reject the nominee from any State, but shall thereupon invite a new nomination from that State. The members of a board shall receive such allowances for expenses as the Commission shall provide. The Commission may, when in its discretion sufficient reason exists therefor, revoke any reference to such a board.

(b) The Commission may confer with any State commission regarding the relationship between rate structures, costs, accounts, charges, practices, classifications, and regulations of public utilities subject to the jurisdiction of such State commission and of the Commission; and the Commission is authorized, under such rules and regulations as it shall prescribe, to hold joint hearings with any State commission in connection with any matter with respect to which the Commission is authorized to act. The Commission is authorized in the administration of this act to avail itself of such cooperation, services, records, and facilities as may be afforded by any State commission.

(c) The Commission shall make available to the several State commissions such information and reports as may be of assistance in State regulation of public utilities. Whenever the Commission can do so without prejudice to the efficient and proper conduct of its affairs, it may upon request from a State make available to such State as witnesses any of its trained rate, valuation, or

other experts, subject to reimbursement to the Commission by such State of the compensation and traveling expenses of such witnesses.

Mr. COLE of Maryland. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Amendment by Mr. COLE of Maryland: Page 269, after line 23, add the following: "All sums collected hereunder shall be credited to the appropriation from which the amounts were expended in carrying out the provisions of this subsection."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

RATES OF DEPRECIATION

SEC. 302. (a) The Commission may, after hearing, require licensees and public utilities to carry a proper and adequate depreciation account in accordance with such rules, regulations, and forms of account as the Commission may prescribe. The Commission may, from time to time, ascertain and determine, and by order fix, the proper and adequate rates of depreciation of the several classes of property of each licensee and public utility. Each licensee and public utility shall conform its depreciation accounts to the rates so ascertained, determined, and fixed. The licensees and public utilities subject to the jurisdiction of the Commission shall not charge to operating expenses any depreciation charges on classes of property other than those prescribed by the Commission, or charge with respect to any class of property a percentage of depreciation other than that prescribed therefor by the Commission. No such licensee or public utility shall in any case include in any form under its operating or other expenses any depreciation or other charge or expenditure included elsewhere as a depreciation charge or otherwise under its operating or other expenses. Nothing in this section shall limit the power of a State commission to determine in the exercise of its jurisdiction, with respect to any public utility, the percentage rate of depreciation to be allowed, as to any class of property of such public utility, or the composite depreciation rate, for the purpose of determining rates or charges.

(b) The Commission, before prescribing any rules or requirements as to accounts, records, or memoranda, or as to depreciation rates, shall notify each State commission having jurisdiction with respect to any public utility involved, and shall give reasonable opportunity to each such commission to present its views, and shall receive and consider such views and recommendations.

Mr. PETTENGILL. Mr. Chairman, I move to strike out the last word. I take this opportunity to pay my personal compliment to the chairman of our committee, the gentleman from Texas, Mr. RAYBURN, and the other members of the committee.

This bill, with the exception of a tariff bill, has received longer and more painstaking attention than any bill before Congress during the experience of our legislative counsel, which covers a great many years. The hearings lasted 9 weeks. We went into executive session on the 2d of May. We had executive sessions, meeting morning and afternoons for 8 weeks more.

I rise to say in his presence, that the chairman of our committee has proved himself through these long, wearisome, and painstaking sessions a gentleman of the finest quality. [Applause.] Working under terrific pressure as he did day after day, worn out as he was, he never in the deliberations of the committee permitted anything to escape his lips which was unkind or unfair to those who disagreed with him, and that is the kind of man I like to work with. It must be a source of lifelong satisfaction to him to remember that as the Chairman of the Interstate and Foreign Commerce Committee he has engineered three great bills through this House in the last 2 years, the stock-exchange bill, the securities bill, and the present bill, without, in respect to any one of them, an important change being made which was not recommended by the committee itself. [Applause.]

The Clerk read as follows:

SEC. 305. (a) It shall be unlawful for any officer or director of any public utility to receive for his own benefit, directly or indirectly, any money or thing of value in respect of the negotiation, hypothecation, or sale by such public utility of any security issued or to be issued by such public utility, or to share in any of the proceeds thereof, or to participate in the making or paying of any dividends of such public utility from any funds properly included in capital account.

(b) After 6 months from the date on which this part takes effect, it shall be unlawful for any person to hold the position of officer or director of more than one public utility or to hold the position of officer or director of a public utility and the position of officer or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or officer or director of any company supplying electrical equipment to such public utility, unless the holding of such positions shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby. The Commission shall not grant any such authorization in respect of such positions held on the date on which this part takes effect, unless application for such authorization is filed with the Commission within 60 days after that date.

Mr. BURDICK. Mr. Chairman, I regret that I have to take advantage of a parliamentary situation in order to express my views on this subject. I am a poor prophet, but I say right now that this, in my opinion, is the last Congress when the time is going to be equally divided between the two parties, because it has been demonstrated in this Congress so far, and especially in this last vote, that there is no difference between the two parties when it comes to a great question affecting the American people. Under the rules of this House if I were to get any time at all, being classified as a Republican, I must go to the committee that has the time in charge. I have gone repeatedly to get time and to the Chairman of the Committee of the Whole, but I have not been given any time. When the next Congress convenes, in my humble judgment, there will be a party in this Congress that will be entitled to time of its own.

Here is all that I wanted to say. I wanted to ask a few questions, because I belong to no party, to no organization that compels me to vote for or against this bill. I wanted to inform myself upon the matters in the bill, that is all. I wanted to ask these questions and at this time I ask permission to print in the RECORD these questions as a part of my remarks.

The CHAIRMAN. Without objection it is so ordered. There was no objection.

Mr. BURDICK. I have been questioned here as to whether I want to stand as a Republican with the President or against the President. Reporters have called me up and asked how I voted this afternoon. I am not ashamed of the way I voted. I voted my convictions, and as a Republican I voted to support the President of the United States on this question. [Applause.]

Here is what I wanted to ask. Is it not true that there has been enormous shrinkage in the value of utility stocks generally since 1929 and that this shrinkage has amounted to almost $14,000,000,000? The investment in this stock is practically gone. How in the name of God can this Congress destroy property when it is already gone? Who is responsible for losing it? Nobody is responsible for it except the holding companies themselves. High salaries, unconscionable prices paid for utilities, attorneys' fees have sapped the vitality of these companies and lost the investment of these people. I do not care whether you adopt this amendment of the Senate or any other amendment. I say to you that the property of these men and women who own this stock in America has gone, regardless of what this Congress does. Why send telegrams to me from New York by the hundreds? What for? When we wanted a bill in this Congress to support and finance the farmers, with 45 Members from New York, how many of them tried to help the farmers' organization? Only 4 out of 45.

But when this utility bill came up I received telegrams by the hundreds from New York. That in itself ought to be sufficient evidence that the thing is wrong. We cannot save the losses to innocent investors in utility stock from what has been done, but we can prevent a repetition of the same thing in the future.

The questions to which I referred are as follows:

First. Is it not true that there has been an enormous shrinkage in the value of utility stock, generally, since 1929, and that this shrinkage amounts approximately to $14,000,000,000 on an investment of sixteen billion?

Second. Regardless of whether this Congress adopts what is termed the "death-sentence clause" adopted by the Senate, or whether it does not, is there any assurance that the present holders of stock will ever be paid more than the mere trifle represented by its present market value? In other words, are those holders not already doomed to a complete loss, without any congressional action?

Third. How can we prevent holding companies in the future from repeating what they have already done, unless you make a holding company unlawful? In other words, if we do not adopt the "death sentence" clause, how can we prevent these companies from continuing to pay unconscionable salaries and other expenses and thus making the stock not only unprofitable but finally valueless?

Fourth. If we pass the Senate amendment to section 11, will we injure a few people by making their property interest in the holding companies of less value? If we do not pass the Senate amendment will we not be contributing to the injury of all the people by permitting further sales of utility stock?

Fifth. Is 7 years too short a time in which present holding companies may wind up their business and cease operations?

Sixth. If, as has been repeatedly stated here on the floor, common stock, generally, is now of no particular value, as evidenced by market quotations, how can it be said that any action by Congress will destroy property?

Seventh. Has not that property already been destroyed by the holding companies themselves, in paying out unconscionable salaries, unwarranted considerations for private plants, and unnecessary and lavish general expenditures?

Eighth. Is not this situation that which the Congress is now trying to prevent in the future?

Ninth. Can we properly safeguard the American people by mere regulation?

The Clerk read as follows:

SEC. 318. If, with respect to the issue, sale, or guaranty of a security, or assumption of obligation or liability in respect of a security, the method of keeping accounts, the filing of reports or the acquisition or disposition of any security, capital assets, or facilities, any person is subject both to a requirement of the Public Utility Holding Company Act of 1935 or of a rule, regulation, or order thereunder and to a requirement of this act or of a rule, regulation, or order thereunder, the requirement of the Public Utility Holding Company Act of 1935 shall apply to such person, and such person shall not be subject to the requirement of this act, or of any rule, regulation, or order thereunder, with respect to the same subject matter, unless the Securities and Exchange Commission has exempted such person from such requirement of the Public Utility Holding Company Act of 1935, in which case the requirements of this act shall apply to such person.

Mr. WOODRUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment by Mr. WOODRUM: At page 292, title II, line 15, amend section 318 by inserting between section 318 and the word "If" "a", and add after line 6, page 293, subsection (b) to read as follows:

"(b) If, with respect to the issue, sale, or guaranty of a security, the method of keeping accounts, the filing of reports, or the valuation, acquisition, or disposition of any security, capital assets, or facilities, or any other requirement of this part or the next preceding part, or of any rule, regulation, or order thereunder, any person is subject to the law of any State or regulation by a State commission, such person shall not be subject to the requirements of this part or the next preceding part, or of any rule, regulation, or order thereunder with respect to the same subject matter."

Mr. WOODRUM. Mr. Chairman, I think this amendment is merely a clarifying amendment, but I think it is absolutely necessary that it should be adopted.

It has been repeatedly stated by sponsors of this legislation—and I mean by "this legislation" either the committee amendment or the Senate bill—that the bill is not intended to interfere with the right of any State to regulate business within its borders, but simply to supplement State regulation where it is necessary. In fact, it is stated in the declaration of policy in part II of the bill that its purpose is to extend only to those matters which are not subject to regulation by the States.

Now, if that is the clear intent and policy of the bill, it is not thought by many students of this legislation that the bill does protect State jurisdiction to that extent. The Association of State Utility Commissioners has made quite a careful study of the matter and I think I may say without contradiction that every State utility commission, practically, feels that unless this amendment is adopted, their jurisdiction over matters purely within their own borders is going to be seriously affected and interfered with.

I do not want to consume unnecessarily the time of the House. The amendment has been printed in the RECORD and I hope the committee will feel it can agree with the amendment. It will strengthen the bill and, in my judgment, will gain support for its ultimate passage in the House. Many Members have expressed interest in this amendment. I want to express very earnest hope that the committee will see fit to adopt and write it into the bill.

