The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. BYRNS. I may say in response to the statement of the gentleman from Illinois [Mr. BRITTEN] that the gentleman to whom he refers as having this rule for the purpose of reporting it to the House, has been most persistent ever since the rule was adopted in his effort to get time to present that rule. I want to say in all kindness to him, and I do not mean any offense when I say it, but he has pestered me nearly to death in his effort to get that rule before this House. And I assured him it would be considered at the very first opportunity.

Its nonconsideration has not been due to him in any sense of the word; he has been most diligent in his efforts to get that rule considered. If the gentleman from Illinois [Mr. BRITTEN] will assist those of us who are trying to get the pending bill through at an early hour this afternoon, I think I can assure the gentleman from Illinois [Mr. BRITTEN] that the gentleman from Illinois who has the rule, has been given assurance that he can call it up for consideration this afternoon.

Mr. O'CONNOR. Mr. Speaker, will the gentleman yield?

Mr. BYRNS. I yield.

Mr. O'CONNOR. Mr. Speaker, the gentleman from Illinois [Mr. BRITTEN] said that the other gentleman from Illinois [Mr. SABATH] was carrying this rule around in his pocket.

Mr. BRITTEN. Mr. Speaker, I did not say the gentleman from Illinois; I said the Member of the House.

Mr. O'CONNOR. But the gentleman meant the gentleman from Illinois [Mr. SABATH] was carrying this rule around in his pocket. The fact is, that immediately after the rule was reported from the Rules Committee, Mr. SABATH reported it to the House, and it is now on the calendar.

Mr. BRITTEN. Then why does he not call it up?

Mr. O'CONNOR. That is quite a different question from the unwarranted charge that he is carrying the rule around in his pocket. The distinguished gentleman from Illinois [Mr. SABATH] has not been able to call up the rule because it has not been on the program as set by our leaders; but he has been trying every hour of every day to bring the rule to the floor of the House. Because it was not in the program, however, he could not call it up. Why, Mr. Speaker, if the distinguished gentleman from Illinois had not pressed for the rule it would not have come out of the Rules Committee. The gentleman has been the sole champion of the measure and is more entitled to credit for it than any other Member of the House. The other gentleman from Illinois [Mr. BRITTEN] has done nothing, to my knowledge, to bring this measure before the House.

Mr. BRITTEN. Then why does not the gentleman call it up?

Mr. BYRNS. The gentleman has tried many times to have the rule considered.

Mr. BRITTEN. Will the majority leader promise that the rule will be taken up this afternoon?

Mr. BYRNS. It can come up this afternoon if the gentleman will help dispose of the pending bill.

Mr. BRITTEN. I will help dispose of it.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to address the House for 3 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SABATH. Mr. Speaker, the charges made by my colleague are willful, deliberate, coldly calculated, and are made for the sole purposes of discrediting, creating prejudice, and to promote unfair attacks upon me by the Chicago newspapers, and at the same time to get some publicity for himself.

Only 15 minutes ago I talked with the Speaker of the House and with the majority leader urging and pleading that I be allowed to call up this rule. I have sought an opportunity to call up the rule from the moment it was reported. Upon my earnest pleading the Rules Committee accommodatingly granted the rule. The very next day I was charged with delay because I had not reported the rule, whereas the next day we held memorial exercises and there was no chance to report this rule. Four other rules have been reported. The agreement was that the Chairman of the Rules Committee would report his rule only, which would make in order the stock exchange regulation bill.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I gladly yield.

Mr. BLANTON. And the gentleman from Illinois yesterday got a bill passed to aid the fair by getting exhibits released, did he not?

Mr. SABATH. Yes; I did; but my colleague [Mr. BRITTEN] was not here.

Mr. BLANTON. The gentleman's Republican colleague, however, gave the gentleman no credit for that whatever.

Mr. SABATH. I do not want any credit from him; but I do naturally resent these unfair and unjust charges; and I could properly say that they are false, because I have done everything within my power to effect consideration of this special rule to make in order the bill authorizing the small appropriation the President has kindly recommended.

Mr. BANKHEAD. Mr. Speaker, will the gentleman yield?

Mr. SABATH. Yes; I yield to the gentleman from Alabama.

Mr. BANKHEAD. I do not think it is necessary to add anything to the assurance already given by my associate on the committee, the gentleman from New York [Mr. O'CONNOR], as to the extreme diligence exercised by the gentleman from Illinois [Mr. SABATH] in reference to this matter in the Committee on Rules for several weeks. He has been most persistent in securing the adoption of this resolution. The gentleman brought it in in the regular way, and it was placed on the calendar.

Under our system of procedure, there were matters of major importance that the majority leader and the Speaker put on the party program for consideration. I may say in reply to the gentleman from Illinois [Mr. BRITTEN] that there is no justification on earth for the statement the gentleman made which sought to reflect in any way upon the diligence with which the gentleman from Illinois [Mr. SABATH] has pursued this matter. The gentleman from Illinois [Mr. SABATH] is deeply interested in securing this authorization for the Government's participation in the fair. The gentleman is just as much interested in it as is the gentleman from Illinois [Mr. BRITTEN]; and the gentleman from Illinois [Mr. SABATH] has not slept upon his rights in connection with this matter but has pursued it with extreme diligence.

PERMISSION TO ADDRESS THE HOUSE

Mr. SABATH. Mr. Speaker, I ask unanimous consent to address the House for one-half minute.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. SABATH. Mr. Speaker, in my desire to give way to the message from the President I failed to say that I have talked to the Speaker and the majority leader only a few moments ago, and they assured me that I will have a chance to call up this afternoon the resolution referred to a few moments ago, and they informed me further that they believed that the Johnson bill, which is now pending, would be completed and passed by the House by 3 or half past 3 and that I would then have a chance to present my request and get action thereon.

Mr. MARTIN of Massachusetts. Mr. Speaker, will the gentleman agree to call up the resolution tomorrow if the bill now under consideration is not finished this afternoon?

Mr. SABATH. Yes, I will; and the gentleman from Massachusetts [Mr. MARTIN] knows that I have been trying to get this rule through for the last week. May I say that that was the assurance given to me 5 minutes before my colleague from Illinois [Mr. BRITTEN] made the charges against me; in fact, he must have observed me while I was talking to the Speaker and Mr. BYRNS at the Speaker's desk.

PROCEDURE OF PUBLIC-UTILITY COMMISSIONS

Mr. SUMNERS of Texas. 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. 752), to amend section 24 of the Judicial Code, as amended, with respect to the jurisdiction of the district courts of the United States over suits relating to orders of State administrator boards.

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. 752, with Mr. HANCOCK of North Carolina in the chair.

The Clerk read the title of the bill.

Mr. LEWIS of Colorado. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. CLAIBORNE].

Mr. CLAIBORNE. Mr. Chairman, it is indeed a pleasure to address the House on a subject devoid of politics and of which I have intimate acquaintanceship. As a member of the State and Federal bar of Missouri for the past 30 years, I know something of the procedure in the State and Federal courts of Missouri.

I was rather shocked to hear the inferential charges of delaying trial leveled at Federal judges in cases where Federal injunction was sought to hold up rates fixed by rate-making bodies. I say, frankly, that the Federal judges of Missouri, the 2 at St. Louis and the 2 at Kansas City, have at no time been under the influence of any utility corporation, or, for that matter, of any corporation or person. I would also point out to the gentlemen who criticize the Federal judiciary that at this time it stands out in bold relief when contrasted with the State judiciary in the field of criminal prosecutions. If it had not been for a Federal court in Chicago I dare say that Al Capone would still be at large. I would much prefer to defend a man charged with crime in a State court than in a Federal court, and that for the obvious reason that the chances for an acquittal is greater in the State court than in the Federal.

It has been argued that time can be saved by forcing the utility companies, when applying for injunctions to restrain the putting into effect rates, to file their suit in a State court. That is not so in Missouri. My experience teaches that litigation moves faster in the Federal courts than in the State courts—I do not know about the Federal dockets of other States—I do know that in St. Louis, Mo., you may file your complaint in a Federal court, have a hearing, win or lose, go to the United States court of appeals, argue and get a decision all within a year if both sides wish it. I have done it. If you lodge your case in a State court you are a year in getting to trial; and if you take an appeal, you are from 2 to 3 years in getting a decision in the Supreme Court, even though both parties are ready at all times. A utility case taken before a Federal court in Missouri proceeds more rapidly than if taken before a State court.

Then, in connection with this matter of speed, bear in mind if you try a utility case before a three-judge Federal court you have a hearing, the appeal goes direct to the United States Supreme Court. You jump over the United States Court of Appeals. But if you lodge the same case in the State court, you have a trial, then you go to the State supreme court, and then to the United States Supreme Court. So your record gets to the United States Supreme Court quicker by the Federal route than it does by the State route.

I should like to ask the Members if they would have less difficulty in serving their country were they elected for life than they have in serving it when elected every 2 years. Taking this as a rule by which to measure the conduct of a trial judge, do you feel that a trial judge could hear a case better if chosen for life, with no regard to renomination and reelection, than a trial judge who sits on the bench for 6 years and must necessarily listen to the voice of his constituents if he wishes to sit on the bench for more than one term?

The reason ofttimes for going to the Federal court is to get away from local prejudice, and local prejudice is not confined to corporations.

[Here the gavel fell.]

Mr. LEWIS of Colorado. Mr. Chairman, I yield the gentleman 2 additional minutes.

Mr. CLAIBORNE. In closing let me make this point: One day a number of truck drivers retained me to bring an injunction suit to restrain the putting into effect of an act of the Missouri Legislature. The legislature had passed the bus and truck act. It delegated to the public service commission the duty of putting that act into effect. These little, humble truck drivers thought that the act was taking their property without due process. I filed my case in the Federal court at Jefferson City. I asked to restrain the Missouri Public Service Commission, the Governor, the attorney general, and so forth, from enforcing the act. I got a three-judge hearing in Kansas City. The whole matter was disposed of in less than 6 months.

Now, why did I go to a Federal court? I went there with these little truck drivers for the reason that I felt three Federal judges would be more likely to hold an act of the Missouri Legislature unconstitutional than a State judge would be likely to so hold when he, in turn, had to run for office. If a State judge declared a rate unlawful, it might beat him in the next election, regardless of merit, but not so with a Federal judge.

If you carefully read the Lewis amendment, I believe you will find that it remedies present evils complained of without being harmful to the interests of the public or utilities. Under the amendment a utility company seeking an injunction from a three-judge Federal court would bring before the court the transcript of the record of the proceedings, including evidence taken before such administrative board or commission with respect to such order, prepared at the expense of the complainant, with the proviso that upon the application of any party the court may take additional evidence if it is material and competent and the court is satisfied that such party was by the board or commission denied an opportunity to adduce it.

However, in case no record was kept or the board or commission failed to certify such record, the court may take such evidence as it deems necessary. To me this seems eminently fair and proper. I cannot understand how any American lawyer could object to such reasonable conditions.

The Lewis amendment further provides that a Federal court shall not have jurisdiction if the complainant has theretofore commenced suit in a State court having jurisdiction thereof to contest the validity of such order on any ground whatsoever. This prevents a utility company from asking an injunction in a State court and, during the course of trial, dismissing suit and then seeking an injunction in a Federal court.

In conclusion, let me remind the House that the stocks and bonds of the great utility companies of America are largely owned by financial institutions, insurance companies, trust estates, widows, and others dependent upon income from public-utility investments.

Are we to deny such a large number of alien citizens the right to have their property protected against confiscation resulting from unjust rate?

[Here the gavel fell.]

Mr. KURTZ. Mr. Chairman, I yield 8 minutes to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I ask unanimous consent to proceed out of order for 8 minutes on a nonpartisan issue.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. FISH. In fact, it is not only a nonpartisan matter, but a little unusual for me, because it upholds the present administration. [Applause.]

I must again call public attention to the shocking and terrifying activities of the Communist Party, this time operating under the euphonious title "All-America Anti-Imperialist League." With headquarters in New York City, it is

creating disorders, and strikes in Cuba, our friendly neighbor.

