

# ONE SUPREME JUDGE ALTERS UTILITY VIEWS

Reversal of Position Seen Further Evidence of Compromise Trend.

By HERBERT LITTLE

WASHINGTON, Jan. 4.—The turnaround of one Supreme Court justice and the bold insouciance of another served today to dramatize the Court's two latest rulings on utility rate-fixing.

In the 6-2 decision of the Pacific Gas & Electric case, it was apparent that either Chief Justice Hughes or Justice Roberts reversed himself. For last June 1, in this same case, a 4-4 ruling by the Court repudiated the original-cost theory of rate-making. Yesterday's decision, written by the Chief Justice, in effect authorizes the California Commission to use its own judgment in basing gas rates on original cost, rather than on reproduction of the company's plant.

While the roll call on last June's vote was kept secret, as is customary in its votes, it was apparent that the four of the winning side were Justices Butler, McReynolds, Van Devanter (since retired), and either Hughes or Roberts. Yesterday only Justices Butler and McReynolds dissented. Justice Sutherland did not take part in either case. Thus either the Chief Justice or Justice Roberts changed his mind.

In yesterday's other decision, involving Indianapolis water rates, the Court ordered a U. S. District Court to conduct a new trial and admit evidence of price changes from 1933 to 1935.

To this decision Justice Black dissented, thereby taking a position to the left even of the Court's traditionally "liberal" trio, Justices Brandeis, Cardozo and Stone.

Some, mindful of reputed compromises within the Court in the past, speculated that the "liberals" might have yielded in this case in order to clinch the co-operation of Justices Hughes and Roberts in the California case.

In any event, the orders for retrials in both cases defer for a long time the final showdown on reproduction cost vs. original cost.

## 61 Power Projects Get Ickes 'Go Ahead'

BULLETIN

WASHINGTON, Jan. 4 (U. P.)—Attorney General Cummings announced today the Government will seek immediate dissolution of injunctions blocking Public Works Administration plans to give industry a \$146,917,808 "shot in the arm" through construction of 61 public power projects.

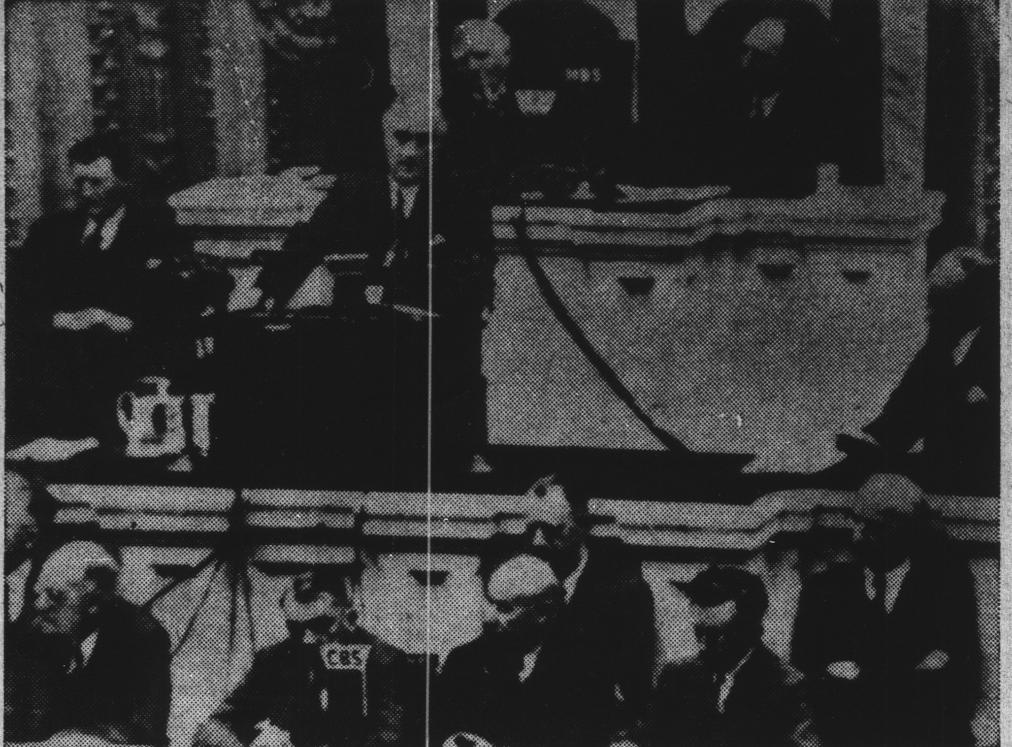
WASHINGTON, Jan. 4 (U. P.)—Public Works Administrator Harold L. Ickes gave a "go ahead" signal to 61 public power projects today as a result of a Supreme Court decision upholding the validity of municipal power plants constructed with PWA funds.