Mr. LEA of California. Mr. Chairman, I most sincerely hope this amendment will not be adopted. It would largely destroy the usefulness of the Federal regulation this bill gives to the Federal Power Commission. We cannot have effective regulation unless we give that Commission the power to get information and give it control over accounts and valuations. The amendment offered by the gentleman from Virginia [Mr. WOODRUM] would destroy effective control over the accounts and over depreciation accounts in particular of these utility companies. It would compel the Federal Government to accept State valuations, made in some instances without adequate information and sometimes in total disregard of the rights of the people of other States whose interests, rates, investors, and consumers are involved.

One of the main difficulties in regulatory control from which we have suffered in the last few years has been lack of an accounting system that was faithful to the facts. A vote for this amendment will be against improving this deplorable situation. A common practice has been to use depreciation accounts to conceal profits, to conceal losses, and to entirely misrepresent the status of a company to people who might be interested. This committee has been more than kind to the State commissions in the provisions of this bill.

I hold in my hand a communication from the solicitor general of the National Association of Railroad and Utility Commissioners of the United States, of which I understand every State public utility in the United States is a member. This is the group to which the gentleman from Virginia just referred. After a review of what this bill does, speaking for this association of State utility commissioners, their solicitor, Mr. Benton, says:

As a result, this bill, which may have been destructive to State powers, will, if passed with the provisions affecting State regulation unchanged in the form in which reported by the committee, fortify and strengthen State regulation and afford State commissions valuable aid in their regulatory powers.

I believe that no bill in recent years has been presented to the House which gives greater consideration to State utility commissions in the performance of their duties.

Mr. COLE of Maryland. Will the gentleman yield?

Mr. LEA of California. I yield.

Mr. COLE of Maryland. Is it not a fact that this very amendment was offered in the main committee and also in the subcommittee and was fully considered and rejected? Is it not also true that, aside from requiring a uniform accounting and depreciation system by public utilities subject to this bill, every right of the States had been fully preserved by this bill?

Mr. LEA of California. That is true. No rights are taken away from State commissions to exercise their control of intrastate utilities. This bill simply gives the Federal power commission authority to require compliance with a uniform

accounting system and one which will give a full and faithful report of the facts. The amendment of the gentleman from Virginia would make that impossible. I should like to call attention to this fact, which may have been confusing to Members: Wherever there is a generating plant, it is in a State; if it is a transmission line, it is in two or more States. Every facility involved is in some State. If all control in each State is left to the State alone, then we can have no effective Federal regulation.

We have quite a variety of laws and regulations in the States, some good, some bad, some utterly indifferent, some applying to certain subjects and not to others. So if we adopt the amendment offered by the gentleman from Virginia, the effect will be that for the purposes of Federal regulation we will adopt the poorest standards in the United States for valuation, for instance, for control of accounts, and for reports on which the commission must depend as a basis for its action.

So I sincerely hope the Members of the House who are about to pass a bill that will tend greatly to remedy the evils that have been inflicted upon the country in recent years will not in the closing sections of this bill adopt an amendment which will cripple the usefulness of the Federal power commission in attempting to carry on the important work we are about to assign it.

[Here the gavel fell.]

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Virginia.

The question was taken; and on a division (demanded by Mr. MOTT)—there were ayes 96, noes 43.

Mr. LEA of California. Mr. Chairman, I ask for tellers.

Tellers were ordered, and the Chair appointed as tellers Mr. WOODRUM and Mr. LEA of California.

The committee again divided, and the tellers reported that there were—ayes 98, noes 42.

So the amendment was agreed to.

The Clerk read as follows:

SHORT TITLE

SEC. 320. This act may be cited as the "Federal Power Act."

Mr. CROSSER of Ohio. Mr. Chairman, I ask unanimous consent to return to page 229 for the purpose of offering an amendment.

The Clerk read as follows:

Mr. CROSSER of Ohio offers the following amendment: Page 229, line 11, after the word "person", add a comma and the following: "State or municipality."

Page 229, line 13, strike out the words "of such person" and insert the word "thereof" in lieu thereof.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WOLFENDEN. Mr. Chairman, I object.

Mr. CROSSER of Ohio. Will not the gentleman reserve his objection?

Mr. WOLFENDEN. Mr. Chairman, I reserve my objection for the time being.

Mr. COOPER of Ohio. Mr. Chairman, may I ask the gentleman from Ohio the purpose of his amendment?

Mr. CROSSER of Ohio. There was a change in the definition of the term "licensee" which left out the words "State or municipality." The law at the present time covers this very situation, but the change is suggested in order to simplify it. As for the second amendment, the language of the bill reads "of such person." My amendment substitutes for this the word "thereof", in order to refer back; that is all there is to it.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. WOLFENDEN. Mr. Chairman, I object.

Mr. CROSSER of Ohio. Mr. Chairman, I ask unanimous consent to return to page 253, line 10, for the purpose of offering an amendment.

The Clerk reads as follows:

Amendment offered by Mr. CROSSER of Ohio: Page 253, line 10, after the word "repealed" change the period to a colon and add the following: "*Provided*, That nothing in that act, as amended, shall be construed to repeal or amend the provisions of the amendment to the Federal Water Power Act approved March 3, 1921 (41 Stat. 1353), or the provisions of any other act relating to national parks and national monuments."

Mr. WOLFENDEN. Mr. Chairman, I object.

Mr. CROSSER of Ohio. Will not the gentleman withhold his objection?

Mr. WOLFENDEN. Mr. Chairman, I reserve my objection, to permit the gentleman to make an explanation.

Mr. CROSSER of Ohio. The purpose of this amendment is to clarify the language of the bill; and this is the law now. The national parks organization wants to make sure that the bill does not infringe upon their preserve, so to speak. We are offering this at their request. This is not anything at all technical. The national parks organization thinks it would be helpful to have a provision in the bill distinguishing between the national parks and the Federal power commissions.

Mr. WOLFENDEN. Mr. Chairman, I withdraw my objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio.

The amendment was agreed to.

Mr. RAYBURN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose, and the Speaker having resumed the chair, Mr. WARREN, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill S. 2796, the Public Utility Act of 1935, had come to no resolution thereon.

WATERWAY DEVELOPMENT IN FLORIDA

Mr. GREEN. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GREEN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to include at this point statements on waterways development in Florida.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GREEN. Mr. Speaker and Members of the House, the most worthy and most important waterways development in our country today is the construction of a steamship canal across northern Florida. I have recently addressed my constituents on this subject as follows:

*To the citizens of Clay and Duval Counties:*

We extend to Clay and Duval Counties a hearty welcome into the Second Congressional District. Jacksonville is our great State's metropolis and affords a market for hundreds of thousands of dollars' worth of the farm products from the other counties of our new Second Congressional District. It also furnishes a wholesale and retail distribution center and purchasing center for the rural counties. A splendid common interest exists between each of the 16 counties comprising our new district. I shall do all within my power to efficiently represent every person and economic interest in our new district. My actions will be guided by the expression of your views. Your suggestions on all questions are invited. We regret extremely to lose Marion and Jefferson Counties from our district. Our friends in these countries have been faithful and loyal and have cooperated for the best interest of the district and the State of Florida.

STEAMSHIP CANAL ACROSS NORTHERN FLORIDA

I am convinced that a steamship canal across northern Florida is the most important project now under consideration by the Roosevelt administration. I have labored incessantly for this project ever since my first election to Congress more than 11 years ago. Very recently I have held a final series of conferences with the White House, the Secretary of the Interior—who is the Public Works Administrator—the Federal Relief Administrator, members of the Board of United States Army Engineers, and also members of the National Emergency Council. I now have no hesitancy in predicting that actual construction will begin on this great

artery of commerce within the very near future. It will mean more to the States of the lower Mississippi Valley, the States of the Southeast, and surely to Florida, than any public improvement which has ever been accomplished in these regions. It will cut in half the transportation costs now paid by Florida producers and consumers and at the same time it will more than double tonnage which is now being hauled by all common carriers in the Southeast. It will cause general prosperity in Florida, which will go on without serious interruption for a half century. It will go down in history as the outstanding achievement of the Franklin D. Roosevelt administration. The canal will be named for President Roosevelt. I am indeed happy to have been placed in a position by my constituents where I could effectively work during the past 10 years for a public improvement of such great magnitude and general importance. I credit my faithful and loyal constituents with such progress as has been thus far made on the project. I quote from editorial appearing in the Fort Myers News-Press under date of July 10, 1935. Needless for me to advise that this paper has been consistently and adversely critical of me and my efforts. It is as follows:

Except for Congressman GREEN, who has waxed himself hot for the canal across Florida because the proposed route touches a couple of counties in his district, the Florida delegation in Washington has never given this project more than superficial lip service. Congressman PETERSON favored it with an occasional nod for the benefit of Citrus County, and Congressman WILCOX, with Jacksonville in his district, had to have a kind word for it. Congressman SEARS, representing the State at large, has been for all kinds of waterways, here, there, and everywhere, leaving out Congressman CALDWELL, of the west Florida district, without a direct interest.

However, this interest has been somewhat changed by the recent redistricting. Citrus County is gone from Congressman PETERSON'S list, leaving him free to devote himself to the objections which agricultural central Florida now raises. Jacksonville has been cut off from Congressman WILCOX, so that he no longer has to act as though he believed the up-State canal was more than a lot of bunk. GREEN and SEARS will probably continue to sound off because they will both have to run in counties having canal votes. However, the fifth, where SEARS may land, is the area principally alarmed by the possible effect on agriculture and this doubt, as expressed at the Sanford meeting, is enough to calm down candidates for Congress from that region.

Neither United States Senator has been particularly enthusiastic for the canal, though both have gone through the motions of supporting it. In view of this apathy, it is surprising that the project has gained as much support in Washington as it appears to have. The promoters frequently quote President Roosevelt as actively interested, and that may be true. If so, it explains the only reason why such a crazy idea as a ship canal through that part of Florida should find a place in the realm of possibility.

The following is taken from a story written by the Washington correspondent of the Atlanta Journal and carried in the Journal during May 1935. It shows growth of canal sentiment as follows:

Congressman GREEN, active, alert, energetic, has just about "stolen" the play from Georgia in the matter of the oft-discussed canal, from the Atlantic to the Gulf.

Originally, you remember, and from time immemorial, the projected route of this canal was via the St. Mary's River, the Okefenokee Swamp and the Suwannee River. Most of it in Georgia, see?

Well, Congressman GREEN has worked out a new route, all of it in Florida, and you'd be surprised at the strength he has developed in Congress for the all-Florida Canal. He is, indeed, regarded as the best authority in Washington on the canal, and has made one or two speeches in the House on the subject—speeches illustrated with charts and graphs and maps that make the enterprise look astonishingly simple.

There appeared in the Ocala Star recently a very kind editorial relative to the canal, as follows:

NEW FIFTH DISTRICT

"Creation of the new Fifth Congressional District, to be composed of 16 counties in the north-central portion of the State, places Marion County in the new grouping and severs relations, in a congressional sense, between Marion and those counties in the former Second District represented by Congressman R. A. GREEN.

While sentiment here has largely favored creation of the new district along the lines laid down in the Ward-Banks bill, which was enacted into law, many expressions of regret have been heard that the new enactment throws Congressman GREEN into the new district composed of a group of northeast counties, including Duval.