The Cuban Government is making a great struggle under the leadership of President Mendieta to bring about a recovery from the economic depression and the misrule and corruption of the Machado regime. But it finds itself beset on all sides with Communist foreign labor agitators, who are attempting to overthrow the present government of Cuba, which is well on its way to restore economic and political stability.

It is our duty to oppose the All-America Anti-Imperialist League, or any other like organization of Communists, and expose their campaign of terror and destruction in Latin America. We see in Cuba what damage it can perpetrate and the seeds of poison and hatred that it can plant in Latin American countries against the United States.

We have extended the hand of friendship to Cuba. She lies close to our shores, and we owe it to her to drive out a common enemy, especially when that enemy is operating in Cuba from headquarters within our own boundaries. It is in our own interest to see Cuba restored to the great economic position she once held. She was our third largest buyer of American goods, purchasing from us in normal years approximately $200,000,000 of our commodities. Under the Machado regime she dropped to a low point of about $30,000,000 of American purchases. We want that purchasing power restored. Cuba, under its new administration, is eager to enter into friendly, reciprocal relations with us.

Cuba at last has a leader selected by popular acclaim. All parties united in the choice of President Mendieta. He is a man of the highest ideals, a veteran of the Spanish War, who has devoted his life for the welfare of his country. Possessed of a most intimate knowledge of Cuba's many problems, President Mendieta has patiently and courageously gone forward with progressive reforms, despite all obstacles. Our State Department, under the able guidance and advice of Assistant Secretary of State Sumner Welles, who, in my judgment, is the best-informed American on Cuban affairs, was quick to recognize the Mendieta administration. I had the pleasure of knowing President Mendieta when he was in exile in our country during the Machado regime, and I am pleased to state as a Republican and as ranking minority member of the Committee on Foreign Affairs that Mr. Welles displayed wise and excellent judgment in recommending prompt recognition of President Mendieta's government.

Since President Mendieta has been in office he has made rapid strides toward recovery for Cuba. It is, indeed, deplorable that the difficult task which he is performing so well is being made so much more difficult by the bombings and shootings which occur almost daily in various parts of the island. These outrages are traceable to professional Communist agitators and to an irresponsible group of Communist students who have been supplied with arms and bombs to kill and maim innocent people.

Notwithstanding, President Mendieta has acted with indomitable courage and perseverance. Supported by an overwhelming majority of the Cuban people, who seek peace and an opportunity to earn a livelihood, he has in the short span of 6 months introduced reforms in the public interest. For the first time in years all government employees are receiving a living wage, and they have even received their back pay. The pay of the sugar workers under the present administration has increased materially—in some instances more than doubled. No longer will cheap contract labor be permitted to be imported into Cuba. Now, by government decree, 75 percent of people employed must be Cubans.

Already its import duties have increased from about $500,000 per month to approximately $2,000,000 for the month of April 1934.

When the present administration came into power there were only 23 sugar mills in operation. More than a hundred additional mills have been opened up under the new order. All strikes have virtually ended, and complete protection has been afforded to foreigners and foreign property.

President Mendieta opened up the great National University of Havana under its own Government after its doors had been closed by Machado. Its professors have now returned from exile, and several thousand students are now back at their studies.

A civil service has been created for public employees, a homestead law has been established, and legislation has been enacted for the establishment of agricultural credit banks. A council of state has been created, under the able leadership of Dr. de la Torre, former chancellor of Habana University, to advise on constitutional reforms to be submitted to the people at the next election.

These constructive measures have already begun to show beneficial results for the country, both politically and economically. Already many of the commodity prices have moved upward, including sugar, its principal product.

Cuba can and will recover and become again a great market for our manufactured products, if she can rid herself of the Communist agitators and trouble makers, who are nothing more than political opportunists seeking to take advantage of the deplorable economic conditions in that country.

Our Departments of Justice and State should combine in making a thorough investigation of the activities of the All-America Anti-Imperialist League, which is using the United States as a base of operations to spread its creed of class hatred, strikes, and industrial unrest among the Cuban laboring people. We owe it to ourselves and to the Cuban people to put an end to these revolutionary Communist activities. [Applause.]

Mr. KURTZ. Mr. Chairman, I ask unanimous consent that all Members who speak may be granted 5 legislative days in which to extend their remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KURTZ. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. GILCHRIST].

Mr. GILCHRIST. Mr. Chairman, this is no time for anyone to engage in baiting public utilities. They have their troubles; they have their uses; they bring into our lives useful things that lessen our labors and add to our enjoyment and make our lives more complete and more wholesome.

So I decry anything that may be said on this floor that will tend to make their burdens greater or to affect their good standing before the public.

But, Mr. Chairman, the question before us is simple. It is not a question of corporations or of utilities, but a question of court procedure only.

We have heard the eminent gentleman from Pennsylvania [Mr. BECK] say that this is an attempt to defeat the whole structure and processes of the Federal courts and to tear them up by the roots. The gentleman is one for whom I have the highest respect on account of his wisdom, his learning, his ripe experience, his beautiful rhetoric, his forceful logic and eloquence, and his charms of speech and person. But he is mistaken in this instance.

He it was who spoke about going to some foreign State and putting a nickel in the slot and then bringing home a charter to do business as a corporation in the home State. That is exactly what is done. They get their charter, their corporate existence from some foreign State—possibly Delaware—and then they come back to their home State and ask for valuable franchises so that they can go out and use your streets, your highways, your air, your water, your streams rolling down to the sea to engage in some sort of public-utility business. They come back to their home State for the purpose of exercising the people's right of eminent domain. They come back to condemn private property and appropriate it to their own uses and purposes. They come back home for police protection and for franchise rights, and for all the thousands of good things that the State confers upon them.

Why should they not submit themselves to the jurisdiction of the State courts? Who rises here to say that the State courts shall not be trusted? They have been the bulwark of our liberties. Property rights and human rights, principles as well as dollars, are intrusted to their keeping, and

they have always kept the faith. It ill becomes a citizen to go into a foreign State and accomplish his incorporation and then come back to his home State to ask for franchises, rights, and privileges which the home State alone can give him and then turn around and say that he does not want the State court to protect the very rights that he has received from that same State. If the State grants him a franchise, why should he object to testing his rights in a State court? If a State gives him the only valuable thing that he expected to get when he joined a company incorporated in a foreign community, then why should he stand here to argue that he must be given the right to ignore State jurisdiction? And this appears all the more when we know that the most humble citizen as well as the richest corporation is bound always to receive the protection of the Federal Constitution. No tribunal, no rate-fixing body, no State officer can take away from the most humble citizen or the most arrogant corporation the rights which the Constitution of the United States confers. The Governor of a State cannot do it; the lower courts of the State cannot do it; the supreme court of the State cannot do it. Always and overshadowing all these persons and things and institutions stands the Constitution of the United States of America. There is no process or practice under the heavens by which a man or a utility can be prevented from having his constitutional rights and having them protected in and by the Supreme Court of the United States of America. The Johnson bill fully protects them. It little matters what court originally may try a case so far as they are concerned, because the Supreme Court here in Washington has jurisdiction and will always have jurisdiction to take and try and hear and determine any case which affects such rights and to grant relief upon appeal such as the facts and the law will warrant. Knowing then that wherever the case may originate or whenever it may be tried, whether in the local courts or State courts or elsewhere, the Supreme Court of the United States will protect the most humble as well as the most powerful utility, what fear can there be on the part of the gentlemen who ask for these important franchises and grants, which are in nature monopolies and must of necessity be monopolies, as against the improper acts of State rate-regulatory and rate-fixing bodies.

Neither does the Johnson bill put any stigma upon Federal courts. The very statute that it amends has within it 28 subdivisions, and each subdivision grants jurisdiction to United States courts. Some of these subdivisions are long and involved and contain many grants of jurisdictional matters. The Johnson bill amends only the first of these subdivisions, and it does not even amend that subdivision except in a slight way. I have not seen any figures, but I dare say that the Johnson bill will not affect the jurisdiction of Federal courts except in a small fraction of 1 percent of the cases. While we must not go bear baiting the utilities, neither must we cry, "Wolf! wolf!" There is no wolf. The structure of the Federal courts and their jurisdictional prerogatives are affected to a small extent only. Let no one mistake the issue or be deceived. The application of the Johnson bill, when enacted into law, will be rare and attenuated.

But, gentlemen say that a State can, without the enactment of the Johnson bill, and at this time and under existing statutes, protect itself from being forced into the Federal courts. At best this will be found to be a very peculiar provision and to be a poor weapon for defense of the State-utility order, because the State is compelled to stultify itself by applying for a stay order against putting into force its own acts and regulations. It must get an order staying the operation of the very regulations which it asserts are fair and lawful. It seems to me that the procedure should require that the other party to the litigation should apply for and get the stay order. But the State utility commission is bound, under the rule, to get an order staying itself from enforcing its own regulations. In the meantime, the public is left unprotected by any supersedeas bond. This seems to me to be a trick with a hole in it.

You make an order which you believe is just and right, and then you apply to the court to stay your own order, and thus your adversary avoids the necessity of giving any bond or supersedeas, and the utility proceeds to go on charging and collecting rates and dues that are believed to be unfair and that lie at the very bottom of the litigation. This is an illogical method. When that statute was generated, if the man who prepared it did not laugh aloud he certainly must have allowed some slight and fleeting smile of satisfaction to mar for a moment the serenity of a calm and quiet imperturbation.

But if this really grants what is claimed for it, if it really protects the orders of the State commission, if it really takes away the rights of the utilities to enter into Federal courts, then, certainly it does what the Johnson bill does; and those who speak for such an illogical method of procedure and those who claim that such procedure is wholesome and correct are in logic bound to agree that the jurisdiction of the Federal courts in such cases is not requisite or even desirable. How can any man believe that the Johnson bill is wrong because of taking jurisdiction away from the Federal courts and still say that the regulations in section 266 of the Judicial Code, which do the same thing, are correct and wholesome?

Now, the fact is that trials in Federal courts are attended with great expense, with much delay, with hearings held oftentimes at great distances, and with great inconveniences to common people. On the other hand, certain utilities are ubiquitous and have their offices and attorneys spread throughout the land; oftentimes their arms and their arts are not limited by space. Like the sailor, they have friends and perhaps sweethearts in every port, and they can try these cases as well in one place as another. Likewise they are oftentimes not limited by time. They have an artificial duration and, like the brook, they run on and on forever.

My distinguished friend, Mr. CLAIBORNE, the gentleman from Missouri, about half an hour ago assured us that the Federal courts were expeditious down there in his State. I have not found it so. In one little case that I was interested in, involving utility rates, we went to his great city of St. Louis and argued the case and it took the Circuit Court of Appeals for the Eighth Circuit almost 2 years—not quite—after the case was submitted before it made its decision and handed down its opinion; and the opinion, when finally made up, was one which could well have been written within 1 day, and surely inside of 1 week. Indeed, that case took almost 4 years from the time it was started until it went through the weary processes of Federal procedure and was finally decided.

I do not impugn the integrity or good faith of the courts. But I say that Federal courts are human institutions and are not always infallible. Why, just the other day the Supreme Court of the United States finally passed upon a utility case from Chicago which has been pending in Federal courts for more than 10 years, and it was finally decided against the utility. Justice delayed is justice denied.

The Johnson bill is not hostile to utility companies. It is fair to them, as well as to rate-making bodies and to the people. [Applause.]

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. KURTZ. Mr. Chairman, the 5 minutes which were just allotted to the gentleman from Iowa were to come out of the time of the gentleman from Kansas [Mr. GUYER]. I have been requested to allot the remainder of that time, which is 13 minutes, to the gentleman from New Hampshire [Mr. TOBEY].

Mr. TOBEY. Mr. Chairman, the issue before us today is between the Johnson bill as it passed the Senate, and which is sponsored by the minority of the Judiciary Committee, and the substitute or Lewis bill reported by the majority of 1.

