

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 insurance 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 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 the 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 traditional "liberal" trio, Justices Brandeis, Cardozo and Stone.

Some, mindful of reputed compromises within the Court in the past, speculated that 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.

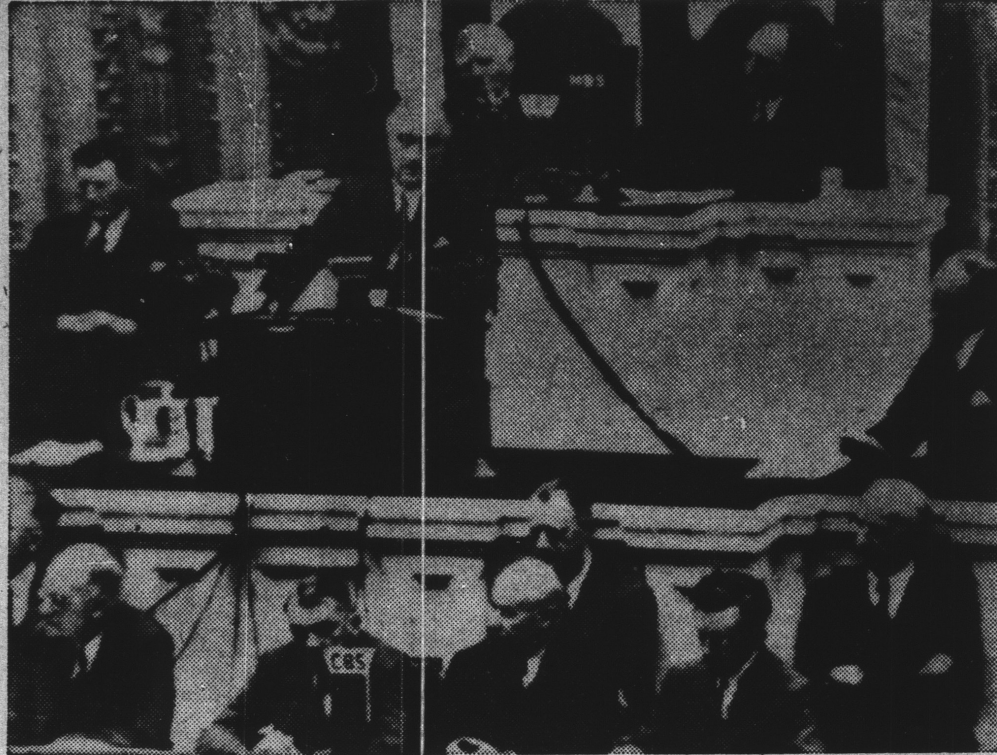
WASHINGTON, Jan. 4 (U. P.).—Public Works Administrator Harold L. Ickes gave a "go ahead" signal to 61 public power projects today as a result of a Supreme Court decision upholding the validity of municipal power plants constructed with FWA funds.

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 involving the same company, Justice Black produced figures to show what had been invested in the property.

"The record in the McCord 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 \$355,000, the purchase being financed by 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 \$95,195,808, but a witness called by the commission testified 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 1923 were not reinvested in the company but were substantially all drawn out in dividends."

19 Million Value Set

In the McCord case, a \$19,000,000 value for rate making was set, but 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 decrease because of "prior trends" between 1883 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 were based on the value of the company's stockholders," he wrote.

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

"So-called water rights, involving

White River, estimated from nothing to \$2,000,000 are ridiculous and the company is not entitled to any possible benefit based on providing navigation for 'imaginary sailors.'"

"It is difficult to believe that such concepts of property can establish clear proof that the Constitution of the United States has been violated."

Nor do we believe that, even if the people of Indianapolis and the surrounding community have permitted the Water Co. to use this stream for a public service, there has been a grant of a prescriptive property right which can be capitalized by the company, in order to exact higher water rates from the very people who granted the privilege."

"If the company had made actual investment in its property between 1933 and 1935, resort to illusory property concepts would not be necessary. Clearly, it would be entitled to a reasonable return upon such actual investment. Such is not the case. The order for a new trial is not based on a claim that the company has invested even one additional dollar. It is not claimed that the company bought additional land; added inch to any of its dams; extended its distribution pipes, improved its filtration system, or purchased one additional piece of property."

Therefore no judge should be held to the fluctuating price trends and expected to anticipate the future, Justice Black holds.

"I believe the record affirmatively shows that the consumers of water in Indianapolis are already compelled to pay an unjustifiable price for their water on account of previous judicial overvaluation of this property," the opinion concludes.

"I believe the State of Indiana has the right to regulate the price of water in Indianapolis free from interference by Federal courts."

"The courts did not deny this right to the states for the first 100 years after the adoption of the Constitution."