Congressman GREEN has many friends in Marion County, as was attested by his flattering victory over two opponents in the 1934 election. They regret that the new congressional grouping will sever the pleasant, helpful associations of the past; they are not unmindful that their Congressman has been a persistent, consistent, and unfaltering advocate of the cross-State canal project, which now seems so near fulfillment, and accord him all the credit his services in advancing the waterway project merit. Mr. GREEN'S friends in the old Second District can only hope that his constituents in the new Second District will show full appreciation of his efforts in behalf of the canal when the time again comes for him to put his political fortunes to the test.

For your further information, only as part of the canal's history, there is included herewith an editorial carried in the St. Augustine News, under date of May 25, 1935. The Honorable Tom W. Little is owner and publisher of this paper. The editorial follows:

CONGRESSMAN R. A. GREEN SEES A GREAT BENEFIT TO FLORIDA AND THIS COUNTRY IN BUILDING FLORIDA CROSS-STATE CANAL

The people of Florida certainly should feel more than kind toward Representative R. A. GREEN, of Starke, who never permits an opportunity to go by when he can do something good for his State.

Take the matter of the cross-State canal; no other person has been so persistent and insistent upon gaining the approval of the Government for ultimate building of this much-needed water route for speeding up commerce and communications between the different parts of the Nation.

It was Congressman GREEN who introduced the bill to construct a canal across Florida, and he has been zealous in his efforts to push on to completion this important piece of legislation.

Hundreds of times the Congressman has traveled miles to put in a word or make an address to different gatherings, official and unofficial, and it is not being done for any individual gain or thought of any accruing prosperity to any group—the State of Florida and the Nation are its sole benefactors.

There is little more that can be said upon the merits of the canal, because it has been given such wide publicity and has been given endorsements by commercial and public bodies and individuals; it has almost become a byword in official circles. Wherever one may travel east of the Mississippi River, the proposed Florida cross-State canal is a familiar subject.

Mr. GREEN is continually giving every angle of the canal to his constituents, and he has unbounded faith in its early construction.

Aside from the good accruing to commerce there is an urgent local need for its construction as a relief measure.

It is estimated that 25,000 men would be given work at good pay for a period of 5 to 6 years through the building of the canal.

This one project would be the means of providing food and clothing for many thousands of people in this and adjoining States. A benefit that would be lasting and meritorious.

The finished canal would enable a quickening of ocean commerce that would mean saving in time and money that is hard to estimate.

The completed canal ready to carry the battle squadrons of this Nation, could easily be the saving in the element of time to defeat an enemy and save the Nation.

The price of constructing the canal is estimated from $125,000,000 to $200,000,000, which is a mere pittance in fighting against time in repelling attacks that are certain to come to our country from hostile people, because of our continued growth in wealth and power and last, but by no means least, is our ever tightening of the immigration laws.

Not being immune from attacks it should behoove our national authorities to assume the role of benefactors and cut loose from prevailing practices and build the canal as a line of defense.

The world may be growing better much faster than we expect but the greatest factor in peace is to be prepared to demolish an enemy instantly.

The path to peace since time began is strewn with the dead and dying and when we are prepared and ever-ready to deal a telling blow instantly no nation or group of nations would care to feel our wrath.

Congressman GREEN may rightly be termed "the Lone Wolf" on watch along the Florida front which is today the easiest point of attack in approaching the United States.

The cross State canal will become first line of defense.

The Democratic membership of the House has been kind enough to assign me on the powerful Committee on Rivers and Harbors, also on the Committee on Flood Control, and also as Chairman of the Committee on Territories. The latter is the only House chairmanship which Florida holds.

I trust you will take time to read a speech which I made, on the subject of the canal, before the House of Representa-

tives on February 14, 1935. It outlines in part the history of the development of this great project.

ADDITIONAL CIRCUIT JUDGE FOR NINTH JUDICIAL CIRCUIT

Mr. MONTAGUE submitted a conference report on the bill (H. R. 5917), to appoint an additional circuit judge for the ninth judicial district.

OBSOLETE PUBLICATIONS

Mr. LAMBETH. Mr. Speaker, I ask unanimous consent for the immediate consideration of Senate Concurrent Resolution 17.

The Clerk read the resolution, as follows:

Concurrent resolution

*Resolved by the Senate (the House of Representatives concurring)*, That a statement of certain noncurrent and obsolete publications now in the folding rooms of the Senate and House of Representatives, respectively, shall be prepared by the Sergeant at Arms of the Senate and Doorkeeper of the House of Representatives, respectively, and submitted to the Joint Committee on Printing, which is hereby authorized to dispose of the same in the following manner:

First. A printed statement of such publications shall be submitted to each Senator, Representative, Delegate, Resident Commissioner, and officer of the Senate and House of Representatives, and any Member or officer of either House having any of such publications to his credit may dispose of the same in the usual manner at any time before September 1, 1935.

Second. Upon the expiration of the aforesaid time the Joint Committee on Printing shall furnish to all members of the Senate and House of Representatives, respectively, as promptly as practicable, a list of the publications herein referred to then remaining in the folding rooms, and thereupon such publications shall be subject to the order of any Senator, Representative, Delegate, or Resident Commissioner, in the order in which they are applied for, for a period of 30 days after the day when such list shall be furnished by the Joint Committee on Printing, but no application for the transfer of these publications may be honored.

Third. The Joint Committee on Printing shall furnish a list of all such publications remaining in the folding room at the expiration of the last-named period to the various departments, independent offices, and establishments of the Government at Washington, including the Superintendent of Documents, Smithsonian Institution, Library of Congress, National Archives Establishment, Bureau of American Republics, and the Commissioners of the District of Columbia, and such publications shall be turned over to any department, independent office, or establishment making written request therefor and shall be allocated in the order in which their application is made, and all such publications which shall remain in the folding rooms for a period of 10 days after such list shall have been furnished to the departments, independent offices, or establishments aforesaid shall be delivered to the Superintendent of Documents, Government Printing Office, for such disposition as he may deem to be to the best interests of the Government.

Fourth. No publication which is described in the list aforesaid shall thereafter be returned to the folding rooms from any source.

The SPEAKER. Is there objection to the consideration of the resolution?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE DEATH SENTENCE ON UTILITY HOLDING COMPANIES

Mr. DITTER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. DITTER. Mr. Speaker—

The more democratic a people is, the more is it necessary that the individual be strong and his property sacred. We are a nation of sovereigns, and everything that weakens the individual tends toward demagogy; that is, toward disorder and ruin. A free country is a country where each citizen is absolute master of his conscience, his person, and his goods. If the day ever comes when individual rights are swallowed up by those of the general interest, that day will see the end of Washington's handiwork; we will be a mob and we will have a master.

This quotation from Laboulays has peculiar significance today. They are solemn words of warning to which all of us should give heed. The issue before us is not confined to the question of destroying or not destroying utility-holding companies. It far transcends that question. The issue is whether the right of private property shall continue to be a personal right or whether that personal right can be ruthlessly, arbitrarily, and wantonly confiscated and destroyed by governmental agencies.

Personally I can see no difference between the act of a governmental agency destroying and making worthless the shares of stock of a holding company purchased by a resident of my district as an investment and looked upon by the owner as his or her property, and the act of a governmental agency in seizing the homestead of another resident and destroying it without just compensation. Will those in the House who today are advocating the annihilation of the holding companies with the inevitable loss to the common stockholders of their savings and investments sponsor the further extension of power to include the seizure and destruction of other forms of property rights enjoyed by our people?

If the act in the one case is justifiable, then the second act follows as a natural sequence. I cannot subscribe to this doctrine as an American principle. I cannot reconcile it with that which I have always considered as a fundamental of Anglo-Saxon liberty. I cannot support it as a program for the future well-being of constitutional democracy.

No one has attempted to defend the abuses which have crept into the utility-holding company field. They should be corrected. We should have regulation, but we shall not get far toward a solution of our problem by a policy of ruthless destruction. We should be engaged today in building—not demolishing. There have been critics in all fields of endeavor whose chief purpose has seemed to be to inventory evils and ills and whose chief delight has seemed to be to parade before the populace in a spirit of hypocritical righteousness the sins of omission and commission of others. "He that is without sin among you, let him first cast a stone" were the words which silenced the tirade of fault finders in days gone by. What we should be most interested in and concerned about is trying to find a common meeting ground, a place where a spirit of understanding and tolerance can prevail, a place where mistakes will be acknowledged and corrections required, a place where improvements can be anticipated and expected, and that place can surely be found under a regulatory system. It will never be found among the torn and dismembered remains of a traditional American ideal—the inviolate right of private property.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. BROWN of Michigan, for 1 week, on account of illness in family.

TOWARD AN ABUNDANT ECONOMY—NATIONAL SURVEY OF POTENTIAL PRODUCT CAPACITY SHOWS AN AVERAGE INCOME OF $4,370 PER FAMILY NOW POSSIBLE IN THE UNITED STATES

Mr. SCOTT. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. SCOTT. Mr. Speaker, a Government survey completed recently has such important implications for our people and civilization that I shall risk your indulgence by summarizing its content.

It is called the National Survey of Potential Product Capacity and was set up over a year ago by the Civil Works Administration under the sponsorship of the New York Housing Authority. The engineers and economists who are in charge recently published The Chart of Plenty (Viking Press), which Charles Beard, America's eminent historian, called the "most important book of the twentieth century." This same group is about to release the official report of which I have had the good fortune to read the galley proofs. It is so pertinent to the problems before this body that it deserves our attention and deep consideration.

For some time it has been realized that contemporary society does not produce all it can produce. This is an essential difference from primitive societies where actual production tends to approach capacity production; nor is it in

accord with economic theory which assumes that actual production will be a fair measure of our ability to create wealth.

However, the fact of nonproduction of plants running part time and of men unable to find work, has become so conspicuous that considerable interest has developed in the possibilities of capacity or full production during the last decade or two. In fact the United States Government recognized this interest in 1921 and 1923 by including in the Census of manufacturers the following inquiry:

What is your estimate of the percentage of your output compared with your possible output if you had had such a demand as to require full running time?

The average of the replies was 57.1 percent for 1921, and 72.4 percent for 1933.

MOST EXTRAVAGANT NONPRODUCTION IN HISTORY

Nothing else I believe was done along these lines—though much attention was devoted to the problem of waste, quite a different problem from that of nonproduction—until the business depression following the Wall Street panic of 1929. In the subsequent years—years of the most extravagant nonproduction ever seen on earth—the question of capacity operation became a subject of general interest. Guesses were hazarded, estimates were risked and widely divergent opinions received much publicity.

Finally, Brookings Institution, some months after the National Survey had begun its studies, published a book called "America's Capacity to Produce." This was the first serious statistical survey of the problem. Brookings had attempted to discover the practical capacity of our productive plant within the limitations inherent in our current or capitalist economic system.

Now, the basic limitation on production in the capitalist system is the rule that no wealth (except certain inconsequential items) will be produced that cannot be exchanged at a profit for money. Since producers naturally produce all they can sell, practical capacity, if this limitation be accepted, is identical with actual production. Consequently, if consistent reasoning had been exercised, Brookings would have had their answer before they began their work. And the answer would have been zero. The American people in 1929, as well as in every other year, produced all they could produce within the limitations of their economic system.

*I. Brookings conclusions not significant*

But the Brookings group were not satisfied so easily. They attempted to average specific unused capacities after modifying the legitimate limitations—time out for maintenance and repairs, breakdowns, and so forth—by irrelevant factors—irrelevant from the engineering viewpoint—deriving from the convention mentioned above. Thus we find that the seasonal nature of demand is considered a limitation on our ability to make automobiles, and so forth.