I speak in favor of the Senate Johnson bill, as reported by the minority.

Both minority and majority reports recognize existing evils which make legislation imperative. Each seeks to remedy these evils, but by different methods.

The minority, through the Johnson bill, offer a remedy that is definite and clean cut. It will end once and for all the jurisdiction of the lower Federal courts to enjoin the orders of State regulatory commissions.

It compels the utility to confine its appeals to the courts of the State involved, with the final right to appeal to the United States Supreme Court.

And to me this is but common sense and justice.

Manifestly if a utility comes into your or my State and does business there under regulation of the State public-service commission or similar body, its recourse on appeal should be in the courts of that State.

The present right to appeal from the decision of a State regulatory body to the Federal district courts, seeking to enjoin the order of the commission has resulted in the evils of great expense and ridiculous delays which we are now seeking to correct.

On the other hand, the Lewis bill allows the utility to choose by which path it will take its appeal, the State courts or the Federal district courts. Inasmuch as the path through the Federal courts has allowed the utilities to delay their case they will still choose the Federal courts.

The language of the Lewis bill may be construed to allow introduction of additional exhibits such as accounting and valuation evidence by the utility claiming it was not afforded sufficient time before the commission, and so as the language of the Lewis bill reads was "denied an opportunity to adduce."

In such cases the existing evils of expense and delays would still continue.

The old cry of constitutionality was raised yesterday against the Johnson bill. Beyond question, the Congress has the right to decide the latitude of the jurisdiction of all Federal courts except the United States Supreme Court, which is the only constitutional court.

Now let me cite an anomaly which exists where the right is given utilities to leave the State courts and enjoin through Federal district courts. Thereby we place property rights above human rights.

For example: If a citizen of New Hampshire commits a capital crime in the State of Massachusetts and flees back into his own State, he is arrested by Massachusetts authorities and extradited to Massachusetts to stand trial. He cannot then plea in court that he is a nonresident of Massachusetts, where he is to be tried. He is tried in the State courts and his appeal is to the higher State courts with possible Federal appeal to the United States Supreme Court. This individual cannot elect where he will take his appeal, cannot then plead in court that he is a nonresident of Massa- thereby delaying the administration of justice in his case; yet a utility, in contrast, after the hearing before the State regulatory body, can elect to leave the State's jurisdiction and go into the Federal courts.

In the case of the man charged with murder only human life is at stake, and his case cannot transfer to Federal courts, but in rights of property, as in the case of the utility, this privilege is given, which has resulted in the undue expense and outrageous delays in the administration of justice. These evils the Johnson bill will eliminate.

The gentleman from Pennsylvania, a proponent of the Lewis bill, claimed yesterday that the United States Supreme Court will only pass on questions of law and will take the facts as found by the State court of last resort. Then he quoted from an opinion of Mr. Justice Holmes, written more than 20 years ago.

As against this the Supreme Court, through Justice Hughes, said in the Crowell against Benson case:

> In cases brought to enforce constitutional rights, the judicial power of the United States necessarily extends to the independent determination of all questions, both of facts and law, necessary to the performance of that supreme function. The case of confiscation is illustrative, the ultimate conclusion almost invariably depending upon the decisions of questions of fact. This Court has held the owner to be entitled to "a fair opportunity for submitting that issue to a judicial tribunal for determination upon its own independent judgment as to both law and facts."

Let me also cite the Dayton Power & Light case, on which an opinion was rendered by Justice Cardozo 1 week ago. In this opinion fact after fact was considered and commented on so that the opinion of the Supreme Court is based on the facts as well as law.

Some exponents of the Lewis bill will tell you that the American Bar Association is opposed to the Johnson bill. Had I the time I could demonstrate some inconsistencies in that statement; it will not stand up under careful examination of the facts, but in this connection I should like to read into the RECORD from a letter written by Charles E. Clark, of the Yale University school of law to Hon. Paul Holland, chairman of the committee on law reform of the the American Bar Association, in which he says:

> The American Bar Association and its members can hope to have little influence in public life if it and they consistently and, as I believe, without careful and impartial consideration of the opposing views, strike out against judicial reform believed to be necessary by large groups of our citizens.

The Senate report well says:

> The congestion of our Federal courts is acknowledged by all.

That itself is the cause of delays which often constitute a denial of justice. The President himself has communicated with Congress about this congestion. Manifestly the passage of the Johnson bill would contribute relief to this situation, for it is estimated that the work of the Federal Judiciary would decrease from 25 to 40 percent if this Johnson bill becomes law.

Who wants this Johnson bill?

The State public-service commissions or similar bodies of 45 States earnestly ask for passage of the bill for the taxpayers.

If the average citizen of this Nation understood the entire matter, there is no question in my opinion about their getting behind this legislation.

President Roosevelt, while Governor of New York in 1930, sent a special message to the legislature calling attention to the evils accruing from the rights of the utilities to go into the Federal district courts. He pointed out that the State regulatory body is laughed at by the utility seeking refuge with a special master to be appointed by the Federal court. He says the special master becomes the ratemaker. The public-service commission becomes a mere legal fantasy. He referred to the interference by Federal courts with regulatory powers by public-service commission from his experience as Governor of the State of New York. Former Governor Johnson, of California, gives similar testimony, and in my own administration as Governor of New Hampshire I had similar experiences.

There will be no denial of justice to any utility if the Johnson bill becomes law. It simply compels them to keep their case on appeals in the State courts and then to be carried to the Federal Supreme Court. It estops the utility corporations from wearing down their opponents through delays of long litigation.

Let State courts settle State difficulties, and place individuals and utility corporations on the same basis as they seek justice.

Each of us is here representing a sovereign State. We have faith in that State and its institutions. When you and I are urged to vote against the Johnson bill we are asked, in effect, to reflect upon the justice and integrity of our own State's judicial system. By such action we imply that our higher State courts are not tribunals free from local bias. Is there one amongst us who will allow himself to be placed in the position of yielding to the suggestion that the path to justice lies through the Federal courts in a greater degree than through the courts of his own State?

I close with this statement from the now President of the United States, who, when Governor of New York, in referring to the evils which the Johnson bill seeks to overcome, said:

This power of the Federal court must be abrogated. Only the Congress can give the remedy. Legislation has been introduced in the Congress to carry out this purpose.

Mr. Chairman, fellow Members, such legislation is before us today. Let us adopt the minority report and pass the Senate or Johnson bill and put an end once and for all to the recognized evils.

Mr. HOIDALE. Mr. Chairman, will the gentleman yield?

Mr. TOBEY. Yes.

Mr. HOIDALE. I do not want to interrupt in any spirit of hostility or controversy. I am sitting here, like a good many other Members, listening to these debates with the idea of determining what is best to do in the situation. This question occurs to me: Assuming that the Lewis bill is adopted, and assuming that there are in the gentleman's State or in my State two utilities, that both of those utilities go before the local State commission upon the same controversy, upon the same state of facts. The decision of the commission is identical in the two cases. One of those utilities companies elects to go the State way and the other elects to go the Federal way. The decision in one case is favorable to one utility and to the other case is unfavorable to the utility, and all upon the same state of facts. Where does that leave the State or the utility?

Mr. TOBEY. I think it leaves them hanging between nothing and something. The only way to handle that is for the gentleman to vote for the Johnson bill and put them in the State courts once and for all.

Mr. HOIDALE. It looks that way to me.

Mr. LEWIS of Colorado. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. BECK].

Mr. BECK. I have no intention of discussing further the merits of this bill. I only rise to deny the intimation contained in the speech made by my esteemed colleague on the Committee on the Judiciary, the gentleman from Georgia [Mr. TARVER], and later, in a more pointed way, by the gentleman from Washington [Mr. LLOYD]. Both seemed to intimate that my advocacy of the Lewis bill was insincere and that I did not desire any legislation. Such is not the fact. On the contrary, I believe the Lewis bill is a wise and constructive piece of legislation. Sooner or later it should be enacted. I tried to indicate that as my opinion in the speech that I made to the House yesterday. The only possible justification for the imputations of my motives is this: Before the Committee on Rules I did bring to its attention the grave question whether it was wise in this critical industrial situation to give this measure a preferential status. I did so because it seemed to me unquestioned that the holders of utility investments are profoundly concerned about the Johnson bill. I may believe in a major operation, but I do not want a major operation at a time when it may be fatal.

Mr. RANKIN. Will the gentleman yield?

Mr. BECK. No. Pardon me. My time is short. I feel that this country is now trembling on the uncertainty whether it will have a relapse or whether it will continue in its convalescence. Ten million investors, whose aggregate holdings are estimated at $28,000,000,000, are affected by this legislation. I thought the Lewis bill could more profitably come up early in the next Congress, when the country was in a less critical condition, and I saw no such urgency as to require its immediate passage, when millions of investors are likely to take fright by even the discussion of the question.

I do want my friend from Georgia [Mr. TARVER], and my friend from Washington [Mr. LLOYD], with whom I am pleased to collaborate in the Committee on the Judiciary, to acquit me in their generous hearts of playing the double part of pretending to favor the Lewis bill, in the preparation of which I collaborated, when, according to their suggestions, I am opposed to any remedial legislation. Such is not the fact. The Lewis bill sooner or later should become law. [Applause.]

Mr. KURTZ. Mr. Chairman, I have been requested by the gentleman from Kansas [Mr. GUYER] to yield the remainder of his time to the gentleman from Texas [Mr. SUMNERS], amounting to 30 minutes, I believe.

Mr. SUMNERS of Texas. Mr. Chairman, may I say there are two additional speakers on this side at this time. I understand, of course, the gentleman from Colorado [Mr. LEWIS] has the right to close. I do not know how many additional speakers he has or what is the arrangement on the part of the gentleman from Pennsylvania [Mr. KURTZ]. My colleague, Mr. OLIVER of New York, and myself, are the only remaining speakers on our side.

Mr. KURTZ. Mr. Chairman, I desire to yield 5 minutes to the gentleman from New York [Mr. HANCOCK].

Mr. HANCOCK of New York. Mr. Chairman, a few years ago I was corporation counsel of the city of Syracuse, and I have had some experience with public-utility rate cases. I know from that experience that such a case is a protracted, tedious, technical, and costly piece of litigation, even when the matter never gets beyond the public-service commission. If it is taken into the State court or the Federal court, or both, the expense and the delay in reaching a final determination are, of course, vastly increased. The municipalities of the country justly complain against the extravagance of our present legal machinery and the slowness with which it moves in rate cases. The public-service commissions of the various States are practically unanimous in their demands for relief from these two things—delay and expense.

Let me quote a few typical statements made by public-service commissioners in behalf of the Johnson bill, before the Lewis bill was drafted, so you may know the grounds on which they support it:

Out of our experience we know it is urgently needed for the speeding up and fair determination of important rate controversies. (K. F. Clardy, chairman Michigan Public Utilities Commission and chairman National Association Railroad and Utilities Commissioners committee on legislation.)

The passage of this bill would remove complaint of long delays in matters of rate adjustments before commissions. (Tennessee Railroad and Public Utilities Commission.)

If the Johnson bill should be adopted and utilities should be required to test the validity of the commissions' orders in the State court, much time and expense would be saved. (Lon A. Smith, chairman Railroad Commission of Texas.)

The department favors the proposed act for the reason that it believes the same will be a great step forward in regulation, and that it will result in a considerable saving, both in time and money. (E. K. Butler, director Department of Public Works, State of Washington.)

We believe that the business of the commission could be greatly expedited if the utilities were compelled to go to the State courts, and we know that the expense incident to this kind of litigation would be greatly reduced, both to the utilities themselves and the commission. (George L. Goode, commissioner, Georgia Public Service Commission.)

That is enough, I think, to let you know the evils that are complained of and which ought to be cured by proper legislation. The Johnson bill is widely supported because it is designed to save both time and money in the class of cases under discussion. There is not a man on the Judiciary Committee, and probably not one in Congress, who does not favor the accomplishment of those objectives.