The projects will provide a 100 million man-hour "shot in the arm" for industry and will have a construction cost of \$146,917,808. They are located in 23 states.

Secretary Ickes promised the construction work would be speeded so that the projects could exert a maximum of influence on unemployment.

The unanimous court decision in the PWA case was delivered yesterday by Justice George Sutherland. It rejected two attacks on the validity of PWA loans and grants to municipalities for construction of power systems. All the Justices agreed that public utilities were barred from challenging the PWA program because "municipal power systems constituted fully authorized and legal competition."

## As President Delivered Message



President Roosevelt is shown on the rostrum in the House of Representatives as he delivered his annual message to Congress. Behind him are Vice President Garner (left), and Speaker William B. Bankhead. At the right is his son and assistant, James Roosevelt.

## Black Sees Rise in Water Rates For City in High Court's Action

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"reproduction cost" theory and involved the same company, Justice Black produced figures to show what had been invested in the property.

"The record in the McCarré case," he wrote, "showed that the property was bought at a judicial sale in 1881 by the present company at a cost of not more than \$53,000, the purchase being financed by a sale of bonds."

"That apparently no cash was paid for the \$500,000 face value of stock issued at that time.

"That the maximum book value of the company's assets on Dec. 31, 1923, was \$9,195,908, but a witness called by the commission declared that the company's records disclosed the actual book value of the property used for the public convenience to be only \$7,967,649.

"That from 1881 to Dec. 31, 1923, stockholders' average annual profits were \$189,255.

"That practically all of the added book value was the result of additional investments financed by borrowing and not by investment of stockholders."

"That no other investment was made by the stockholders in the company since 1881, but in 1909 a writup of \$5,556,071.85 was made on the books by virtue of which a common stock dividend of \$4,500,000 was declared in 1910, making the total common stock \$5,000,000.

"That the \$5,000,000 stock was thereafter carried in the books of the company.

"That the stockholders not only paid no additional money for stock, but that the profits made by the company between 1881 and 1932 were not reinvested in the company but were substantially all drawn out in dividends."

In the McCarré case, a \$19,000,000 value for rate making was set by the Seventh District Court of Appeals reversed the District Court's finding in the present case of \$21,392,821 and suggested a 25 per cent increase because of "price trends" between 1933 and 1935, Justice Black pointed out.

The District Court is now reversed, however, because the Court of Appeals found that rates based on an obviously inflated value of \$21,392,821 fixed by the District Court would confiscate the property of the company's stockholders," he wrote.

The opinion then comments upon the marked disparity between actual cost of the company's property and "it's imaginary reproduction value."

"So-called water rights, involving

the marked disparity between actual cost of the company's property and "it's imaginary reproduction value."

IN INDIANAPOLIS

## Here's County Traffic Record

Deaths (To Date)	
1938 .....	4
1937 .....	0
Deaths in City	
1938 .....	2
1937 .....	0
Accidents	
Jan. 3)	3
Accidents .....	3
Injured .....	1
Dead .....	1
Arrests	
Jan. 3)	1
Speeding, 14	
Reckless Driving, 3	
Running Preferential Street, 4	
Running Red Light, 4	
Drunken Driving, 1	
Others, 62	

## MEETINGS TODAY

Indiana State Association of County and District Clerks, state meeting, Claypool Hotel. All day.