Thus Brookings mingled the two worlds, the physical and the institutional, and came out, after a study notable for its painstaking research and scintillating scholarship, with the answer that we could, in 1929, have produced 19 percent more goods and services than we did produce if we had, in 1929, produced 19 percent more goods and services than we could have produced.

The answer does not seem to me very significant.

The National Survey did not attempt any such straddle of the two divergent worlds, the physical and the institutional. It concentrated on the physical world and put the problem as follows:

What could the American people expect, in the way of goods and services, if productive resources were devoted to satisfying their needs and reasonable wants and was limited by physical factors only?

Furthermore, the directors decided that a summation and averaging of all unused capacities such as that of Brookings and the census would result in a collection of figures bearing little relation to the problems of society. For instance, the result of averaging the potential increase in producer goods and consumer goods together cannot be translated into an increase in national income. An unused capacity to produce flour may or may not mean an unused capacity to produce bread. Or an unused capacity in the production of raw materials, tools, machinery, and so forth, does not necessarily mean a similar unused capacity for the production of finished goods.

HUMAN NEEDS ARE THE FIRST CONSIDERATION

Also, the concept of capacity is meaningless in respect to many important categories of production. Lard, for example, could easily be supplied in ridiculous excess since the supply depends largely on the fecundity of swine. The national survey decided that our economy must be surveyed as a whole, since its parts are interrelated and that estimates of capacity, in order to have any significance, must be checked against a reasonable budget of actual human requirements.

In order to make visible our total economy in its capacity to satisfy our needs and wants, they constructed a flow sheet, starting with raw materials on the left, and following through the processing of these until they arrived at the final column on the right which consisted only of consumer goods, the finished goods being allocated in accordance with a budget based upon a decent American standard of living.

The budget was based upon several studies. In food, it was taken from a pamphlet sponsored by the Department of Agriculture dealing with various standard diets. The best, called the "liberal diet", was adopted as the food budget. In clothing, the budget was based on the items bought by the professional classes in the San Francisco area. In housing, it was assumed that the American family would like to live in a modern, well-equipped five or six room house, or its equivalent, and that the single individual in the city would continue using smaller apartments. For medical care, the advice of the medical authorities was taken as to what was needed to properly care for the American people. In education, a study by the faculty of Teachers College, Columbia University, was used.

ONE HUNDRED AND FIFTY PERCENT INCREASE IN TRAVEL POSSIBLE

In recreation and personal expenses, the budget was governed by the consuming habits of the people. In transportation, it was based on the capacity of our automobile makers to assemble cars, insofar as the makers of parts could keep up with them, also considering the supply of gasoline and the congestion of city traffic. A purely arbitrary allowance for a 50-percent increase in railroad transportation was made, railroads being able to carry any prospective increase in passengers if physical factors alone controlled their carrying capacity.

This gives a general idea of the method pursued in establishing a budget of reasonable needs and wants.

How it was determined whether or not this budget could be met by the existing American plant can be made clear by a simple analogy. Let us suppose that we desired to discover General Motors' capacity to produce cars. We would not estimate the capacity of our iron mines, our blast furnaces, our steel mills, glass foundaries, tire and carburetor factories, the assembly plant, and so forth, put the various answers in the form of percentages and average the lot: We could do this, but it would not tell us how many motor cars General Motors could turn out. Instead we would choose the bottle neck—that process which seemed most definitely to limit the production of cars—estimate its capacity and then check through all the other processes to discover if any further limitation other than the one we had chosen, existed on the production of cars.

If no other limitation could be found, and enough men were available to perform the operations required to keep the entire process operating at full speed, and if enough tires and all the other materials and mechanisms that go into a car were available, we would then study the bottle neck—it might be the assembly plant itself or it might be certain

factories assigned to making important parts—and we would base our total automobile fabricating capacity on the specific capacity of the bottle neck to perform its function.

*II. National survey points to standard of $4,000 per family in United States as possible*

The National Survey followed a similar procedure in studying our total economy. The four limiting factors, which they accepted, were (1) natural resources—as modified by foreign trade—(2) existing equipment, (3) existing technology, and (4) man power. Obviously, none of these are fixed quantities, but they change in time. However, to give an irrefutable base to their study they accepted existing equipment and existing knowledge as limiting factors, even though much of our obsolete plant could easily be brought up to date and much of our latest knowledge is not yet in general use. Consequently, their final results are markedly conservative.

To make clear the procedure let me define more exactly their title, for the three words, "potential product capacity", seem to have been carefully selected. The word "potential" must not be misunderstood; it does not imply a possible advancement in technology nor the replacement of older machinery by equipment of modern design; the word "potential" is used merely to express what the existing American plant could produce if limited only by physical factors with the supplies of materials now available, and with the present labor and managerial force to operate it.

STUDY ALL FACTORS IN PRODUCTION

The word "product" was chosen instead of "productive", because unlike previous studies this survey was not directed toward obtaining the percentage of all unused capacities. The word "product" was chosen instead of "productive" since it was intended to present the answer in terms of consumer goods and services.

The word "capacity" also requires defining. The capacity of a piece of equipment is easily determinable. In giving the capacity of a freight car an engineer would disregard the question of whether or not freight would be available to fill the car and men available to run it, but this cannot be done in estimating the capacity of our economy considered as a whole. We cannot estimate the capacity of our steel industry unless we first discover that iron ore, coke, and so forth, will be available for the blast furnaces, and men on hand to conduct the various operations.

In other words, the capacity of the equipment is only one of three factors that must be considered. The other two are supplies of materials and labor. The word "capacity" is therefore used to indicate the possible productivity of the American plant as a whole, if limited by available supplies and man power in terms of actual finished goods in such quantities as could be usefully consumed by the present population.

NATIONAL INCOME NINETY-THREE BILLIONS IN 1929; ONE HUNDRED AND THIRTY-FIVE BILLIONS POSSIBLE

After almost a year of research the survey was completed. Each item was listed under three separate headings: The actual output in 1929, the possible output, and the required output or budget. The total actual output of consumer goods and services produced in 1929 was valued at $96,000,000,000. This includes not only goods and services produced for sale, but also food produced and consumed on farms, and rent imputed on owned homes. From this total of $96,000,000,000, two deductions were made; first, for increase in inventory in 1929; and secondly, for excess of exports over imports, bringing the total to $93,000,000,000, which checks closely with other estimates of our national income.

No total was given of the specific plant capacities since neither supplies nor labor are available to run every plant in the United States at full speed. Nor would such operation be desirable even if it were possible, since we would have no use for many of the products. The specific plant capacities were utilized merely as limitations on the budgeted production.

THE ANSWER

Finally a figure was given of the total of desired goods and services which the American people might enjoy if production were limited by physical factors only. At 1929 prices this amounts to $135,000,000,000 worth of desired goods and services, approximately $4,400 worth per family. This income is exclusive of the cost of security and other items which would inevitably accrue if our production were released, and includes a production of hand-made luxuries equal to those distributed in 1929.

Translated into actual standards of living and consumption of the average American, these figures might be stated as follows:

| | | Actual average consumption, 1929 | Possible annual consumption today |
|---|---|---|---|
| Wages | | $1,337 | $4,370 |
| Housing | per family | $800 | $990 |
| Men's suits | suit | 0.5 | 1.4 |
| Men's shirts | shirts | 3.0 | 6.9 |
| Shoes | pairs | 2.8 | 4.4 |
| Food | | $207 | $236 |

These figures are cited as an example of what is possible in America as compared with what is.

*III. Future possibilities nearly unlimited*

This is the first statistical indication we have of what the power age could do if allowed to serve the needs of a given population. And this is not a theoretical or maximum figure; it is a conservative reckoning based on the existing plant and the labor and materials at present available. Raw materials not available today could be made available; existing equipment could be replaced by better equipment; knowledge is far from static; many new inventions are withheld from the market; the labor force is capable of considerable expansion; yet the survey took into account none of these potential improvements and based its conclusions entirely upon existing conditions so as to place these conclusions beyond the realm of controversy.

They have also disregarded the fact that cheapness has become the prime requirement of the market. Every penny saved in costs is likely to expedite sales. But using cheap materials is seldom true economy. The use of better materials is likely to add a small percentage to the cost of an item, but it also adds a large percentage to its life. However the survey estimated the product capacity of goods as they are made now, even though the quality of goods could be increased almost as conspicuously as their quantity.

Let us examine, then, this difference between the $96,000,000,000 actually produced in 1929, the year of maximum production, and the $135,000,000,000 which could be produced with the existing plant. This constitutes a difference of $42,000,000,000 in desired goods and services which the people of the United States could produce but do not produce. It measures lost or uncreated wealth.

EIGHTY PERCENT OF OUR PEOPLE LIVE IN POVERTY

America is called the richest country in the world. This is undoubtedly true. Let us see how rich the population of this country actually was in 1929. In this year some 19,000,000 families in America had less than $2,500 and some 11,000,000 families had less than $1,500 a year.

In general, it can be stated that 40 percent of our people had incomes which provided a living beneath the accepted level of health and decency, and another 40 percent existed close to poverty. Only some 9 percent possessed incomes over $5,000 a year, and only some 2 percent had incomes over $10,000 a year. In 1932, the year of maximum nonproduction, goods and services to the value of $69,000,000,000 were produced, and sixty-six billion more, or nearly again as much, could have been produced. From 1929 to 1933 the total loss to the consumer through the noncreation of wealth

was close to $300,000,000,000. It is evident that this period represents an orgy of extravagance without precedent in the history of the world.

PRICE, THE BOTTLE NECK

The group of engineers and economists who made this survey do not stop here. They present a thesis to explain this remarkable situation in which the behavior of the American people seems to be so far removed from common sense and efficiency as to resemble the strange and fantastic behavior of certain creatures in Gulliver's Travels. Their thesis is based on the fact that in this survey they accepted the present physical set-up of the American plant, but they did not accept its present institutional set-up. If they had, their answer, as I suggested earlier, would have been zero.

It is obvious that America produces each year everything it can produce under the existing system, or in other words, everything it can sell at a profit. This situation in which we withhold the creation of wealth can be explained best by drawing the distinction between real wealth, which consists of goods and services belonging to the physical world, and monetary wealth. It is obvious that our failure to create the wealth which could be created is due to the discrepancy between the possible production of the American plant, at asked prices, and the buying power of the American people, since under the existing system, real income, income in goods and services, is governed by money income.

It thus comes about that modern man has solved the problem of production by means of science, and could thereby banish poverty; but he has not learned how to take advantage of his knowledge and provide goods in sufficient quantities to satisfy his needs. Poverty, when the needed goods can be provided, is stupid; indeed it seems criminal. Poverty has always been a horror. But men can be induced to bear it when they know it is necessary.

IT IS STUPID TO SABOTAGE PRODUCTION

Formerly when the rain failed to fall and the corn shriveled men went hungry. And they had to endure it and to suffer. But today we ask men to go hungry when they know that farmers are being paid to grow less food. This is stupid, as well as dangerous. It may imperil our civilization. It is breeding a sullen resentment which sooner or later will flare into hate. In the light of this survey the American people will become aware that there is enough food for all. They could have all the clothes they could wear out, new houses at the rate of a million and a half a year, a doubled personal expenditure, more than double the accustomed recreation, adequate medical care, a car to a family, a huge increase in education. This would mean a new kind of world, in which everyone could possess the advantages now enjoyed by that 9 percent of the population possessing $5,000 a year or more.