But the Johnson bill seeks to attain them by divesting the Federal courts of all jurisdiction in public-utility cases except the right of appeal to the Supreme Court of the United States after the final decision of the State court of last resort. Let me say, parenthetically, that the right of appeal in a rate case is an empty thing. The Supreme Court has repeatedly held itself to be bound by the findings of fact of the State courts. If there can be no review of the facts, an appeal to the Supreme Court is a vain and futile proceeding, because the rates are based on valuations. If the Supreme Court cannot pass on the valuations, it cannot pass on the rates.

The present practice has been explained here a number of times. If a rate case is of some importance, it is necessary for the municipality involved to employ special counsel and expert accountants to fight its case before the public-service commission. Sometimes months are consumed in the taking of testimony and a voluminous record is made. If the utility is dissatisfied with the commission's ruling, it may appeal to the State court, where the case is reviewed on the record made before the commission. It may also obtain

a review in the Federal court by alleging that the rates fixed by the commission are confiscatory and constitute a taking of property without due process of law, and suing for a restraining order. In the latter instance the record of the proceedings before the commission is not in evidence; the case is tried de novo and the evidence as well as the expense of the original proceeding must be duplicated. By denying jurisdiction of the Federal courts the Johnson bill saves the expense and the delay caused by such duplication of effort and it is for that reason alone that the bill has popular backing.

The majority of the Judiciary Committee believe that the ends sought can be reached without doing violence to the constitutional rights of a large and important class of American citizens. The result of that conviction is the Lewis bill which we are considering today. The gentleman from Washingon in his remarks on the bill saw fit to question its parenthood. He suspects that its father is the gentleman from Pennsylvania [Mr. BECK] rather than the gentleman from Colorado [Mr. LEWIS], and he implies that if such is the case the bill ought to be killed.

The provisions of the Lewis bill were suggested by one of the lawyers who appeared before the committee. Doubtless others have made similar suggestions. Whoever the father of the bill may be, he has reason to be proud of his child. The gentleman's implication that Mr. BECK's advocacy of the bill, of his possible authorship, in any way discredits it will not be accepted here or elsewhere.

Under the Lewis bill, the rulings of a State regulatory body may be judicially reviewed either in a State court or a Federal court, but not in both. The company must make an election and be bound by it. If the case is brought in Federal court, it shall be determined on a transcript of the record of the proceedings before the State commission, except that additional competent and material evidence may be taken upon the application of any party to the action if that party was improperly denied an opportunity to present it to the commission.

That is all there is to the Lewis bill and it is enough to prevent effectively the annoying delays and extravagances which are possible and sometimes occasioned under the present law. No one can logically defend a bill that goes any further.

Let me call your attention to these words of the Johnson bill:

> No district court shall have jurisdiction of any suit to enjoin the enforcement of any order of a commission of a State where jurisdiction is based solely upon the ground of diversity of citizenship, or the repugnance of such order to the Constitution of the United States where such order affects rates chargeable by a public utility.

That is but a partial quotation, but it contains the language I wish to emphasize. The diversity-of-citizenship provision is not important in this discussion. Any State may require a utility company to obtain a State charter and become a citizen of the State in order to do business there. Rate cases are taken into the United States courts on constitutional questions.

The Johnson bill would take away from one class of citizens the rights all others enjoy. It would deny to public-service corporations all access to the Federal courts for protection against orders of State bodies repugnant to the Federal Constitution. That proposition is shocking to Americans, and there are still many millions of them, who have a deep and abiding respect for the Constitution and the rights and safeguards of American citizens under it.

As Members of the Congress of the United States it is our duty, and should be our pride, to preserve the integrity of the Constitution of the United States and to uphold the dignity and authority of the Federal courts which were created by Congress to protect the constitutional rights of the citizens of the United States.

I will not impose on you by discussing the constitutional aspects of the Johnson bill. Others have done so more ably than I can hope to do. Permit me simply to point out that the Johnson bill deprives a class of citizens of the equal protection of the law, that it denies them the refuge of the Federal courts when deprived of property without due process of law; that it violates the universally accepted doctrine that the jurisdiction of the United States courts must be as broad as the rights and duties created under the Federal Constitution and the Federal laws.

People ask, "Are not the State courts as capable of enforcing constitutional guarantees as the United States district courts?" That is begging the question. The real question is, Shall the Federal courts be divested of their propery functions, shall they be deprived of jurisdiction which has been theirs since their creation, almost as long established as the Constitution itself?

I may say that I do not regard the judiciary of my own State as inferior in character or ability to the Federal judges. Neither do I believe from any observation I have been able to make that public utilities need to fear harsh, arbitrary or unjust treatment at the hands of the Public Service Commission of New York. I think their rights are fully protected by that body.

Why do we have a written Constitution? What is its purpose? Is it not to protect the people of the country from hasty, capricious, unconsidered acts of governmental bodies in times when waves of popular emotion or hysteria throw us temporarily off balance?

There is a steadily growing feeling of animosity toward public utilities. The executives of many large companies have been amazingly stupid in their public relations, in their failure to make the slightest effort to cultivate the good will of the people they serve. There is great public irritation because of the fortunes that have been made by rigging the securities market and juggling stocks. The Johnson bill will not reach those men. It is hoped to control their manipulations through the Securities Act, the Securities Exchange Act, the income-tax laws, and certain penal statutes.

The overwhelming majority of officers and employees of public utilities are honest, law-abiding citizens of a high type who are devoting their lives to useful and necessary service of the public. The Johnson bill hits them.

One gentleman who appeared before our committee testified that 10,000,000 American citizens are investors in public-utility stocks and bonds. They have put $28,000,000 of savings into them. If you add the numbers who are policyholders in insurance companies, members of fraternal organizations, depositors in banks, beneficiaries of thousands of educational and charitable institutions, all of which are large buyers of public-utility securities, you have an army of interested people, after allowing for duplications, that includes a substantial proportion of the people of this country. These are the people who own the public-utility companies. For the most part they are thrifty, hard-working, honest folk. Are you going to penalize this army of investors? Are you willing to say to them "The security holders in companies engaged in other types of business are entitled to the shelter of the Federal courts; you are not"?

Permit me to touch on one other point I have in mind. I spoke a moment ago of the necessity of constitutional safeguards as a defense against sudden outbursts of strong popular feeling. One witness who testified before the committee offered to put in the record a dozen newspaper accounts of speeches of a certain Governor directed against public utilities and calculated to arouse feeling and prejudice against them. They were excluded upon the objection of a member of the committee. However, an article purporting to be an Associated Press dispatch was printed in the RECORD during the discussion of the Johnson bill in the other body. I will not mention the Governor or the State, because I do not wish to offend my friend from that State, who objects to it and questions its accuracy. In substance the article stated that the Governor was determined to reduce utility rates. He removed from the State buildings the telephones of eight telephone companies opposing rate reductions and threatened others; he ousted his entire public-service commission and replaced them with men of his own selection.

He announced that he would personally campaign against any judges seeking reelection who had granted injunctions against the orders of his commission.

Perhaps that story is not true. Perhaps the rates in that particular State were outrageously high. But the story illustrates one of the dangers which must be guarded against. It is easy to imagine a political candidate for high office in some State at some time waging a campaign against utilities for his own selfish purposes. Rate cases always have political aspects. Every family pays for the services of public-utility companies, and popular sympathy is always with the public official who fights for lower rates, whether they are justified or not. Arousing popular sentiment against the gas, light, heat, power, and water companies and the trolleys and railroads is the principal stock in trade of many a demagogue. A situation might easily be developed, particularly in those States where judges are elected for short terms, in which a public utility could not obtain justice. The constitutional provisions, which the Johnson bill violates, provide a refuge from the political persecution I have described.

Frequently during the present Congress legislation has been enacted that creates problems more difficult than those the legislation is designed to solve, that produces evils more serious than those under attack. If our political doctors today became medical men and surgeons and followed their principles, they would scalp a man to free him from dandruff and amputate his arm to get rid of a hangnail.

The Lewis bill is a temperate, moderate, intelligent piece of legislation. It will accomplish the purposes which are universally desired. The Johnson bill will also accomplish those purposes, but in doing so it will weaken and in part destroy constitutional guaranties and safeguards. No sound reason or justification has been advanced or can be advanced in defense of its drastic provisions.

If the roof leaks, repair it, but do not tear the house down.

Mr. SUMNERS of Texas. Mr. Chairman, I yield to the gentleman from Oregon [Mr. PIERCE] such time as he may desire.

Mr. PIERCE. Mr. Chairman, during the last half century there have grown up in this country two systems of court procedure: The State courts, generally used by ordinary people, where legal disputes are tried, facts weighed, and the causes settled; and the Federal courts, with almost coordinate jurisdiction. Their powers have been greatly extended since the passing of the fourteenth amendment. These Federal courts are chosen in preference to State courts by powerful litigants, especially by the utilities. The gulf between the two methods of court procedure has constanty widened.

Greatly do I admire our brilliant colleague from Pennsylvania. I listened with rapt attention to his encomium on members of the Federal courts. I do not share in his worship of the Federal bench. To me they are just ordinary men; not necessarily supermen, who, often through pull, political intrigue, and the influence of entrenched wealth have been able to secure appointments to this bench. Too often, all too often, the judges are men who have been attorneys for utilities, being temperamentally and habitually for the favored few when they don the judicial ermine. These Federal judges are appointed for life. They are often forgetful of the masses and not in sympathy with advancing social development. Even the Supreme Court of the United States, functioning for 145 years, has been, partially at least, on every side of many questions. Repeatedly have the courts held that net earnings of 6 percent on utility stock is confiscatory, even when the stock has been watered many times. These courts have repeatedly held that franchises, the gifts of the people to the utilities, have a value upon which the stockholders are allowed to earn excessive dividends. These franchise values often amount to millions of dollars. Our Federal courts have produced very few liberals like Justices Holmes and Brandeis. The unjust and inequitable railroad rate structure has been repeatedly upheld by the Federal courts.

I notice those speaking for the so-called "Lewis amendment" state that the original bill is an entering wedge to break down the jurisdiction of the Federal courts. I sincerely hope this is true. I need no stronger argument to convince me that I should vote for the Johnson bill. I would favor, right now, an amendment to the Constitution limiting the term of judges to a reasonable number of years. The Lewis bill is a mighty weak substitute for a reform long overdue. The Johnson bill will do more to restore the confidence of our people in the Congress and in the courts than any other act of the Seventy-third Congress.

There is nothing the ordinary citizen dreads more than to be dragged into the Federal courts. First, the cost, usually beyond his means; second, the long distance from home; third, the unthinkable delays running into years preclude the ordinary citizens from appealing to these courts.

The finely spun decisions are often quite impossible for the ordinary mind to comprehend. The almost total indifference to personal rights, when in conflict with property rights, has produced the condition in our country which makes the passage of the Johnson bill an imperative duty of representatives of the people. Had it not been for the activities of the Federal courts in acquiring jurisdiction over the utilities, men like Insull would never have been able to build up holding companies, pyramided one upon the other. The financing of these companies made it necessary to extort from the people excessive rates for electric power far beyond the value of the services rendered. I am a great believer in public ownership of all utilities. The greatest hindrance to the advancement of public ownership is found in the Federal courts.

We, Members of this House, have today the opportunity to use our influence and our votes to curtail this rising menace to justice and right. Property rights have their place in the scheme of things, but they should be subordinated to personal rights and the good of the entire people. Practically every utility commission in the United States has felt the tyrannical hand of the Federal courts when attempting to revise rates in accordance with the investments and the ability of the people to pay. The utility commissions of the country ask us to pass the Johnson bill. In my State—Oregon—we have a very able utility commissioner in the person of Judge Charles Thomas. He has held hearings, caused evidence to be produced that has materially justified reducing rates on the railroads and rates charged by electric-power companies. When attempting to make effective his orders rendered in the interests of justice, he has often found his work thwarted by the Federal courts.