SHOOTING OF LOCAL MAN INVESTIGATED

EVANSVILLE, Jan. 4 (U. P.).—Police today investigated the mysterious shooting of Clarence Leach, 21, soldier on leave from Ft. Benjamin Harrison, who was wounded severely by a bullet fired in a tavern last night. He had been visiting his parents in Garden City.

From a dozen witnesses police were unable to obtain an accurate version of the affair or locate anyone in possession of a gun.

JAPS ADVANCE, BOMB HANKOW

Spaniards Deadlocked on Icy Battlefield in Fight for Teruel.

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the city of Hangchow, south of Shanghai, had been captured. The spokesman explained that the Japanese took over the Chinese Government radio service in order to prevent removal of apparatus.

The first air raid on Hankow in the last two months nearly 20 Japanese planes dropped approximately 200 bombs, most of them on the military air field. Several missed the field and set residences afire.

The next large city in the path of the Japanese drive in Shantung was Yenchow, although the real objective was Suchow.

Japanese authorities in Shanghai demanded controlling positions in the municipal government council of the International Settlement today because of repeated anti-Japanese terrorism.

Four Japanese officials made a strong protest to the council, attributing new attacks on Japanese soldiers by Chinese "red terrorists" to inefficiency of Settlement police.

Rebels and Loyalists Deadlocked at Teruel

HENDAYE, French-Spanish Frontier, Jan. 4 (U. P.).—The grim battle between Spanish Rebels and Loyalists for the town of Teruel reached a momentary stalemate today.

Dispatches indicated that the Rebel offensive, one into which the insurgents had put everything they could muster, had stopped.

For six days the pick of the Rebel and Loyalist armies had fought in snow and ice, ill-fed, ill-clothed, under a day and night rain of death from artillery, machine guns and airplanes. It was indicated that the point of absolute exhaustion was reached yesterday, and that troops must be sent into the lines to carry on.

Arabs Tune Out British for Italian

LONDON, Jan. 4 (U. P.).—British officials waited eagerly today for reaction from Palestine on the first of their special Arab broadcasts, intended as a counter-measure to Italian broadcasts which are held here to be anti-British.

Arabs after listening to the program last night began to tune it out in favor of one from Italy which included songs by Abdul Wahab, favorite crooner of the Near East.

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

Attacked for Evasiveness on One Hand, Lauded for Good Sense on Other.

By United Press

Reaction to President Roosevelt's message to Congress became quickly articulated 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 monopolism 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 have his guns.

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

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.—Apparently, it is the considered policy of the Administration to leave the flinging of hard words to such franc tireurs as Secretary Ickes and Assistant Attorney General Jackson. . . . This may be sound political strategy, or it may not.

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 had the moral lower key 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."

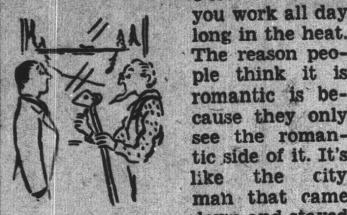
BERLIN DEUTSCHE ALLGEMEINE ZEITUNG.—The speech appears rather arrogant. It is a criticism of political systems which differ from the United States democratic system.

BERLIN TAGEBLATT.—The most

BOB BURNS

Says: HOLLYWOOD, Jan. 4.—I'm

beginnin' to find out that workin' in pictures is jest another job. You haven't got up at seven o'clock in the morning in order to be on the 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 maw that came down and stayed all night at Uncle Rod's house. The next morning he looked out the window and he said to Uncle Rod, "my goodness, I envy you having such a beautiful view to look at. Uncle Rod says, 'Well, maybe it is, but if you had to 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.'"



surprising thing in the speech is that it is not new. For that part of the world which expected so 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 Fascism held for Democracies but that there was no new deal in the message. The isolationist United States would take its stand with European democracies.

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

Hoosiers in Congress Divide on Message

WASHINGTON, Jan. 4.—The Hoosier delegation in Congress today was divided in its reaction to the President's message, with the Republican Rep. Charles A. Halleck attacking, but most of the Democrats applauding.

Rep. Halleck—"After five years of muddling the President tells us that we still are going to be required to muddle. The date of balancing the budget is further postponed by the same man who in 1932 said that no government can go on year after year increasing deficits."

Democratic comment follows: SENATOR MONTGOMERY.—He still is a New Dealer and that is what the people wanted when they re-elected him. His message was good tempered and its tone indicated that no honest citizen need be afraid."

SENATOR VANNY.—It was a fine message and very well delivered.

REP. GREENWOOD expressed delight with the message and predicted passage of a new wages and hours bill.