That man, by means of science, has finally solved the problem of production, may be the most momentous event in the long history of the human race, as important as the domestication of animals and the planting of seeds, the discovery credited to Adam's sons in the Bible. The fight with nature to obtain from the earth and the waters what we need for our life, has been the main concern of mankind since the beginning. Up till recently it remained unsolved. Goods were always scarce. There was not enough for all. When the weather was favorable everyone, or nearly everyone, ate; when the rain did not fall everyone, or nearly everyone, starved. Here and there small classes obtained for themselves, by enslaving through force or superstition the underlying population, a temporary security and plenty. The slaves which made this possible were too busy to think or to create, too busy, and too miserable, during most of history, even to dream.

POVERTY IN AMERICA IS STUPID

All this has changed in the last hundred years. By harnessing the forces of nature and substituting natural energy for human energy, goods of nearly every kind can be produced in desired quantities. Today in America our farmers could produce food for all; our factories could produce enough clothes, automobiles, radios; our builders could produce enough houses. Our technical proficiency might mean that everyone could enjoy the security and abundance that since the beginning has been the boon of but a chosen, privileged few. It could mean that for the first time in the world a nation might, as a whole, pursue those elusive values, products of leisure and thought, which alone tend to make life on earth worth while.

The belief that many of us have had that poverty is stupid, has now been verified. What we used to feel merely emotionally has now been proved by statistical measurements. When blind conservatives dispute the thesis that poverty cannot be abolished, the contrary can be proved. There is nothing left for them but to assert that they do not want it abolished.

It is necessary to scrutinize the economic system which had been so conducive to the development of the means of production, but which now denies us its benefits. This system is called the free- or open-market system. It came into being with the establishment of the open market. Its legal expression is freedom of contract between individuals, and between States, which later tended to develop into free world trade. The establishment of the free market necessitated breaking the absolute power of Rome, as well as the power of the feudal landowners, and it necessitated the freeing of serfs. Under feudalism men did not live by buying and selling.

Then methods of agriculture began to be rationalized, roads improved, and navigation made a sudden great advance. The ancient system of feudalism became obsolete and for 400 years Europe waged constant bloody warfare to overthrow it. The free market came into being when the production and transportation of goods in great quantities became possible. This market, or exchange of commodities on a large scale, had been hitherto impractical.

THE DRIVE AGAINST HIGH WAGES

Transport of most commodities, even for short distances, was difficult and the method of production was simple handicraft. Technological advances established a condition whereby whole communities could subsist on goods brought from another part of the world, and exchanged possibly for some manufactured product. This system, while it functioned, seems to have been ideally suited to a period of history in which new worlds were being discovered and developed, during a period of expanding populations and expanding territories, and above all it encouraged the further development of technology.

Three main tendencies were inherent in this system from the beginning, and have slowly become accentuated, until finally these tendencies, encountering a condition of potential abundance, have brought the system to a grave crisis.

I. Under this system labor is generally accepted to be a commodity. It is the main factor in costs. Furthermore, it is the only flexible factor in costs. Therefore, as profit depends necessarily on the difference between the cost of production and the selling price, the system by its nature, constantly exerts a downward pressure on wages. During the period of its vigor and its growth, the open-market system, for the most part—at least in the United States—provided a subsistence wage for its workers, for if there was a glut in one field of enterprise, and prices dropped and men were disemployed, these men could find employment in some other field, or in a new enterprise where expansion was taking place.

In fact, wages have risen in the past 100 years proportionately more than the per capita income from all sources. The amount of surplus profit made by industry in periods of prosperity was largely invested in new enterprises which not only reemployed the men discharged from those enterprises which had reached a point of saturation, but also, by exerting a healthy demand for labor, helped to keep the price of labor, as a commodity, up. The primary law of

the open-market system is the law of supply and demand, which constitutes an automatic, self-regulatory adjustment between available supplies and buying power, and the health of the system has always depended upon its functioning. Since labor is a commodity, wages, too, were controlled by this law, and still are to a large extent. Improved technological methods greatly reduced the need for human labor, and this threw men out of employment when the period of maximum expansion had run its course. Finally, a surplus was created in this commodity. As a result and in spite of the fact that labor unions, Government agencies, and various liberal institutions attempt to arrest this calamity, wages are with difficulty kept up to a decent standard, and millions of men are disemployed.

DEBT STRUCTURE OPPOSED TO ABUNDANCE

The second tendency inherent in the system is debt. The accumulation of masses of goods and their transportation implies enterprises of a scale so vast that great quantities of new capital are constantly necessary. Traders engaging in new enterprises usually need to hire money. Therefore from the beginning there was a tendency to borrow; to contract debt and interest charges. At the close of the feudal period the charging of interest on money was contrary to the teachings of the Church of Rome and was considered usury, but as the free market gained mastery the practice nevertheless grew. This tendency to borrow money in order to launch enterprises has finally built up a debt structure so vast and so elaborate that in our day it has destroyed the flexibility of the market and nullified its primary law of supply and demand.

This debt structure, encountering a condition of potential plenty, cannot permit the dropping of prices necessary to meet buying power, because, though prices are flexible, interest, or the fixed charges on debt, are not flexible, and must be met in fixed dollars. So that today even the amount of deflation which took place in 1932 brought bankruptcy to our enterprises. This means that prices which, according to the primary law of the system, should be allowed to drop in order to meet the inadequate buying power of the population, cannot be dropped beyond a certain point without destroying the financial structure of the Nation.

*IV. Monopoly is inherent in capitalism*

The third tendency is toward the formation of monopolies. This seems strange, as it is a direct contradiction of the free market system, and its deadly enemy; yet a tendency toward monopoly was inherent from the beginning. Individual enterprisers might at any time run into a glut in their particular field of production. With this sword of Damocles over their heads there was a natural tendency to combine by association and agreement in order to save themselves from possible bankruptcy. As capital was accumulated and the means of production became more and more under the control of a few, the stakes became higher, and the risks of loss, staggering. For the last hundred years the tendency to monopoly, especially in the heavy industries, has reached great proportions.

The Sherman antitrust laws were designed to arrest this growth, but the tendency is so deeply imbedded in the system, and has become so much a matter of essential self-preservation in recent times, that it seems unlikely any law can be devised which will disentangle the incredibly complicated interlocking of our big banks, finance houses, and corporations. In such things as gas, electricity, and railroads, there have long been monopolies in almost all countries.

It is clear that this tendency to monopoly is not an evil conspiracy on the part of the great industrialists, but a measure of self-preservation which has become increasingly necessary as a condition of abundance began to be established. Previously, an enterpriser might run into a glut in his particular field, but he still had the opportunity to enter some other where a condition of scarcity prevailed, but now that there is a potential glut in all fields, his only recourse is to combine and to limit production. Recently the State has recognized this necessity of the failing system and has restricted production, particularly in the field of agriculture where the great number of small individual enterprisers makes monopolistic control impossible.

FOREIGN MARKETS CANNOT BE A DUMP FOR OUR SURPLUS

Another feature of the system must be considered—foreign trade. Foreign countries have hitherto constituted a market for the surplus of goods which the buying power of the Nation was unable to command, and this surplus was disposed of in exchange for other needed goods. But today what can Europe or Africa or China pay us with? In a country as self-sufficient in natural resources as America, and with a potential abundance of goods in all fields, we no longer need additional goods from these countries, and therefore cannot sell more of them than we do.

Thus we see that all along the line the technological advance in the means of production which makes possible a condition of abundance has destroyed the flexibility of the open-market system and thereby the functioning of the primary law of supply and demand, so that now the system seems to lie in a state of rigor mortis.

CAN THE SYSTEM BE REVIVED?

However, let us examine whether it is possible or probable to revive the working of this system. Our premise, which cannot be questioned after this survey, is that technical development has established a condition of potential abundance whereby the American plant could provide a sufficient flow of the essential goods of life to satisfy needs and reasonable desires. The question then is whether the buying power of this Nation can be so increased under the present system as to command the requisite production of the American plant.

Theoretically a discrepancy between buying power and possible production is automatically corrected by deflation, by dropping prices. But as we have just shown, deflation has been arrested; and since deflation would bankrupt the country, extraordinary measures are used when necessary to prevent it. There does not seem to be any chance that this policy will be reversed by any political party. Uncontrolled deflation may be definitely ruled out as a curative measure.

That leaves us with only two possibilities: First, to increase wages until they make up the shortage; secondly, to multiply profits until buying power is adequate to command a satisfactory production. Let us first take up wages.

WAGES INSUFFICIENT TO BUY OUR PRODUCTS

Wages and salaries in 1929 amounted to some $53,000,000,000, which sum was distributed among slightly over 35,000,000 individuals. This averages less than $1,475 a year for each full-time earner. One thousand four hundred and seventy-five dollars was not and is not enough to command the goods and services needed to provide a comfortable standard of life at 1929 prices, nor even at the 1932 level. When it is remembered that $1,475 is not the income of unmarried individuals, but must, except for the few working individuals who have no dependents, cover the living expenses of families of various sizes, the insufficiency of a family budget based on this amount of buying power becomes apparent. This is why some 42 percent of our population were, even in the golden days of 1929, unable to enjoy the goods and services sufficient to provide a decent or healthy standard of life.

As has already been stated, under the open-market system, labor is a commodity to be hired or bought at the lowest possible price. That is the natural law of the free market. So long as a multitude of unemployed exists, anxious for any job at any pay, it is extremely doubtful if the combined powers of labor organizations and governmental influence can succeed in appreciably raising the wage scale without raising prices at the same time and thus nullifying the benefit. Technology has not only created a body of unemployed but continues to add to its size. Since technology also creates wealth by increasing productivity, modern industrial States, under the free-market system, are faced with the unpleasant

alternatives of restricting technology and so impoverishing society as a whole by producing less goods per man than it could produce, or releasing technology and so increasing the number of unemployed, thereby impoverishing a section of society. At present we seem to attempt to indulge, crablike, in both alternatives.

TECHNOLOGY FORCES DOWN WAGES

Thus we see that under the existing system the share of the national income which is obtained by labor cannot increase. In fact with every advance in technology it tends to decrease. Since there is little hope of an increase in real wages, and labor income in 1929 amounted to $53,000,000,000, there was then a slack to be made up between the income of labor and the $135,000,000,000 which would command the necessary production of the plant even in 1929.

*V. The gap between actual buying power and potential productivity continues to increase*

Since 1929 labor income has been reduced by releasing men, and property and enterprisal income has dropped even as radically, thus increasing the gap between buying power and possible production. Under the present system, will that part of income which can be described as profit, or the share allotted to the enterpriser, in the future make up the formidable difference between 53 or more billion dollars and $135,000,000,000, a difference which must be made up if production is to be released and the needs of the people satisfied?