Throughout this Nation, from ocean to ocean, the Federal courts are the great reliance of the specially privileged interests, who are bearing down so heavily in this hour of distress upon the masses of people. This is the most clear-cut issue I have faced since I have been a Member of this House. The friends of the common people and of public interest are on one side and the friends of the special interests are on the other. Many Members will perhaps vote today under a misapprehension for the Lewis bill. All Members in this House who desire to vote in the public interest will be found voting for the Johnson bill. [Applause.]

Mr. KURTZ. Mr. Chairman, I yield the remainder of my time to myself.

Mr. Chairman, as I listened to the arguments for and against the Johnson bill I thought of an article written by a literary genius who lived in the early part of the nineteenth century, which is one of the gems of English literature. It is entitled "The Dissertation Upon a Roast Pig."

The scene is laid in China, far back in those distant days when the people of that ancient land were just emerging from the mists of barbarism. The son of Hoti, being a careless lad, set fire to the house in which were not only the articles of household furniture, but likewise the pigs belonging to the family. The building was burned to the ground and the culprit, frantic with grief, tried to save some of the things that were not completely consumed by the fire. In

stirring around among the ashes he found a young pig and burnt his fingers when he touched it. Immediately applying his fingers to his lips, he for the first time tasted the delicious flavor of roast pig. This was so savory that from that time on in every community surrounding his home there were fires whenever there were litters of pigs. He burned down houses and sties in order to have roast pig, little dreaming that it was not necessary to destroy the structure and that more splendid roast pig could be secured by roasting in the proper and approved style of today.

When I thought of that story by Charles Lamb, I felt that a good many of those who are interested in this Johnson bill are like the son of Hoti of old. They are in the act, perhaps unconsciously, of destroying the Federal courts of the United States in order to secure justice which we all desire and which could best be secured by taking care of the courts as they exist at the present time.

May I say that so far as the members of this committee are concerned those favoring the Johnson bill and those opposing it are all guided by the highest and noblest motives. It is only a question of procedure. There are two schools of thought. One school of thought believes in the Federal courts and feels they should not be limited in their jurisdiction. The other school would destroy the Federal courts, or at least insert an entering wedge that would split and in my opinion ultimately destroy them.

May I further state that in my opinion the great trouble that has heretofore characterized many utility cases was brought about by the enormous delays in their determination. These delays are traceable to the fact that there was no possibility of using the testimony taken before a public-service commission in a Federal court. The testimony taken before a public-service commission could always be legally used in State courts but never in Federal courts. By reason of this fact, the Federal courts had to start anew, and the trouble was not with the Federal courts themselves but with the Congress of the United States, which never gave to the Federal courts the power to use, under any circumstances, testimony taken before a court not of record. A public-service commission is not a court of record.

The Lewis bill, which some of us favor, attempts at this time to permit the use in Federal courts, and provides for use in the Federal courts, the testimony taken before public-service commissions. So far as delay is concerned there would then be no delay whatsoever. The jurisdiction of the Federal courts would then not be limited and all cases would be proceeded with to the end just as speedily as can be done in any State court. It was our fault, the fault of Congress, in not giving the United States Federal courts heretofore the power which we intend to give them in the Lewis bill. I cannot understand why there should be serious objection to the Lewis bill if you will examine into the question carefully and note the permission to use the testimony taken before a public-service commission in the Federal court.

Mr. MAY. Will the gentleman yield?

Mr. KURTZ. I yield to the gentleman from Kentucky.

Mr. MAY. Is it not a fact that the question as to the reasonableness or unreasonableness of rates always depends upon a state of facts which can appear only generally from the record made before the commission that hears the case?

Mr. KURTZ. Largely so. That is why the Lewis bill provides that the state of facts developed before the public-service commission of the State shall be used in the Federal courts.

Mr. MAY. Is there not a lot of economy and savings brought about in the case of litigation under the Lewis bill which authorizes the use of the commission records in the Federal courts?

Mr. KURTZ. I think so, unquestionably.

Mr. MAY. Should not these matters be heard if an injunction is brought in the Federal court on the facts developed before the State commission?

Mr. KURTZ. I think so, and that is the intent of the Lewis bill, to permit the Federal courts to decide the matter on the testimony that has been had before the public-service commission of the State.

Mr. DONDERO. Will the gentleman yield?

Mr. KURTZ. I yield to the gentleman from Michigan.

Mr. DONDERO. Might not the objection to the taking of the testimony before a public-service commission be the fact that the testimony there taken would not be taken under the rules of evidence of a State court?

Mr. KURTZ. That is always the case, but this is obviated by the fact that whatever testimony is taken before the public-service commission under the Lewis bill can then be used in the Federal court, whether it is taken under the rules of evidence or not.

Mr. DONDERO. I am in favor of shortening up the time and making it easier for litigants to obtain a decision in such cases.

Mr. KURTZ. That is what every member of the Judiciary Committee is anxious to do, and I may say I believe that if there had been any member of the committee who did not favor, conscientiously, the shortening of time and the saving of expense, he would have attempted to kill the Johnson bill in committee. There was no attempt to do this. They could have possibly killed it there and not permitted it to come to the floor of the House, but they wanted to see the wrongs that had been placed upon litigants righted, and therefore a majority of the committee, both Democrats and Republicans, came to the conclusion that the Lewis bill is the proper bill to shorten the time and also to save expense. Therefore they reported it upon the floor of this House, believing that an injustice had been done heretofore, not only to the Federal courts of the United States of America but the litigants before them in cases of this kind.

I may say further that when the question comes up as to whether or not the Lewis bill can be enacted into law at this late date in the session, which seems to me to be another point that has been raised here, that just day before yesterday there was a conference committee appointed to meet with a conference committee of the Senate on bills that were as contradictory as are the Johnson and the Lewis bills. We expect to get those particular bills ironed out and have them become law before the Congress adjourns. If we pass the Lewis bill I am sure we could appoint a conference committee, and the Senate could appoint conferees, and we could have the Lewis bill become law before this session of Congress adjourns. Every member of the committee wants to have some kind of law placed upon the statute books of the United States so that the Federal courts, when they act, can act expeditiously.

I desire to say further the thought with me and with a good many other members of the committee is that State courts may be more amenable to political propaganda and political passions than the Federal courts. The courts of England are noted for their justice and impartiality, and the judges of the courts of England, as I understand, are appointed for life. They are taken away from the maelstrom of political activities and political passions and, therefore, justice is more certainly had. In some States of the Union we have the same rule, particularly in the State of New Jersey, and every lawyer in this body knows that when a man is appointed to the bench for life and is removed from political activity he gives his days and nights to the deciding of the causes of litigants who come before him, free from influences. Therefore, we find in the equity books of New Jersey the most splendid and just and equitable decisions conceivable. They are quoted approvingly, not only in all the States of the United States of America but they are likewise quoted approvingly in the courts of Great Britain. There are other States where the judges are elected possibly every 4 or 5 or 10 years, where they are amenable to the passions of political strife. Our Federal judges are appointed for life on good behavior and are, therefore, free from political influences.

We want all courts to be thus free. We want untrammeled justice and we want a court that is not affected by the politics of any particular side.

Our whole system of jurisprudence is founded upon impartiality. In selecting a jury in any State of the Union no person can be placed upon the jury if he is related to a

litigant. He dare not be prejudiced in any way. Our whole theory of jurisprudence is a theory of impartiality to the litigants. This can always be had in a Federal court.

I do not say that the State courts are always amenable to political passions, but I do say that they are more likely to be amenable to political influences. Only a few years ago you heard a cry going over this land asking for the recall of judicial decisions by popular vote. The American people decided this should not be done and that it was not a proper policy for a free people, because in cases of that kind the man who had the most relatives or the man who had the greatest political pull would be the one who would be likely to win his lawsuit.

So I believe there will be just as much expedition in the Federal courts as in the State courts, and they will likely be freer from political passions and political prejudices than the State courts.

The question of the congestion of the Federal courts has also come up. I may say that the congestion of the Federal courts has been brought about largely by the prohibition question. Thousands and tens of thousands of such cases have been brought and have clogged the wheels of justice, but this is a question of the past. We do not have to contend with such cases now and therefore the Federal court, freed from the passions and prejudices of the community, set apart in an attempt to do what is right, seem to me to be the proper place to decide questions of public interest such as utility questions.

Therefore, as a member of this committee, and as one who has studied these questions for a considerable time and with some degree of interest, I feel that greater justice can be brought about by giving litigants the privilege of going into the Federal courts in case they desire to do so; but, mark you, when they once get into the Federal courts they must stay there until the litigation is finished, and when they once get into the State courts they cannot get out of the State courts under the provisions of the Lewis bill. They elect the court in which they wish to try their cause and remain there until a decision is reached. A change for delay or other cause is not permitted.

So, taking all these matters into consideration, I wish to say that we who favor the Lewis bill over the Johnson bill do so after careful thought. We do so because we think it is right. We do so because we feel that ultimate justice would be more nearly attained in most cases through the Federal courts than in any other way, because these courts are removed from the passions and prejudices of the community. I not only favor the Lewis bill in contradistinction to the Johnson bill, but I shall vote that way.

Mr. ADAMS. Will the gentleman yield?

Mr. KURTZ. I yield.

Mr. ADAMS. It has not been my privilege to have been in the Chamber during all the debate, which I presume has been very interesting, nor have I made a close study of the bill, but I want to ask the gentleman if I am correct in the thought that all the doors of the Federal courts will be closed to public-utility companies under the Johnson bill?

Mr. KURTZ. They will.

Mr. ADAMS. And under the Lewis bill the litigants will have an election—that is, the doors of both courts will be open, and they can elect to which one they will go for justice.

Mr. KURTZ. Yes; and furthermore I want to say that the municipality, before the utility company attempts to make the election, if the municipality desires to proceed in the State court can do so and the Federal court will be ousted from its jurisdiction.

Mr. DOBBINS. Will the gentleman yield?

Mr. KURTZ. I yield to the gentleman.

Mr. DOBBINS. The gentleman has stated that the litigant could go into the Federal court in case he so elects. The gentleman is referring only to the complainant, and it is the public-utility company that generally complains. If the utility company elects to go into the Federal court, then the State or municipality is bound to follow whether they wish to or not.

Mr. KURTZ. Yes; but the State can forestall that by going into the State court before the utility company goes into the Federal court.

Mr. DOBBINS. But suppose the State or the municipality is satisfied with the decision?

Mr. KURTZ. If it desires to remain in the State court, and wants to forestall the utilities going into the Federal court, it can go into the State court, although it is satisfied with the decision.

Mr. DOBBINS. Would it not be rather devious and farcical for it to go into court appealing from a decision with which it is satisfied?

Mr. KURTZ. Nevertheless such right would obtain.

[Here the gavel fell.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky [Mr. BROWN].

Mr. BROWN of Kentucky. Mr. Chairman, the question we are about to decide comes rather close home to anyone coming from Lexington, Ky. For 9 years we have had pending in the Federal court and before the railroad commission the Lexington gas-rate case. On yesterday the City Commissioners of Lexington voted to put through a compromise that deprived the people of Lexington of an opportunity for reasonable gas rates that this law would have given them if they had had it 9 years ago.

With your permission, I want to give a statement of one of the commissioners who introduced the compromise, as to why he thought it ought to be adopted.

He said that the reduction agreed upon by the compromise would give the people the money now, that it would save further costly litigation, and that they needed it more now than they would 4 or 5 years from now.

All he could see ahead was 4 or 5 years more of litigation, with its expense to the taxpayers. I regret to see our city commission weaken in the people's fight. The rate agreed on is not fair to the small user of gas. It is not truly a compromise, but is in reality a surrender to the gas company. With every other commodity depressed in the past 5 years the company is to be allowed a rate in excess of that charged prior to 1927. This so-called "compromise" is yet to be submitted to a referendum and will be corrected when the people voice their opinions on it.