REP. GRISWOLD saw in the President's insistence upon a "floor for wages and ceiling for hours" support for his 40-cent minimum wage bill.

REP. LARRABEE—Noncommittal.

REP. CROWE—"The speech was pretty good and I am for it."

REP. JENCKES also praised it and predicted the President's program will be passed this session.

REP. GRAY has his own plan and expects to make a speech on "the money problem" shortly, he said.

REP. FETTERGILL—"I am going to make a speech showing how little prosperity we have brought back in five years."

Local Leaders Express Varied Reactions

Local political leaders greeted President Roosevelt's message to Congress with varied opinions today. Governor Townsend said he was impressed again "with the Presi-

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, former Senator Borah (R. Ida.) that the Administration was friendly toward the bill for Federal Licenses for corporations, sponsored by Senators Borah and O'Mahoney (D. Wyo.).

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

Urges 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 antitrust 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 Census 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 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.

Following the budget message, the House and Senate will get down to work on their programs.

The first item for the Senate will be the Wagner-Vannoy Antitrust Bill, which faces a filibuster of uncertain duration.

dent's sincere devotion to the welfare of the people."

"His message showed a sympathetic understanding of the problems of all classes society," he said.

Frederick E. Schortemeier, Republican county chairman, said the President "failed to inspire any confidence in business circles."

"There will be no recovery until Government and business work together," he said. "There was nothing in the President's message to indicate he realizes the seriousness of the unemployment problem."

Co-Operation Needed

"It appears the President is disposed to continue his differences with business. There was no promise of co-operation and there will be no progress until business and Government have confidence in each other. Until this is accomplished there will be no jobs for the unemployed."

William E. Clauer, Democratic County chairman, said he had heard the part of the message that had reference to the Administration policy toward business, and believed the speech was temperate.

Andorra Bars Gift-Bearing Capone Ally

BOURG, France, Jan. 4 (U. P.).—Alex Sikorski, alias Kid Tiger, reputedly a former lieutenant of Al Capone, was refused permission to enter the tiny republic of Andorra today, though he had offered to build the country a modern sanatorium.

Sikorski, who said he has lived in exile in 15 European countries in flight from American income tax collectors, will return to Marseilles unless his lawyer succeeds in convincing the French Government it ought to permit him to enter Andorra.

If his lawyer fails, the only other European country which "the Kid" may visit is Liechtenstein.

Village reports said that Sikorski was awaiting the arrival of an 18-year-old girl whom he loves deeply.

G. O. P. AID HITS RELIEF SETUP

Ruckelshaus Says Deadline On Borrowing to Come In Three Years.

(Continued from Page One)

that group believing that some phases of New Deal legislation which have ruled out certain practices of private businesses are, on the whole, justifiable and even necessary," he said.

"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, we have at least a partial explanation for the fact that we have today some 10 million people unemployed with relief rolls rising, notwithstanding a government-wide expenditure since 1933 of about 14 billions of dollars."

Bill Paid by Bonds

Returning to the administration of local relief, Mr. Ruckelshaus said: "The whole bill was paid by bond issues; a loan that some day will have to be paid, together with interest by the taxpayers of this community."

"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 relief, 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 use 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.

IN INDIANAPOLIS

Here's County Traffic Record

Deaths (To Date)

1938 4

1937 0

Deaths in City

1938 2

1937 0

Accidents

Jan. 3)

Accidents 3

Injured 5

Dead 1

Arrests

Jan. 3)

Speeding

Reckless Driving

Running Preferential Street

Running Red Light

Drunk Driving

Others

62

MEETINGS TODAY

Rotary Club, luncheon, Claypool Hotel, noon.

Alpha Tau Omega, luncheon, Board of Trade, noon.

Indiana State Association of County and District Fairs, state meeting, Claypool Hotel, all day.

Indiana Berkshire Breeders' Association, meeting, Claypool Hotel, 7:30 p. m.

Gamma Club, luncheon, Hotel Washington, noon.

Gamma Club, luncheon, Spink Arms Hotel, noon.

Marion Club, luncheon, Columbia Club, noon.

University of Michigan Club, luncheon, Board of Trade, noon.

Gamma Delta, dinner, Athenaeum, 6 p. m.

MEETINGS TOMORROW

Indiana State Association of County and District Fairs, state meeting, Claypool Hotel, all day.

Indiana Berkshire Breeders' Association, meeting, Claypool Hotel, 7:30 p. m.

Gamma Club, luncheon, Hotel Washington, noon.

Indiana Council F. T. A., meeting, Hotel Washington, 10 a. m.

Kappa Club, luncheon, Columbia Club, noon.

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

Purdue Alumni Association, luncheon, Board of Trade, noon.

Twelfth District American Legion, luncheon, Board of Trade, noon.

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