It would mean a rate of profit more than double the receipts from this source in 1929. It is difficult to conceive of such an increase. Since profit is the difference between cost and price, profit depends upon a price being obtained higher than the cost, and this in turn depends upon demand being equal to or exceeding the supply. This survey demonstrates that the technical development of our plant has solved the problem of producing the essential goods needed to satisfy the needs of all the people. Therefore, at present these goods are potentially available in ample supply. But when goods are in supply, prices drop and profits tend to disappear, whereas it is necessary, if income is to be increased by way of profits, that they be greatly expanded. It is evident we cannot expect an expansion of profit sufficient to correct the maladjustment.

PROFITS DISAPPEAR

Profits not only tended to disappear after 1929, but net profit actually disappeared and was replaced in 1932 by a net loss for the enterpriser which attained ruinous proportions. Not only farmers but many of our great corporations have been persistently reporting a net loss. When an article is produced in such abundance that the available supply exceeds the effective demand, the difference between cost and price tends to become zero or a minus quantity. The article therefore sells at cost or less. This has been the case during recent years with basic commodities such as wheat, corn, and cotton, where monopolistic control of prices did not operate.

When this condition occurs in the industrial world, noneconomic and political forces are called in to save the situation. Even the Government helps enterprises to cooperate in restricting production. It also compels, or persuades by money payments, farmers to reduce their output. This is economic Fascism. It is clear that restriction of production, so long as all needs are not satisfied, results in an impoverishment of society; people as a whole have so much less.

BLESSED STATE OF POVERTY

It is a most curious spectacle. The American people, through their elected Government, are using their power to preserve the blessed state of poverty when there is possible abundance all around them. It is a novelty in history.

Many ingenious devices are used in order to keep the production of wealth down to the quantity which can be procured by the money income or buying power of the public. Workers are disemployed; sometimes as many as a third of the working population; factories are closed; doctors cannot attend the sick; rich land is left fallow; mines are allowed to flood, and desired commodities destroyed. Even so, production tends to outrun purchasing power.

Consequently a few misguided individuals are advocating the use of force, dictatorship, and military power, and the suppression of civil liberties in order better to curtail wealth production, believing that nothing is more important than to preserve our traditional economic system and everlastingly to perpetuate the differential between buying power and product capacity.

OPEN MARKET HAS DESTROYED ITSELF

It is quite obvious by now that any proposal to abolish the open-market system is superfluous. The open market has destroyed itself. We have for all practical purposes a closed market. Prices no longer slide up or down to meet buying power. Instead, when buying power fails production is curtailed until a balance between the two quantities is approached. The result is a fairly stable price structure. It is probable prices will not be allowed to drop below the 1932 level. Even the 1932 level bankrupted, at least on paper, a large number of enterprises.

Many banks and insurance companies were kept in a liquid condition only by the extension of loans from the Federal Government, and an attempt is being made to avert the repetition of such a disaster by stabilizing prices, profits, and poverty.

Of course the fixing of prices is not intended to perpetuate poverty. On the contrary it is designed to restore prosperity. With fixed charges on debt, a general price drop is disastrous to the enterpriser. It is not realized that saving the enterpriser by this device costs the people the value of the desired goods which are not produced, goods worth nearly $300,000,000,000 in the last 5 years. The cost of saving the enterpriser seems exhorbitant.

The reason that the open-market system has been discarded is that fundamental conditions have changed. So long as the great majority of commodities could not, in the nature of things, be provided in sufficient quantities to satisfy the needs of a total population, any temporary glut in any commodity could be corrected by transferring money and labor to the production of other commodities whose supply was still insufficient. Now that we are equipped to produce the great majority of commodities in desired quantities, no outlet exists into which the man-power and money not required for the production of the potentially plentiful goods can be directed.

*VI. The choice of America lies between poverty and plenty*

In this situation a nation equipped to produce goods and services along modern technological lines can, according to the National Survey, either create an artificial scarcity by restricting production, and thereby maintaining poverty, or such a nation can create an unprecedented plenty by putting to work its idle men and more or less idle equipment. To accept the latter alternative, the commodity theory of labor would have to be abandoned for the following reason: The income of some 80 percent of our population consists largely of wages.

Under the existing system every employer is compelled, under penalty of bankruptcy, to keep costs to a minimum, and wages are the most flexible factor in costs. This compulsion, inherent in the system, forces every employer to hold the dollar wage of his employees to a minimum and to reduce the number of his employees whenever possible. Since prices are no longer permitted to drop beneath a certain level, reducing the wage bill reduces also the buying power of the wage earner. A lowered buying power on the part of the majority of the population reduces the consumption of goods. Reducing the consumption of goods reduces the profits of the enterpriser. Thus a lowered wage bill is not in practice translated into greater profits. With prices fixed, a lowered wage bill usually results in a reduced rate of production which nullifies the gain.

The net result is a reduction in the national income. Thus with the price range fixed, technological improvements result in a lowered buying power. Despite the various forces working to the contrary, the compulsion to reduce costs has prevented the standard of living rising much above subsistence level for the majority of our citizens.

NEAR POVERTY INEVITABLE UNDER CAPITALISM

This compulsion to hold down the buying power of the nonproperty-owning citizens cannot be effectively counteracted within the frame of the existing system. And our people cannot enjoy the adequate quota of goods and services which could be provided them, unless the compulsion to reduce wage costs now operative among all enterprisers is reversed, and, instead of paying the least possible to the majority of the population, we pay them the most possible; that is, distribute to them the maximum flow of goods which the American productive plant can provide.

There is one more important consideration: In the actual world one man may be allotted a million dollars per year; another man $1; one man might be allotted a thousand acres of land a year, another man 1 acre. But this is not true of eggs, shoes, coats, milk, bread, beds, houses, doctor's service hours, and so forth. Although deliberate waste may enable one man to consume somewhat more than the average of certain commodities, and thus increase the turnover in some kinds of goods—such as women's wear—this has not an important effect on the general consumption.

In fact, much of this is not actual waste, but the donation, before it is worn out, of a no-longer-desired gadget or garment to some other member of society who may still find use for it. Since those who indulge in deliberate and conspicuous waste are few, and since the rich man eats, if anything, less than the day laborer, and wears his clothes out more slowly, no method for distributing the basic commodities listed in the budget of the national survey is practical—except to distribute them to those who need them. This does not mean equality in possessions. One man may possess rare goods, such as antique furniture, beautiful rugs, and first editions of all the best authors, and another man none of these things. But it is impossible to distribute goods which can be produced in desired quantities, without distributing them to everyone.

UNPRECEDENTED ECONOMIC SECURITY POSSIBLE

Since the quantities that could be produced are sufficient, in nearly all items, to satisfy the requirements of the existing population, the distribution of these goods and services to the individuals who need them, and can use them, would provide for a degree of economic security unprecedented in history. Destitution would be abolished and the fear of destitution would no longer haunt our people.

Each family would foresee a guaranty of future income equivalent to that provided by having $100,000 in the postal savings bank or secured by an insurance policy costing over $1,000 a year. This would mean that liberty would be enjoyed by most people. Today over 80 percent of our people have their freedom constricted by material necessities. The releasing of production and the resulting abundance would enormously expand their freedom of choice in respect to the consumption of goods, to occupation, and to recreation. Liberty to sell would be restricted to the scarce or rare goods, since other goods would be abundant. Liberty to buy would be extended to include that 90 percent of the population now restricted in its enjoyment of this privilege. Those goods and services which have not been produced in the last years, and could have been produced, would have been sufficient to remove destitution and the fear of destitution from every citizen without taking anything away in the form of consumer satisfactions from the fortunate few possessing in 1929 incomes of $5,000 or more per family. In fact, these fortunate few could have enjoyed, as well as comfort, a sense of security which at present is nonexistent.

It is evident that the open-market, or profit system does not and cannot function satisfactorily under the present conditions; that is to say, it cannot function when goods are potentially plentiful. Our recent efforts to restrict production, that is, to reduce our real wealth, and to create an artificial scarcity, are an acknowledgement of this. We thereby tacitly admitted that scarcity is essential to the functioning of the profit system, and furthermore that scarcity no longer exists.

THE PROBLEM OF DISTRIBUTION

The group of engineers who made the survey of product capacity propose that the scientific methods should be applied to the distribution as well as to the production of goods. By coordinating these two agencies, an even steady flow of raw materials through the processing industries to the consumer could be assured.

For this it would be necessary according to the survey engineers—leaving intrinsically scarce goods to the higgling of the market—to list, price, and total the desired goods and services that the American people could produce—according to the survey the total worth of these at 1929 prices is $135,000,000,000—then to issue an equivalent purchasing power so that the American people could obtain the commodities made available by their skill and energy.

This purchasing power could be based directly on the goods and services made available in 1 year. In that case, it should be good only for the year during which it is issued and should be canceled when used for purchases. It should be issued to every individual on the condition that each individual serves society in the capacity in which he is now functioning, or if he is out of work, in the trade for which he is trained excluding children, old people, and invalids who ought to be provided for without conditions. Under this system of distribution, the production of any desired commodity can be increased from year to year as new facilities are added and the wants of the people are made manifest.

Public taste, expressing itself in buying trends, would dictate changes in the volume of production of given commodities. Allowances could thus be made for a changing and ever-increasing range of consumer satisfactions.

FULL EMPLOYMENT WOULD BE NEEDED

Of still greater importance would be the full utilization of man power. Whereas at present millions of men are prevented from producing, under the proposed system their efforts would be needed to meet the increased demand for consumer satisfactions. The flow of goods from raw material to finished products would be continuous. Interruptions, or sabotage, due to the "stop" and "go" signals of private owners (depending on whether or not profit can be made) would no longer exist.

Instead of a host of competing, duplicating, and conflicting private enterprises, an integrated national productive plant would be established, the units of which could be set up in all sections of the country. Materials for production could be transferred by interdepartmental requisition, as is the present practice in large corporations.

As for saving, so-called "investments" are now governed largely by the desire for profit and often fail to provide either security or profit. Under such a system the Nation's saving would be accomplished by the upkeep and enlargement of its productive facilities. This would insure for the future a satisfactory production of consumer goods, thereby guaranteeing the maintenance, or increase, of all incomes. Existing saving schemes aim to do this for individuals, but often fail to do so. All possible choice pertaining to the type of service he wished to perform could be allowed each individual. Certainly a far wider range of productive and service vocations would be open to men and women under this plan than they enjoy today.

Under this plan, the farmer would receive his purchasing power in the same manner that other producers received theirs. He would no longer be penalized for crop failure due to bad weather, insect pests, and lack of knowledge any more than the factory worker would be were the machinery in the plant to break down due to faulty design. In order

to bring about this condition of abundance, the means of production would have to be requisitioned by the Government under the power of eminent domain, and purchased from their present owners by the issuance and payment of currency, and the title in them vested in the American people.

*VII. The American way—social ownership*

This solution is in accord with the customs of this country and the recent trends in Western civilization. Waging war, keeping the peace, instructing the young, the transmitting of mail, the distributing of water, and the maintaining of highways have been successfully removed from private control and the restrictive effect of the profit motive. This survey indicates that the remaining utilities and the providing of food, clothing, shelter, and such other goods as can be produced in desired quantities could with equal benefit be owned by the people.

This is best made manifest by an analogy. For instance, the distribution of water requires labor, supplies, equipment, and knowledge. If it were judged advisable to return the distribution of water to private competitive enterprise, two steps would have to be taken—outlets for water would have to be padlocked or metered and the release of water would have to be restricted to fit the buying power of the public. The result would inevitably be a marked reduction in the consumption of water. It would seem just as unnecessary to restrict such supplies as can be provided in desired quantities as it is to restrict water. Yet our economic system, under the new conditions of potential plenty, compels governments, owners, and even workers, driven by the necessity of self-preservation, to conspire to restrict production and thereby to impoverish society.