The city of Lexington is paying 60 cents a thousand for gas. One hundred and thirty miles away, at Ashland, Ky., they are paying 32 cents a thousand for gas. There is no sense in that. The city of Lexington went into court to correct it. Our State railroad commission ruled that 45 cents is a reasonable rate. The gas company took it into the Federal court, and for 9 years they played around, and we are no further along now than we were when we started, and our city commission, seeing no hope in the future, agreed to a settlement that is worse than no settlement at all. I do not want to be misconstrued. The city commissioners of Lexington are high-class men. All five of them are friends of mine and I respect them, but it is a good illustration of honest men being hoodwinked by powerful utilities, because they have no recourse at home where they can get justice for their cause. They cannot see any hope, because endless litigation is all they can look forward to, and it is expensive litigation, and so the people of Lexington are going to have to give back to the gas companies almost half of the impounded fund collected during the past 9 years and submit to a rate that is higher on the low user of gas than the old rate was. It is an illustration of powerful interests being able to force down the throat of the city commission something that the people of that town, I know, cannot approve; and while those men are my friends, as a friend of theirs I know that they have made a mistake, and they, too, I am sure, will realize it before the controversy is over.

We have had a lot of experience in Kentucky with utilities and with the influences they can bring to bear. Two years ago in the State legislature we passed a bill allowing cities and towns to buy their light plants. Utilities were powerful enough to have the Governor veto that bill. This year they were powerful enough to bring it out and kill it on the floor of the House. They were powerful enough down

there to pass a utilities-commission bill with a specific provision written into it to regulate municipal plants over the protest of all municipally owned plants in Kentucky. They have been powerful enough to do everything there that they want to do; and now, with the Lexington gas case settled, our people will be compelled to pay almost twice as much as the people of Ashland, a town smaller than Lexington, and they are subjected to that because 10 years ago Congress had not passed this very bill that we are now about to enact into law. I say to you gentlemen who are honestly going to support the Lewis bill, do not be misled by the pleas that the Johnson bill will work any injustice. On the contrary, they have their high-powered lobbyists and their lawyers to plead their cause, and all that the people have to depend on are you gentlemen, their Representatives.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. SUMNERS of Texas. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. LEE].

Mr. LEE of Missouri. Mr. Chairman, I am reminded by the majority report of this committee of the old story told in 1896 about the fellows who talked on the money question and the gold standard. It is said that it would be a fine thing to let the foxes in this country build the hen houses so that we might protect the poultry industry in this country. This Johnson bill ought to be passed, and this amendment ought to be voted down and I will tell you why. I come from over in Joplin, Mo., where there is as honest a bunch of Republicans as you have ever known. They are nearly all Republicans, but a good many of them have got a little sense, and they will watch you fellows over on this side today. All of them voted for Roosevelt except those who were running for office, and he is just as strong now as he was when he was elected last election.

In my town we have the Empire District Electric Co. The old company that the Empire District took over were charging the people of my town 18 cents per kilowatt-hour for electric-light juice. They had the city charged with six hundred and some odd lights at $120 a year per light. When we finally voted bonds and built a municipal light plant and went around and counted the lights, we found they did not have a third of the lights that the taxpayers were paying for. We built a city light plant. They went into the Federal court before Federal Judge John S. Phillips. He has been dead a number of years. He was considered the greatest Federal judge that ever sat on a bench, and my father thought he would go to heaven when he died, but I had a different opinion of him, and I think he ought to have died when he was young. I knew him well, too. They went in there and they got an injunction before Phillips to keep us from opening our city light plant. He issued an injunction. He said they had a perpetual franchise, notwithstanding that the constitution of my State provided that no perpetual agreement can be entered into with any company, that it cannot be that it could have a perpetual franchise from my State. They went in there and he issued an injunction. Judge Phillips let them give a fraudulent and fake bond. It was not worth 10 cents. They brought us to the Federal Court. I thank God we had an honest man on that Court, Judge Charles Evans Hughes, and he is sitting there now, and you radicals don't like him, but, thank God, we have got him. You do not like him, but the people love him, and thank God for it, and men like Justice Hughes and Justice Brandeis and the beloved Judge Holmes.

Some of you when you are at home take up more time defending corporations than you do the rights of the people. I know some of you. [Applause and laughter.] I know what business you have been engaged in. I think this is the greatest Congress that was ever convened in the United States. If this Congress follows Mr. Roosevelt and the American people today and follows HIRAM JOHNSON—and, thank God, he supported Roosevelt, too, he knows an honest man when he sees him—I thank God for GEORGE W. NORRIS, of Nebraska. I thank God for LA FOLLETTE, of Wisconsin; but I don't think so much of some of the Republican leaders of Indiana and Ohio. [Laughter and applause.] I hope and expect them to be replaced by Democratic Senators who are in sympathy with the new deal.

Mrs. KAHN. How about HUEY LONG?

Mr. LEE of Missouri. He is a credit to both of them. [Laughter.] The primary vote in Indiana indicated that we will have a progressive Democrat from that State in the next Senate, and I have faith and confidence, Mr. Speaker, that Ohio will also send a progressive Democrat to the next Senate.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. LEE] has expired.

Mr. LEWIS of Colorado. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. LEHR].

Mr. LEHR. Mr. Chairman, in the closing moments of this debate I feel it is very important to the members of this committee that they have a correct and true understanding of the situation as it existed in our committee, particularly in view of the statements which were made on the floor yesterday and which I wish to quote from yesterday's RECORD. I just want to preface that statement by saying to you that in my humble opinion every single man on the Judiciary Committee feels with reference to the situation just exactly as does the gentleman from Kentucky. His argument made on the floor today is an argument absolutely in favor of the Lewis bill just as much as it is an argument in favor of the Johnson bill.

We were all united on this proposition—that we all appreciate what the objections are. We all appreciate what the objections are that have grown up in this country during the last few years with reference to public utilities going into the Federal courts. What we are concerned about is how to apply the remedy. As members of the bar we feel we owe a solemn duty to the people of America to protect the judicial system of this country and not see it dragged down. I have no sympathy with a great many of the judges of the Federal courts. The experiences some of us have had only recently in the city of Chicago in investigating Federal judges have convinced us that it is not the the judicial system that is wrong, but it is the men who have been appointed to those posts, and the arrogance they have taken unto themselves, that is subject to just criticism. But I want you to know that not a man on this committee has attempted in any way to defeat the Johnson bill.

Yesterday the gentleman from Washington, a distinguished member of this committee, made this statement on the floor, speaking of the gentleman from Pennsylvania:

He—

Referring to the gentleman from Pennsylvania—

suggested the able member of the committee who should write the substitute amendment.

And he further said the gentleman from Pennsylvania has never been in favor of this amendment.

Let me say that after 3 days of serious hearings, in which we listened to some of the leading members of the bar of this Nation and representatives of the public utilities, our only thought was, How can this be done without affecting the Federal Courts?

Mr. LLOYD. Will the gentleman yield?

Mr. LEHR. In our meetings the gentleman from Colorado [Mr. LEWIS] was suggested, possibly by the gentleman from Pennsylvania, but he was designated by the chairman of the committee to draft an amendment.

Then the gentleman from Washington [Mr. LLOYD] further said, at page 8341 of yesterday's RECORD:

As a matter of fact, I may say in passing that the Lewis substitute was never seriously considered by the committee. It was never read in committee; it was never discussed in committee; it was never open for amendment in committee. It is simply an attempt to defeat the Johnson bill.

Oh, I hope the gentleman from Washington [Mr. LLOYD] will take the floor and correct those misstatements, because that amendment was considered in the committee. It was read in the committee by Mr. LEWIS. It was open for amendment if anybody wanted to make any amendment.

It was duly considered, and after seriously considering this matter a majority of the committee, from a legal standpoint, voted in favor of that amendment. The gentleman from Washington said, "It is simply an attempt to defeat the Johnson bill." Had there been a desire on the part of a single member of the Judiciary Committee to defeat the Johnson bill, a motion would have been made to lay that bill on the table, and undoubtedly, by the vote here, if we who favored this majority report were in favor of defeating the Johnson bill, we would have voted to lay the Johnson bill on the table.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. LEHR] has expired.

Mr. LEWIS of Colorado. I yield the gentleman from Michigan 1 additional minute.

Mr. LEHR. But we did not do that. We voted to support the Lewis bill. We brought that out in good faith. Then the gentleman from Washington [Mr. LLOYD] says:

> Here is what they expect to happen, here is what will happen, if you adopt the substitute. It will go over to the Senate, the Senate will refuse to concur, and the result will be that no legislation will pass, and that is exactly what they want and what they expect.

I say to you that if it does go to the Senate and they do not concur, then some of us may think that the proponents of this original Johnson bill in the other end of the Capitol may be hiding behind the prejudice and passion against public utilities, in an attempt to tear down the Federal courts of this Nation, which, as lawyers on this committee, we are opposed to. If they want to destroy the Federal judiciary, let them bring in a bill for that purpose. We of the majority of the committee know that the Lewis bill will correct every fault that now exists and will at the same time safeguard the Federal jurisdiction. This bill will safeguard the interests of the people and the jurisdiction of the Federal judiciary.

[Here the gavel fell.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield myself the remainder of the time.

Mr. Chairman, I hope not to take all the time allotted to me.

This is one of the most important items of legislation upon which Congress has been asked to pass judgment in a long time.

The gentleman from Pennsylvania [Mr. BECK] made a wonderful address yesterday. I listened to it with much interest. The gentleman discussed the legal questions involved and made some reference to constitutional questions. The gentleman introduced mythology and Shakespeare—and I like to hear him do it for he does it so well—but I am going to ask those witnesses to stand aside and shall talk to you a few minutes with regard to this bill and the situation in which we find ourselves.

For one, I have no desire to get even with the corporations. I recognize that public utilities are necessary in this country. I recognize that public policy has got to be such as to induce people to put the necessary money into public utilities to afford the conveniences and the necessities required by the people. If there are any legislative or judicial determinations which harass utilities and make investments in them dangerous, people have to pay for them as sort of an insurance policy.

There is no question but that we used to have a dual system of government. We of each State used to have two constitutions; but we have grown together at the points of governmental contact until at last we are a Nation. We have but one Constitution. In the sense that it is written it is in part the Federal Constitution, and in part the State constitutions; but, as a matter of fact, the constitution of a living government is not written, never was written, and never can be written; it is rooted in the governmental concepts of the people or it is a dead thing, merely some document put away in a library.

What are we going to do about this? What is the present legal status? Let us see where we are, and let us see what is involved. I am going to talk in just a plain, conversational sort of way. The gentleman from Pennsylvania said yesterday that if a State desires to avoid adjudication of a rate in a Federal court, existing law provides the method and the remedy. If this statement be true—and I do not challenge it, although, of course, it has not yet been determined by the Supreme Court—if this be so, then the issue before the House is not whether these matters may be determined in the Federal court or in the State court insofar as the determination of the State itself is concerned. The gentleman from Pennsylvania stated that if a State desires to have these rates determined by its own courts it can bring an action in its State court to enforce the rate fixed by its own regulatory body, stay those rates, and have the matters determined in the State courts with the right of appeal to the Supreme Court of the United States. This is the statement of the gentleman from Pennsylvania with reference to existing law. I am not prepared to agree fully with the gentleman that this is existing law, because the section of the code upon which this opinion is based is written in very involved language. If it be true, however, and the gentleman made the legal argument in major part for those supporting the Lewis amendment, then the differences here would seem to be more as to form than substance.

The section of the Federal code referred to—section 266—provides—I do not want to read it; I think I can state the substance of it—that in the event an interlocutory injunction of a rate is sought, the State may go into its own courts to enforce the determination of its regulatory body and ask that the rates of that body be stayed until the matter is finally determined. One of the questions is whether or not, after a matter has been concluded in the State courts, resort by the corporation may not be had to the Federal courts. I may say to the gentleman from Pennsylvania that I am inclined to think this would be held res adjudicata, but I am not sure.