Indiana Herbicide Breeders' Association, meeting, Hotel 73-30, Washington, noon.

Indianapolis Council P. T. A., meeting, Hotel Washington, 10 a. m.

Kiwans Club, luncheon, Columbia Club, noon.

Young Men's Discussion Club, dinner, Y. M. C. A., 6 p. m.

Indiana State Association, luncheon, Hotel Sevier, noon.

Kiwanis District American Legion, luncheon, Hotel of India, noon.

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## NEWSPAPERS OF NATION SPLIT ON F. D. R. MESSAGE

### Attacked for Evasiveness on One Hand, Praised for Good Sense on Other.

By United Press

Reaction to President Roosevelt's message to Congress became quickly articulate today, in which opinions were fairly divided. Following is a cross-section of editorial comment from some of the nation's largest newspapers:

**WASHINGTON POST**—Yesterday he (Mr. Roosevelt) sought to muffle the reverberations of the onslaughts against "big business" indulged in last week by Secretary Ickes and Assistant Attorney General Jackson.

**BALTIMORE SUN**—Whether the President is able to adjust himself to a definitely formulated program in support of the system of competitive capitalism (with eradication of the evils of monopoly) to which he and his Republican predecessors alike contributed heavily is a question that remains to be answered.

**NEW YORK NEWS**—On March 4, 1933, the people listened to Roosevelt as a Messiah. Now, we believe, most of them listen to him as to a man of vast experience and much common sense. The rest hate his guts.

**NEW YORK HERALD-TRIBUNE**—The President is hard at his best in discussing basic economic problems. In this field the superficiality of his knowledge is matched by the evasiveness of his speech.

**NEW YORK TIMES**—By and large, the message is reasonable in its objectives, praiseworthy in its tone and fair in its treatment of those who disagree with specific points in the Administration's program.

**CLEVELAND PLAIN DEALER**—In essence, it is the considered policy of the Administration to leave the flinging of hard words to such cynical tireuses as Secretary Ickes and Assistant Attorney General Jackson.

**CINCINNATI ENQUIRER**—The sober listener could not fail to realize that the Administration still is pointed toward a repetition of the disastrous experiment of 1933 and 1934.

**OHIO STATE JOURNAL**—In essence, it was just another political speech.

**Comment in Leading European Capitals**

Comment in principal European capitals included:

**LONDON TIMES** (principal Conservative organ)—Mr. Roosevelt did not develop his theme as he did in his Chicago speech. The whole passage (regarding foreign affairs) was cast in a notably lower key and appeared to have been intended chiefly to fortify his plea for national unity in meeting internal difficulties.

**LONDON NEWS CHRONICLE** (Liberal Party organ)—Mr. Roosevelt has the moral leadership of the world for his asking. The New Deal marches on. Its methods are not always perfect, but its aims at home and abroad are magnificently right.

**LONDON DAILY HERALD** (Labor Party organ)—The President is trying to undermine isolation and leave the road clear so that he may lead the American people out to a new position where they will be willing to use their great power positively in the struggle for world peace.

**BERLIN DEUTSCHE ALLGEMEINE ZEITUNG**—The speech appears rather arrogant. It is a criticism of political systems which differ from the United States democratic system.

**BERLIN TAGEBLATT**—The most

## BOB BURNS Says:

HOLLYWOOD, Jan. 4—

"I'm beginnin' to find out that workin' in pictures is just another job. You haven't got up at seven o'clock in the morning in order to be on set in your 'war paint' by nine o'clock. Then you work all day long in the heat. The reason people think it is romantic is because they only see the romantic side of it. It's like the city man that came down and stayed at Uncle Hod's house.

all night at Uncle Hod's house. The next morning he looked out the window and he said to Uncle Hod, 'my goodness, I envy you having such a beautiful view to look at.' Uncle Hod says 'Well, maybe it is, but if you hadn't plow that view, harrow it, hoe it, mow it, fence it and pay taxes on it—then you wouldn't think it was so darn pretty.'