Production is dependent on factors in the physical world. Buying power is a human institution subject to control. Nevertheless, production is cut to fit an inadequate buying power instead of buying power, which can be raised or lowered at will, being raised to fit production. This procedure can only be likened to that of the ancient Greek innkeeper Procrustes, who cut off the legs of his guests when they were too long for his beds.

It is evident that this approach is different from that of any other reformist or radical body. It rests upon no philosophic premise; no theory of what constitutes value. It rests upon a given condition which is proven to exist. Yet it is obvious that no person can examine this premise, supported by Government figures, that poverty can be abolished in America, without drawing the conclusion that it is then criminal not to do so. These pages of figures arrived at by disinterested engineers engaged in accomplishing their job, may launch the greatest crusade in history, the crusade to abolish poverty for 125,000,000 people, to free them from economic bondage, and that basest of all slavery which is the fear of starvation. America alone has made possible the new era of abundance. This is what we have striven for; opened the frontier, built our railroads, our magnificent roads, our factories, and power plants. America's technical plant is its pride before all the nations of the world, and if its operation is applied to general human welfare, we may put into effect the ideal held by the founders of this country that all men are entitled to life, liberty, and the pursuit of happiness.

AMERICA CAN LEAD

America, young, energetic, the land of a new race bred from the mingled strains of all the world, will be the fit nation to take this step. Fate has indicated its election, because only America is truly self-sufficient not only in material resources but in technical skill. Once again her people are challenged by the opportunity to pioneer.

It is evident that man, impelled toward his destiny by the Divine Will, attempts to solve the problem of the production and distribution of wealth through the specific forms of various economic conventions which in themselves are man made, and therefore experimental and fallible. It is evident that no given form, including the existing so-called "system", is ordained by God, nor is it the natural order of things. And now it appears that the old vessel can no longer hold the new wine of abundance.

Once before in our history, in 1776, we led the world when we made the declaration of a new concept of human government. We may do so again and fulfill our great destiny as a nation. Other ideals of humanity may be greater than that of providing the necessities of life to all the people, but surely this should precede all others. That is what the American plant can do. That seems to be practical Christianity.

ELECTRICITY HAS GENERATED A NEW ERA

The first spark of electricity which an American drew forth from the skies has generated the power age in which we now live. That spark has been another Promethean secret disclosed to the human race, and, like that of fire, must establish a new era. A great fanfare was made about the exposition of the Century of Progress. Truly, this exposition revealed miraculous advances in the sciences and in technology, but are we, like children with a toy, to hold these levers of power in our hands merely to set off sparks, and hold penny side shows, or shall we apply these powers to the welfare of our people?

It is evident that we would be acting irresponsibly if we abandoned our children to the fate in store for them under a system in its last desperate throes. The cycles of depressions will become continuous, if they have not already; currency and trade wars will inevitably lead to murder wars; the standard of living will become still further degraded, and a greater and greater number of our people will be forced to find subsistence on a dole. The system, in its death throes, will have to resort to dictators who will conceal economic distress by intoxicating the people with false nationalism, racial hatreds, and military show.

WHAT WILL THE PEOPLE SAY?

The American people may now choose between running their magnificent plant, the greatest technical triumph of civilization, which can provide security and a decent standard of life as the natural birthright of every American citizen, and the only other alternative: Economic fascism, the restriction of production, fixed prices, fixed wages, and a dole. The demoralization of the western world proceeds at an accelerating pace. From far and wide comes news of violence; violence which serves to conceal the failure of the traditional system. It seems that we must choose, or blind forces will do the choosing for us. This survey of product capacity seems to offer the most evolved and realistic approach to the American situation today; and constitutes the most powerful challenge to an obsolete system which survives only by the criminal noncreation of wealth. The American people do not as yet know the results of this survey. What will they say when they do? They will observe that misery and defeat is fast spreading over this land in which there is potential abundance such as has never been seen in the history of the world. A new enlightenment may spread, and those in power may tremble, for the anger of the people can be a just and terrible anger. They may ask if it is to preserve the profit system that is no longer even profitable, that our forefathers turned a wilderness into a garden, sowed the soil, mined the earth, fought the Revolution, and the bloody struggle to preserve the Union; whether they did all this to preserve a system which limits production in an age and a land of potential plenty.

COOPERATION IS BETTER THAN COMPETITION

As for those who claim that competitive greed, and pleasure in possessing that which his neighbor cannot possess, is inherent in man, they attempt to debase human nature. Men have been so conditioned but not created. It is known that the earlier primitive races formed communal societies which may well be nearer to man's true nature. Now we have an opportunity to return to such harmonious conditions on a conscious, and more scientific plane. The survey does not speak of the benefit to all human relationships which would be derived from abolishing the savagery of the economic jungle, nor of the benefits to the home, marriage, and the rearing of children. Life is not worth living unless it has a purpose, unless we feel that we are building for our

children, and our children's children. For this we must build our house on a rock foundation of security and justice.

These figures of the survey are not dead figures. They mean a pair of good shoes for the boy on his way to school; good milk for the infant; a decent dress for the young girl going to her first party; an automobile to carry the family to the nearest lake or forest. Poverty is terrible in this highly industrialized Nation. The people quite rightfully lack that philosophy of life which makes the natives of warmer lands accept their poverty as part of the nature of things.

A decent standard of living has become the symbol of self-respect to the American. He cowers under poverty and is ashamed. Poverty means to the American frustration and defeat. The rate of insanity and depressive mania is rising at an appalling rate in our country. It is true the Government has been dispensing a dole, but Americans have not been trained to resignation; they are not servile members of a caste system; they do not welcome being paid to keep alive and not to work.

AMERICA MUST LEAD

What does America stand for before the world? We have no gothic cathedrals; no Rembrandt or Shakespeare. We do not stand for art and culture, but we stand rather for the greatest experiment ever made in government, and the distribution of wealth, and a high standard of living for the mass of the people. If we ever have our place in history along with Greece and Rome, and the Italy of the Middle Ages, it will be for this contribution to history.

There are many sincere people in the country today who talk of rugged individualism, the Constitution and 100 percent Americanism. Unless these noble and resounding words are made to accord with certain facts, and a given situation at hand, it will become apparent to the people that these leaders are under the hypnotic spell of their own words, which they repeat like the mumbo-jumbo of an Indian medicine man. Words can be mere charms or fetishes, without actual meaning unless they are applied to realities. These words must now be applied to a given situation in that spirit with which the founders of this Republic met a given situation in their time and age.

And these same defenders of the pioneering virtues warn us of the evils of regimentation. What of the regimentation now established for the millions who are driven from one corner of the land to the other searching for work; what of the regimentation of the great majority of our population lucky to find any work at any price, and each year increasingly haunted by the fear of poverty in their old age? Can the human race be more bitterly regimented than it is in an industrial country where poverty prevails?

It has been the great destiny of these United States to free all people from religious oppression and the caste system of older countries. It is the further destiny of this country to emancipate all men from economic bondage and no longer to tolerate a system which has outlived its period of usefulness, as did the feudal system, which our forefathers recognized in due time to be obsolete, and which they fought and bled to overthrow.

ABUNDANCE VERSUS SCARCITY

It has been our fortunate destiny and our genius as a people to carry the technical achievements of the race to a point where abundance of the essential goods of life can be enjoyed by all men, and where the dark fear of starvation, resulting from the misfortunes of life, and the capricious turns of an unstable financial system, can be forever abolished. Has this greatest of all technical achievements brought us happiness and harmony? No, it has brought us misery. That is because we have shut our eyes to the human and ethical implications of our achievement. Of what avail are our technical genius, or our machines, unless they create security and leisure for the humblest of our people? A culture and a civilization is doomed which can feed and clothe its people, and will not do so. Such wantonness cannot be found in the histories of the most savage tribes. It seems contrary to all conceptions, both religious and ethical, to tolerate this condition in order to preserve the prerogative of ownership of the few who control the means of production, and thereby the bread of the many. It seems humanly unjust, and contrary to the spirit and the letter of the Declaration of Independence, to create artificially a condition of scarcity in a land where abundance is at hand.

HOUR OF MEETING TOMORROW

Mr. TAYLOR of Colorado. Mr. Speaker, in view of the fact that many Members desire to leave early tomorrow afternoon, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow morning.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

ENROLLED BILLS SIGNED

Mr. PARSONS, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 3012. An act to authorize the transfer of certain lands in Hopkins County, Ky., to the Commonwealth of Kentucky; and

H. R. 6464. An act to provide means by which certain Filipinos can emigrate from the United States.

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1958. An act to diminish the causes of labor disputes burdening or obstructing interstate and foreign commerce, to create a National Labor Relations Board, and for other purposes;

S. 2074. An act to create a National Park Trust Fund Board, and for other purposes; and

S. 2642. An act to incorporate The American National Theater and Academy.

ADJOURNMENT

Mr. TAYLOR of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 34 minutes p. m.) the House, in accordance with its previous order, adjourned until tomorrow, Tuesday, July 2, 1935, at 11 o'clock a. m.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. McCORMACK: Committee on Ways and Means. H. R. 8624. A bill to provide for the disposal of smuggled merchandise, to authorize the Secretary of the Treasury to require imported articles to be marked in order that smuggled merchandise may be identified, and for other purposes; without amendment (Rept. No. 1411). Referred to the Committee of the Whole House on the state of the Union.

Mr. GEHRMANN: Committee on Indian Affairs. H. R. 8165. A bill to refer the claim of the Menominee Tribe of Indians to the Court of Claims with the absolute right of appeal to the Supreme Court of the United States; with amendment (Rept. No. 1412). Referred to the Committee of the Whole House on the state of the Union.

Mr. ROGERS of Oklahoma: Committee on Indian Affairs. H. R. 6818. A bill conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claim which the Kiowa, Comanche, and Apache Tribes of Indians may have against the United States, and for other purposes; with amendment (Rept. No. 1413). Referred to the Committee of the Whole House on the state of the Union.

## CHANGE OF REFERENCE

Under clause 2 of rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 6101) for the relief of D. W. F. Maloy; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 8505) directing the Court of Claims to reopen the case of John W. Parish, trustee (John H. Baxten, substitute), against the United States (no. 34450), and to correct the errors therein, if any, by an additional judgment against the United States; Committee on Claims discharged, and referred to the Committee on the Judiciary.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GUYER: A bill (H. R. 8739) to prohibit, within the District of Columbia, the manufacture, importation, exportation, transportation, sale, gift, purchase, or possession of any spirituous, vinous, malt, fermented, and all alcoholic liquors whatsoever, which may be used as beverages, excepting natural wine for religious services, and ethyl alcohol for compounding or manufacturing medicines for internal use and as a disinfectant by physicians, surgeons, and dentists, in their professions, prescribing penalties for the violation thereof, and for other purposes; to the Committee on the District of Columbia.

By Mr. McSWAIN: A bill (H. R. 8740) granting pensions to former members of the military service who were discharged for disability incurred in line of duty, their widows, and dependents; to the Committee on Pensions.