Then there is another question as to whether or not, in the event a temporary restraining order is granted by one judge prior to the convening of the three-judge court, the State may thereafter go into the State courts. One of the Federal courts in a Kentucky case held that a State could not go into the State courts after the temporary restraining order had been granted by one judge prior to the convening of the three-judge court.

What does this Johnson bill propose? This Johnson bill proposes to make clear and definite, in substance, the procedure which it is claimed may be had now in a roundabout, confused, irritating way. I do not think I am incorrectly stating that fact.

I believe fully, Mr. Chairman, that we must choose between subjecting these public utilities to the control of the States where they operate and the socialization of the industry of this country. I do not believe we can drift on as we are going now. Clearly we are drifting rapidly toward socialization. I do not believe it is possible under our system of government with the universal ballot for anybody, any organization, any corporation, to escape public vengeance once it is aroused. They have too many ways of getting at them. When any corporation flees from the regulatory agency of a State to the jurisdiction of the Federal courts and seeks refuge in the Federal courts against the necessity to obey the voice of the State where it is located, it is simply building the dam a little higher, a little higher against the time when it breaks under the accumulated pressure and the deluge comes. These corporations have got to arrange to get along with the people in the State where they are doing business. It is impossible under our system of government to escape absolute dependence upon the sense of fairness of the people. That is all there is to it; and the quicker these corporations find it out, the better it is going to be for them and for the people whose money is invested in these corporations.

The people, on the other hand, must learn that they have got to treat these corporations fairly. God Almighty has some natural laws which operate to control what human beings may do to other human beings. In my State the railroad companies were given every privilege. Then the

promoters got in charge of the situation. They would develop a town site 20 miles from another town, make a preferential rate and starve those people out, and do all sorts of things. Later on when they began to crowd them, the railroads began to buy up legislatures, to have their paid men in the legislatures.

If there are any utilities engaged in that sort of practice, the quicker they take their hired men out of the legislatures of this country and begin to trust the people the better it is going to be for them. [Applause.]

I believe a bill like the Johnson bill is the only sort of governmental arrangement which gives any hope of security to the industry of this country. This is a government of the people. There is not any other government.

Take the State of Texas, for instance. We were for a while an independent nation. Do you mean to tell me that we would not have had public utilities in Texas if we had remained an independent nation because there was no other court that the utilities could resort to outside of Texas? That is perfectly ridiculous. Take a State like Virginia. Suppose the Union had not been formed. Do you mean to say that Virginia would not have had electric lights down there because there would not have been some sort of tribunal outside of Virginia that the utilities could have resorted to? Talk about the Constitution. The Constitution of the people and of this Government is not written in a document. The safety of invested capital is not in a court. It is in the people.

The people have to treat these corporations right, and I want to see that too. After we let the railroads have everything and the railroads did everything they could, when anyone ran for the legislature promising to do something against a railroad they were elected. What happened? We ran railroad investments out of the State of Texas. We had some streaks of rust across Texas. Then we had to pay higher freight rates and passenger rates than we would otherwise have had to pay. But we learned our lesson. The railroads learned their lesson and the people learned their lesson. God Almighty has not any other plan of educating the people except by experience, either our own or somebody else's.

When you take the American people, who are the source of power and who have the final word and say, and undertake to separate them from responsibility, you violate the very plan of nature provided for the development of nature. How are you going to have a dependable people unless you make them responsible? That is what we need in this country, and that is what we have got to have in this country. Responsibility sobers judgment. You take one of these wild-eyed boys and move him in here. He will raise Cain for a year or two, then he will begin to feel responsibility. The same thing is true of human nature everywhere. Give the American people responsibility and they will govern correctly. What we have been trying to do is to build up a wall between the people and political power, violating everything that has been taught to us in connection with the history of government.

I have not anything against the utilities, and I am not afraid of the people. What should be done in this country, if there are any people in responsibility with real good old-fashioned horse sense in these utilities, and there are—I know some of them—instead of permitting the utilities to be put in the attitude of showing every time the question comes up that they are afraid of the people and unwilling to trust the people, let them remove these economic brigands who have been holding high places as captains of industry and put some people with good old-fashioned common sense into managerial responsibility. Let them go down to the folks and say, "Look here, we are going to trust you; give us a square deal and we will come in here and build the right sort of utility. We will take care of you folks, and when we get into dispute we will thresh the question out with you, and not put it up to some Federal judge and get an injunction."

People do not like to be enjoined. Free people do not like to have some court or some human being undertake to deny to them the right of effectuating their governmental will. The quicker these corporations find it out the better it is going to be for everyone. We can get along with these corporations. These courts that have been the havens of refuge for some of these utility corporations have done more to create enmity and prejudice for which these utilities have to pay a tremendous price than all the other influences in this country. Let the people connected with these public-utility corporations go around and mingle with the people and walk shoulder to shoulder with the ordinary people and the situation will be different. When the people come to the conclusion that they will be treated fairly they will get along better and the utilities will get along better.

Whenever we reach a situation where the majority of the sentiment and purposes on the part of the people of a State is not honest and fair, that is the end of the road. A public utility comes into my State and says, "We want a franchise." They make that request to a State that has a right to determine the question. These rate-making agencies do not have to sit up on a bench like a bunch of judges and determine what the rate ought to be. That is not the way to figure it out. It is less formal. It is not a lawsuit. They go out and secure any sort of sensible information that will help everyone in arriving at a correct conclusion. I find in my committee that if we just get down and casually talk around with the witnesses we learn a whole lot more about the matter than if we sit up like a bunch of Supreme Court justices and have a lot of fellows out in front making hot-air speeches. Let them talk to the witnesses and get all the information that they want, just as you do when you want to find out something. That is necessary in these rate determinations. That is why it is arranged that neither the legislature nor the courts should have first responsibility. The people through their regulatory agency may say, "This seems to be a fair rate"; and the utility may say, "We hardly think that is a fair rate."

All right. The courts of the State are open. Why should not that question be sent to the courts of a sovereign State which gives them the right to live?

Do you think I would do business in a State where I do not trust the integrity of its courts? That is what this means. Right square down to its essence it means just that. Now, I respect these other gentlemen, but there is not any getting around the point. This is a domestic question, a question between the people and the public utilities, created by them to serve the people of the State. When they say, "We are not willing to go into the courts of your State and have the question litigated", what does it mean? It means that they declare "We do not trust their honesty or their judgment", that is all. Did you ever run away from a thing you trusted?

[Here the gavel fell.]

Mr. SUMNERS of Texas. Mr. Chairman, I yield myself the remainder of the time.

Does anybody think that the American people do not understand what this means? How good would you feel toward a fellow who said, "I do not trust you, and I do not trust your agencies to give me a square deal"? Suppose something comes up later and he has to go into the State courts. He has a damage suit against him, for instance, or there is some other reason to resort to them, and day before yesterday he was not willing to trust them. Do you think it may be expected of human nature that he would as probably get a square deal as if he had not slapped them in the face day before yesterday?

The quicker these utilities get right down to doing business with the people of the States and the courts of the States, the better it is going to be for the people who have their money invested in these utilities. Do not have any question about that. This fellow who has been taking a vacation over in Greece would be afraid of a State court. He would rather try his matter before the courts in Greece. That is where he has been litigating, anyhow. You take the kind of people we know connected with our public utilities and in my State, and as a rule they are all right. It is some of the big fellows who are at the head of things in places like

New York and Chicago that cause the trouble. If you would turn the men loose who are their representatives in Texas, there would not be any danger about their getting justice in the courts of my State. The people like them. It is when they want to put on the screws, it is when they do these slick things, and build up prejudice against themselves that they are afraid to go back to the courts of the people they have been robbing. That is what is the matter with them, and the quicker we get these crooks out of power the quicker the people in the States will insure justice. That is all there is to it. I am not overlooking the fact that when wrongdoing has aroused opposition and antagonism that in a given case injustice may occur. Retribution does not recognize fine distinction or discrimination. This resort to Federal courts may postpone, but only for a later date, when principal and accumulated interest must be paid. Only those can be depended upon to protect us whom we trust. Only the people can protect, therefore the people must be trusted. A failure to trust the people deprives of the people's protection.

We all want to do what is right. I do not think there is anybody who has higher regard for another person than I have for my dear friend, Judge LEWIS, whose amendment prevailed in the committee. Oh, the boys have been jawing at each other, you know. They have had to appoint a lot of postmasters lately, and it is along about election time. That is not good for the nerves. We have been sitting up late nights reading letters from our constituents and the boys have been sort of fussing with each other, but they are all right. They are the best-behaved lot of fellows under normal conditions you ever saw. They get messed up a little every now and then; but every man on the committee has been trying to do what he thinks right about this matter. They have different notions about it. My friend CONDON is an awfully good boy in a bad cause, but he lines up usually on the right side, and I am very fond of him.

I am not going to take any more of your time, because I know what you are going to do. I have talked to juries before. I have been around with folks a good deal in my life. I do not aim to send this speech out, anyhow, so I am going to quit. [Laughter and applause.]

Mr. LEWIS of Colorado. Mr. Chairman, I yield the balance of my time to the gentleman from Rhode Island [Mr. CONDON].

Mr. CONDON. Mr. Chairman, we are about to close this debate, and I know there is not anything I can say that would change the mind of any Member of the House, and if I did have any such chance prior to the speech of our distinguished chairman, that chance has long since disappeared.

I pay this House the compliment that it can and it will rise above appeals to passion and prejudice. I know that in the heat of debate Members have said some things that, perhaps if they had time to reflect, they might not have said in just the way they did, but I do not think this is going to affect the vote of any Member of this House. I know that every Member here on both sides of the aisle respects the opinions and the motives of each Member who does his duty when he is called upon to discuss the great public questions that come before us and, finally, to cast his vote as the Representative of the constituents who have sent him here.

It is true, as the distinguished Chairman of the Judiciary Committee said just a few moments ago, that on many occasions I have been with him and have gladly followed him, and I want to emphasize, if I may, and ask the House to indulge me for a moment in a few brief personal references.

I want to emphasize that on every vote that has come before this House when it has been a question of the utilities as against the public, the record will show I have voted in the public interest. I had not been in this House but a few months when I was called upon to cast my vote on that great controversial question of Muscle Shoals. There were probably few people in my district and few people in my State who cared one way or the other about that question. I could have voted against the proposition or voted for it without any political effect whatever, but I believed in that proposition and I voted for Muscle Shoals, and on every other vote that came before the House on that question—and you men who have been here for a number of years know that it recurred frequently—I was recorded in favor of the proposition.

Then when the anti-injunction bill came before the Judiciary Committee it was referred to my subcommittee, and at that particular time there was much being said in the Congress and in the city here that the committee would delay the consideration of the bill which had passed the Senate, but on that subcommittee I cooperated with my distinguished colleague, Major LaGuardia, now the mayor of New York, and, along with the chairman of the subcommittee, Mr. MCKEOWN, we reported the bill promptly to the full committee, and the full committee reported it to the House and it became a law. I was happy to support that legislation not only in committee but on this floor by my voice and vote.

In that particular instance we were called upon to deal with the abuse of injunction procedure by Federal judges; we did not, as is attempted here in the Johnson bill, cut down and destroy the equitable jurisdiction of the Federal courts because of these abuses. No; but, like sound and reasonable men, like men who understand the law and the necessity for the law, and who understand also that there are times when popular prejudice and clamor does not wish to see any law enforced, we so amended the code as to prohibit Federal judges from committing the abuses complained of and which were bringing the Federal courts into disrepute in labor disputes.

When this bill came before the Judiciary Committee, in spite of appeals for haste, in spite of appeals to pass the bill without the crossing of a "t" or the dotting of an "i", I am proud to say here that the committee refused to be hurried, to act hastily, but in the calm and thoughtful deliberation in executive session we considered every argument that had been made in favor of the Johnson bill, and likewise considered every argument made in favor of the Lewis substitute.

As a result of the deliberation of the committee, the gentleman from Colorado [Mr. LEWIS] was designated to act as the agent of the majority of the Judiciary Committee to draw a substitute, and that substitute was submitted to the Members who voted for it, and who approved of it as a proper solution of the abuses of existing procedure, pointed out during the hearings.