(Copyright, 1938)

surprising thing in the speech is that it is not new. For that part of the world which expected much—in vain—of the Chicago speech, the President's message must be disappointing.

In Paris the consensus of morning newspaper opinion seemed to be that the President had seen and understood the perils. Far from calling for Government but that there was no certainty that the isolationist United States would take its stand with European democracies.

In Rome political quarters expressed disappointment at the message. The morning newspapers gave bare 250 words to the message. It was notable that this summary omitted the President's remarks on democracy and dictatorship.

1. Disclosure by an Administration source that the President is being urged to have one branch of Congress—probably the House—carry on the antimonopoly battle by an inquiry.

2. Opening of an inquiry headed by Senator Byrnes (D. S. C.) into the extent and causes of unemployment which the Federal Unemployment Commission reported at possibly 11 million.

3. Preliminary planning for further banking legislation—a problem the President said in his message must be completed. It was learned that the sharp difference of opinion developed at a meeting of the heads of various fiscal agencies.

Regular Congressional activity will be resumed tomorrow when President Roosevelt delivers his budget message.

"It is important to note that while this country enjoys a fine credit rating, nevertheless, in about three years, on the present basis, Marion County will have reached the constitutional limit of its borrowing power. It is well to bear in mind that relief in Indiana cost 300 per cent more in July, 1937, than in July, 1933, when unemployment was greatest."

Mr. Ruckelshaus charged that during the last election the "party in power did take advantage of the relief situation to convince a great many voters, who were recipients of governmental relief, that they must vote for certain candidates or future governmental relief would not be forthcoming."

To eliminate this, he recommended that the law, passed by the Legislature which prevents employers from coercing their employees in voting, be extended to "any one connected with the machinery of, or to the representative of a political party when that individual should endeavor to coerce a voter who happened to be on Governmental relief."

Mr. Ruckelshaus suggested that the Government "assist the people on relief to find jobs and likewise every means to encourage private industry to hire these people" by training more unskilled workers to fill in the shortage in the skilled workers' ranks.

He was to speak at noon today before the Indianapolis Council of Women at the Ayres' auditorium.

## CO-OPERATIVE BUSINESS SEEN AS F. D. R.'S HOPE

### White House Aids Reveal Favorable Response to Message.

(Continued from Page One)

gation plans appeared certain to arouse wide opposition in Congress. The extent to which they would be carried was uncertain. But developments left no doubt as to the emphasis the Administration is placing on that phase of the business problem.

Even before the President's appeal for co-operation of business and Government was delivered, it was reported Vice President Garner informed Senator Boran (R. Ida.) that the Administration was friendly toward the bill for Federal Licenses for corporations, sponsored by Senators Boran and O'Mahoney.

Mr. Garner was understood to have asked Senator Boran's support in the antitrust drive. The Idaho Senator made clear he would support any legislation toward the antimonopoly objective, but he vigorously opposed a prolonged investigation.

Urge Quick Action

Senator O'Mahoney, too, urged quick action instead of "more talk."

The Congressional attack on problems of business while awaiting completion of a tax revision bill included three immediate developments:

1. Disclosure by an Administration source that the President is being urged to have one branch of Congress—probably the House—carry on the antimonopoly battle by an inquiry.

2. Opening of an inquiry headed by Senator Byrnes (D. S. C.) into the extent and causes of unemployment which the Federal Unemployment Commission reported at possibly 11 million.

3. Preliminary planning for further banking legislation—a problem the President said in his message must be completed. It was learned that the sharp difference of opinion developed at a meeting of the heads of various fiscal agencies.

"But it does seem that in such governmental gestures as the enactment of the undistributed profits tax, the belligerent uncompromising attitude of some few men in public office, like Secretary of Interior Ickes,