By Mr. WILCOX: A bill (H. R. 8741) to amend an act entitled "An act to provide for the establishment of the Everglades National Park in the State of Florida and for other purposes", approved May 30, 1934; to the Committee on the Public Lands.

By Mr. MITCHELL of Tennessee: A bill (H. R. 8742) to amend the Packers and Stockyard Act; to the Committee on Agriculture.

By Mr. LEMKE: A bill (H. R. 8743) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898, and acts amendatory thereof and supplementary thereto; to the Committee on the Judiciary.

By Mr. RUSSELL: A bill (H. R. 8744) to protect the public against fraud by prohibiting the sale or shipment in interstate or foreign commerce of misbranded articles, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MARCANTONIO: Resolution (H. Res. 281) to authorize the appointment of a committee to investigate the propaganda of public-utility holding companies; to the Committee on Rules.

By Mr. HIGGINS of Massachusetts: Resolution (H. Res. 282) asking an inquiry with reference to the facilities for divine worship available for American citizens resident in or visiting particularly in 14 States of the Republic of Mexico; to the Committee on Foreign Affairs.

By Mr. SHANLEY: Resolution (H. Res. 283) concerning religious persecution in Mexico; to the Committee on Foreign Affairs.

By Mr. EATON: Joint resolution (H. J. Res. 342) memorializing the President of the United States on the seriousness of broken promises; to the Committee on Rules.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DOUTRICH: A bill (H. R. 8745) granting an increase of pension to Lovina Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8746) granting an increase of pension to Emma Snyder; to the Committee on Invalid Pensions.

Also, a bill (H. R. 8747) for the relief of E. M. Heisey; to the Committee on Claims.

By Mr. ROMJUE: A bill (H. R. 8748) authorizing a preliminary examination of Weldon River in Mercer County, Mo., with a view to the controlling of floods; to the Committee on Flood Control.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9047. By Mr. BLOOM: Petition of the Assembly of the State of New York, urging the immediate passage of House bill 6, authorizing the Postmaster General to construct underground pneumatic tubes for the transmission of mail between the general post office in Brooklyn and the Floyd Bennett Field, Barren Island, Brooklyn, and the five postal stations lying parallel to Flatbush Avenue between these two points, namely, Stations Times Plaza, B, Flatbush, Kensington, and Vanderveer; to the Committee on the Post Office and Post Roads.

9048. Also, memorial of the Assembly of the State of New York, urging the enactment of such measures as may be necessary to provide for the observance of October 12 as a national holiday to be known as "Columbus Day"; to the Committee on the Judiciary.

9049. Also, petition of the Assembly of the State of New York, urging the repeal of the charter of the North River Bridge Co. which was granted by act of Congress of the United States (ch. 669, 1889–90, 51st Cong., and Public Act No. 350, 67th Cong., 1922); to the Committee on Interstate and Foreign Commerce.

9049a. Also, petition of the Assembly of the State of New York, favoring the enactment of legislation to provide a suitable pension to George S. Ward for his great courage and self-sacrifice in the cause of public health; to the Committee on Pensions.

9049b. Also, petition of the Assembly of the State of New York, urging the enactment of such legislation as may be necessary to humanize the immigration laws of the United States and to provide for the reuniting of such persons and their families; to the Committee on Immigration and Naturalization.

9049c. Also, petition of the Assembly of the State of New York, favoring the immediate enactment of such legislation as may be necessary to abolish the Federal gasoline sales tax and to surrender to the States exclusively the power to tax such sales in the future; to the Committee on Ways and Means.

9050. Also, petition of the Assembly of the State of New York, urging the passage of the General Pulaski Memorial Day resolution now pending in the Congress of the United States; to the Committee on the Judiciary.

9050a. Also, petition of the Assembly of the State of New York, favoring the enactment with all convenient speed of such legislation as may be necessary to provide suitable and adequate regulation of the transportation of persons and property in interstate and foreign commerce by motor carriers operating motor vehicles for compensation, by charter or by contract, on the public highways in interstate or foreign commerce; to the Committee on Interstate and Foreign Commerce.

9051. Also, petition of the Assembly of the State of New York, urging the enactment with all convenient speed of the Costigan antilynching bill or other like legislation which will prevent the punishment or destruction of persons accused or suspected of crime in any other way or by any other authority than by due process of law and by a duly constituted court of justice; to the Committee on the Judiciary.

9052. Also, petition of the Assembly of the State of New York, requesting, in behalf of New York State and other States producing milk and dairy products in large quantities, that legislative action be taken by the Congress of the United States, for the public welfare, protection of industry, and proper regulation of interstate commerce in milk to that end; to the Committee on Interstate and Foreign Commerce.

9053. By Mr. FENERTY: Petition of 1,000 citizens of the city of Philadelphia, Pa., praying for passage of House Joint Resolution 193, directing the President to proclaim July 9 of this year 1935, Commodore John Barry Memorial Day, for the observance and commemoration of the one hundred and fiftieth anniversary of the completion of Commodore John Barry's service in the American Navy of the Revolution and

authorizing the Postmaster General to issue a special series of postage stamps; to the Committee on the Judiciary.

9054. Also, petition of 500 citizens of the State of New Jersey, urging passage of House Joint Resolution 193, authorizing the Postmaster General to issue a special series of postage stamps in commemoration of the one hundred and fiftieth anniversary of the completion of Commodore John Barry's service in the American Navy of the Revolution; to the Committee on the Judiciary.

9055. Also, petition of the Catholic Daughters of America in Pennsylvania, numbering 20,000, endorsing House Joint Resolution 193, directing the President to proclaim July 9 of this year Commodore John Barry Memorial Day and authorizing the Postmaster General to issue a special series of postage stamps; to the Committee on the Judiciary.

9056. Also, petition of 25,000 citizens of the city of Chicago, Ill., praying for passage of House Joint Resolution 193, directing the President to proclaim July 9 of this year 1935 Commodore John Barry Memorial Day for the observance and commemoration of the one hundred and fiftieth anniversary of the completion of Commodore John Barry's service in the American Navy of the Revolution, and authorizing the Postmaster General to issue a special series of postage stamps; to the Committee on the Judiciary.

9057. By Mr. LAMNECK: Petition of the undersigned employees of the Federal Glass Co. of Columbus, Ohio, proposing a line of procedure to eliminate the importation of glass products from Japan at the ruinous prices now prevailing because their jobs are in jeopardy; to the Committee on Ways and Means.

9058. By Mr. LORD: Petition of Emma Willmer, county director of movies, Bainbridge, N. Y., and 69 residents of Chenango County, urging enactment of House bills 4757 and 6472; to the Committee on Interstate and Foreign Commerce.

9059. By Mr. ROMJUE: Petition of citizens of Hannibal, Mo., requesting the full House Committee on Interstate and Foreign Commerce to reject the subcommittee report on Senate bill 1629, and that the measure as it passed the Senate, or its equivalent, be substituted for the bill reported by the subcommittee; to the Committee on Interstate and Foreign Commerce.

# SENATE

## TUESDAY, JULY 2, 1935

*(Legislative day of Monday, May 13, 1935)*

The Senate met at 12 o'clock meridian, on the expiration of the recess.

### THE JOURNAL

On request of Mr. ROBINSON, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, July 1, 1935, was dispensed with, and the Journal was approved.

### MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its enrolling clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

S. 1958. An act to diminish the causes of labor disputes burdening or obstructing interstate and foreign commerce, to create a National Labor Relations Board, and for other purposes;

S. 2074. An act to create a National Park Trust Fund Board, and for other purposes;

S. 2642. An act to incorporate The American National Theater and Academy;

H. R. 3012. An act to authorize the transfer of certain lands in Hopkins County, Ky., to the Commonwealth of Kentucky; and

H. R. 6464. An act to provide means by which certain Filipinos can emigrate from the United States.

### CALL OF THE ROLL

Mr. ROBINSON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

| | | | |
|---|---|---|---|
| Adams | Coolidge | Lewis | Radcliffe |
| Ashurst | Copeland | Logan | Reynolds |
| Bachman | Dickinson | Lonergan | Robinson |
| Bankhead | Dieterich | Long | Schall |
| Barbour | Donahey | McAdoo | Schwellenbach |
| Barkley | Duffy | McCarran | Sheppard |
| Bilbo | Fletcher | McGill | Shipstead |
| Black | George | McKellar | Smith |
| Bone | Gibson | McNary | Steiwer |
| Borah | Glass | Maloney | Thomas, Okla. |
| Brown | Gore | Metcalf | Townsend |
| Bulkley | Guffey | Minton | Trammell |
| Bulow | Hale | Moore | Truman |
| Burke | Harrison | Murphy | Tydings |
| Byrd | Hastings | Murray | Van Nuys |
| Byrnes | Hatch | Neely | Wagner |
| Capper | Hayden | Norbeck | Walsh |
| Caraway | Holt | Norris | Wheeler |
| Carey | Johnson | O'Mahoney | White |
| Chavez | Keyes | Overton | |
| Clark | King | Pittman | |
| Connally | La Follette | Pope | |

Mr. LEWIS. I announce that the Senator from Colorado [Mr. COSTIGAN], the Senator from Georgia [Mr. RUSSELL], the Senator from Utah [Mr. THOMAS], the Senator from North Carolina [Mr. BAILEY], and the Senator from Rhode Island [Mr. GERRY] are detained from the Senate on important public business. I request that this announcement stand for the day.

Mr. McNARY. I wish to announce that the senior Senator from Michigan [Mr. COUZENS] is absent on account of illness, and that the Senator from Vermont [Mr. AUSTIN], the Senator from Pennsylvania [Mr. DAVIS], the senior Senator from North Dakota [Mr. FRAZIER], the junior Senator from North Dakota [Mr. NYE], and the junior Senator from Michigan [Mr. VANDENBERG] are necessarily detained from the Senate. I ask that this announcement stand for the day.

The VICE PRESIDENT. Eighty-five Senators have answered to their names. A quorum is present.

### MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Latta, one of his secretaries.

### SELECT COMMITTEE TO INVESTIGATE THE ADMINISTRATION OF THE VIRGIN ISLANDS

The VICE PRESIDENT laid before the Senate a letter from the Senator from Maine [Mr. WHITE], which was read, as follows:

UNITED STATES SENATE,
*June 28, 1935.*

The VICE PRESIDENT,
*The United States Senate, Washington, D. C.*

MY DEAR MR. VICE PRESIDENT: I hereby tender my resignation as a member of the Select Committee to Investigate the Administration of the Virgin Islands.

I am, very sincerely yours,

WALLACE H. WHITE, Jr.

The VICE PRESIDENT appointed Mr. GIBSON a member of the Select Committee to Investigate the Administration of the Virgin Islands in place of Mr. WHITE.

### LAWS AND RESOLUTIONS OF LEGISLATURE OF PUERTO RICO

The VICE PRESIDENT laid before the Senate a message from the President of the United States, which was read, and, with the accompanying document, referred to the Committee on Territories and Insular Affairs, as follows:

*To the Congress of the United States:*

As required by section 23 of the act of Congress approved March 2, 1917, entitled "An act to provide a civil government for Puerto Rico, and for other purposes", I transmit herewith certified copies of laws and resolutions enacted by the Thirteenth Legislature of Puerto Rico during its third regular session, February 11 to April 14, 1935.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *July 2, 1935.*