Now, my friends, I had an open mind on the question. I am not a lawyer familiar with the utility rate cases. I have never tried a case for a utility company. I have never been offered a brief, and do not hold one now for any utility company.

But when the question came up on the hearing, I maintained an open mind, as the records of the hearings will show. I wanted to know why it was necessary to pass the Johnson bill. There are several places in the hearings which will show that questions were asked by me seeking to find the necessity for legislation as proposed in the Johnson bill.

Now, it has been said that the Lewis bill does not meet the objections made to the committee by those who appeared there in favor of the Johnson bill.

If you will permit me, I want to read a few excerpts from the testimony of the witnesses who appeared before the committee.

We had before us several members of public-utility commissions from several States. One of them was the gentleman from Virginia, H. Lester Hooker, chairman of the public-service commission of that State. He said:

> The utility at present has two bites at the cherry, entailing much delay and greatly added expense, before an ultimate decision is reached—the burden of all of which is loaded onto the rate-paying public.

He made two points—the great delay and the expense.

Then, again, a little further down, he said:

> It is a procedure to which there is certainly a meritorious objection.

Note that it is the procedure to which he says there is meritorious objection. He was not objecting, apparently, to the jurisdiction of the court, but to the procedure. I submit that the Lewis amendment fully corrects the abuse of procedure that the gentleman from Virginia referred to and complained so strongly against.

We had also before the committee a gentleman from Maryland, Hon. Harold E. West, chairman of the Maryland Public Service Commission. I quote him, page 37 of the hearings:

> Our commission cannot complain, as they have complained, of unusual delays. * * *
>
> Our objection is not to the Federal court at all. Any court is all right with us so long as it is composed of square men who know the law. But our objection is to what might be termed "the rules of the game." Under the present system the utility has the case tried before a small commission and appeals to the Federal courts and changes the rules of the game while the game is in progress.

I submit to you that the Lewis bill takes care of that objection. It provides that when the record is made up before the commission that record shall be the record upon which the three-judge Federal court shall determine the issue, and that does away with this great objection of expense. That does away also with the one thing that makes possible the interminable and unjustifiable delay in the New York Telephone case, which went on for 10 or 11 years because of the opportunity afforded by the court to the telephone company to try its case de novo before the Federal master without any regard to the voluminous and expensive record already made before the New York Public Service Commission. That cannot happen under the Lewis bill, because when the question goes on appeal from the commission to the court, the Federal court must accept the record made before the commission. Some of our friends say that we are going to get a speedier decision of the question if we pass the Johnson bill. I am not so sure of that, because the Johnson bill will confine these questions solely and exclusively to the State courts.

Do you know that in some States it is possible to start the proceeding in the circuit court and to appeal it to the supreme court of that State, and then ultimately the question would have to go to the United States Supreme Court? You have an intervening court between the court of last resort in the State and the utility commission. Take the State of New York. It was testified, and it appears in the hearings, in a colloquy between the gentleman from New York [Mr. OLIVER] and Mr. Maltbie, of the New York commission, that the practice there is to appeal the case from the commission to the appellate division, and then there may be a final appeal from the appellate division to the New York Court of Appeals, and from there the case goes from the court of appeals to the United States Supreme Court, if the losing party is not satisfied with the decision in the final State court. I submit that in every case that would arise in New York it would be possible, and it would probably occur, for appeals to be taken to each one of the judicial tribunals, so that instead of having an appeal only from one Federal court to the United States Supreme Court, you would have, under the Johnson bill, an appeal through at least two State courts and finally an appeal to the Supreme Court of the United States. That is possible in a great many of our States, and you will find in the back of the printed hearings, on page 227, a list of the States, showing the procedure in appeals from rate decisions of the rate-making body of each State.

Do you want really to hasten the decisions of these cases?

Do you want to overcome the two great objections raised through present procedure—delay, undue and unnecessary delay, and undue and unnecessary expense?

Then, my friends, if you really want to do that, laying all passion and prejudice aside, forgetting the shadow of Samuel Insull as he came from the ship in New York, forgetting about the public disrepute in which the utilities of the country are held at present, and I think justly so, you should support the Lewis bill, because it gives you, without question, a prompt and speedy remedy for the trial and disposition of these cases, with the possibility of but one court proceeding standing between the holding of the rate-making body and the final decision of the court of last resort. Do not fall into the error of voting for the Johnson bill to eliminate court delays because that bill in some States will have the opposite effect of increasing the delay. The Johnson bill will confine these cases exclusively to the State court procedure. To avoid delays in some of these States the legislatures must change that procedure, and, according to the testimony of our distinguished friend the chairman of our committee, it is your State legislatures that are amenable to the corrupt practices of these public utilities. What chance, then, will you have of getting these corporation-controlled legislatures to change the State court procedure to promote a prompt decision and avoid a mutiplicity of court actions?

I know that I cannot add anything to this debate. I have taken the floor more to justify the position that I held in the committee and which I want to publicly hold here on the floor of the House. I do not intend to go any further into the legal phases of this matter. Most of you are lawyers, and I am frank to confess that most, if not all, of you know more about Federal procedure than I do, but I call to your attention in these last few minutes the fact that the people of the United States adopted the Federal Constitution, among other things, "in order to form a more perfect Union, establish justice, and insure domestic tranquillity." There was a reason for the framers of the Constitution putting those words into the solemn preamble of that great document. We had a Union before the Constitution, but that Union was a rope of sand. We had a Union without an Executive, we had a Union without a Federal judiciary, and the only thing that made the Union under the Constitution superior to the Union under the Articles of Confederation was the establishment of this Federal judiciary.

Writing into the Constitution that article which said that the judicial power of these United States shall be vested in one Supreme Court and such inferior courts as Congress from time to time shall ordain and establish was the salvation of our Federal system. Oh, yes; Congress does not have to establish these inferior courts. There is no compulsion upon Congress. There is no outside force within our Government that can make this Congress set up district courts and circuit courts of appeals, but I want to remind you that there has never been a day since the first Congress convened in the city of Philadelphia when they passed the Judiciary Act of 1789, when there was not a minor Federal judiciary. There has never been a day when there were not Federal district courts and Federal circuit courts to try justiciable questions that arose between citizens of the different States, and the questions which had to do with the confiscation of property.

You know the conditions that brought about the Constitutional Convention. You know of the jealousy and hatred that existed between the States, lately engaged in a rebellion, fighting for their independence against the mother country. You know one of the strongest reasons that compelled members of the Constitutional Convention to suppress their prejudices and vote for the Constitution was their hope that as a result of their actions there would come to exist here in America a government that would be a strong government, that could enforce its will, a government that would have a judiciary to compel respect for its laws. That is what has resulted.

My friends, if there is one thing that establishes the fame of the great dominion State of Virginia, it is that she produced the men who fought hardest for this great judicial system. It was Madison, if you please, the Father of the Constitution, who fought for the Judiciary Act in the First Congress of 1789; and it was John Marshall, of Virginia, the wise expounder of that great charter of government, who defended the Federal judiciary and marked out in his celebrated opinions the boundaries of its power.

We are today engaging in a task that is but the beginning of a mighty attack upon the integrity of the Federal courts

and their jurisdiction. This bill in itself is but a minor matter. True, we are only taking away from the Federal courts jurisdiction in utility rate cases; but, my friends, that is chiseling; and that word was used by Judge Storey a hundred years ago in commenting upon the attempt to withdraw or withhold or undermine the jurisdiction of Federal courts.

It is chiseling. It is sapping at the foundations of American Government. I warn you who come from States that are not fully developed and that have to go beyond the borders of your State to look for capital to assist in the development of that State, there may arise in the minds of people who have money to loan upon the passage of the Johnson bill a fear that will deter them from investing their capital in States where their investments may not be safeguarded by the Federal judiciary. I do not believe, personally, that any man has anything to fear from any State in this Union with respect to the conduct of its judiciary, but we must be practical. We must face conditions as they are, and we must recognize the fact that there are people in our country who do entertain those fears. Do you want to dam up the resources of investment capital? Read the record again, my friends. Even after you vote today, no matter how you vote, read the record and consider the testimony that was presented to the members of the Judiciary Committee.

I have the highest respect for the courts of every State in this Union. I would be willing to submit my life and my property to the jurisdiction of any one of these courts, but again I say we must be practical in this matter. We are not legislating even for the great State of Texas alone. We are not legislating alone for the little State of Rhode Island, which I have the honor to represent, but we are legislating for the greatest Government of the greatest country in the world. We are legislating for a country that stretches over a half continent; a country that is as varied as any 20 or 30 countries in Europe or Asia, because the conditions of life in our country are as widely varied as life in the far north and in the subtropics. There are all sorts and conditions of life that confront the people of our country throughout its far-flung territory. It is important, in my judgment, that we should have in the Capital of our country a government that is supported by a strong Federal judiciary, which reaches out into all States where there are district courts of that judiciary established.

By way of digressing for a moment, what are the Federal district courts of our land? Are they not the people's courts? Are not the men who have been appointed to those Federal courts citizens of the Republic like ourselves? Are not many of them former Members of this House and former Members of the Senate?

Mr. ZIONCHECK. Will the gentleman yield?

Mr. CONDON. I yield.

Mr. ZIONCHECK. You must have a $3,000 case before you can get into the Federal court.

Mr. CONDON. I well know that; but, after all, those judges cannot be the hobgoblins that they have been described to be. They have the weaknesses and frailties that are inherent in human nature, but you cannot condemn the entire Federal judiciary because of a few horrible examples. In all my experience at the bar of my State I have never heard one word of criticism of the Federal judges in my section of the country. Frankly, if I had a case to submit to them as far as the reasonableness or fairness of a rate established by a utilities commission was concerned, I would as soon and as confidently submit that case to a three-judge court of the Federal judiciary than to the judiciary of my own State. But that is only my opinion with reference to a special local situation with which I am more familiar than you are. There are similar local situations in your State with which, of course, you are more familiar than I am. But I come back again to the fact and the argument that we are legislating as a Congress of the United States, and we must ever keep in mind the welfare of the whole country; not the welfare of any one particular section of the country, but the welfare of the whole country, and all of our people.

Now, before I conclude, I just want to read, if I may, the answer by the chairman of the Massachusetts Public Utilities Commission, given to Mr. Benton, of the National Association of Railway and Utilities Commissioners, as throwing some light on the question of the importance of the Johnson bill, at least in the eastern section of the country.

The chairman said that he was not opposed to this Johnson bill, but he went on to say this further—I am quoting now from page 224 of the record:

> As to my letter in relation to the so-called "Johnson bill", you are at liberty to use it in any way you see fit. You are quite right in your understanding that this department has no objection to the Johnson bill. On the other hand, we feel that it would accomplish little or nothing so far as Massachusetts is concerned.
>
> In a period of very nearly 50 years of the regulation of gas and electric companies, where commissions were given the power to make orders, there has been, to my knowledge, resort to the Federal courts in three instances only, namely, the Haverhill Gas & Electric Co., some twenty-odd years ago, contested an order of the board of gas and electric light commissioners, our predecessors in the regulation of gas and electric companies. Perhaps this case could be considered two cases, as there were two petitions, but I have always viewed them as one case. Both terminated in favor of the Commonwealth. There was no resort to the Federal court by any company under the regulation in Massachusetts subsequent to the Haverhill Gas & Electric case until the Worcester Electric Light case, instituted in July 1927, and the Cambridge Electric Light Case, instituted February 20, 1928. In the Worcester Electric Light case a temporary restraining order was issued and an injunction followed. In the Cambridge Electric Light case a temporary restraining order was issued on February 20, 1928, which was revoked on March 11, 1928. The Cambridge case was dismissed by agreement on February 11, 1929, resulting in the department's order being sustained. In the Worcester case the master found, on February 11, 1929, that the department's order was not confiscatory, and by agreement later, on June 5, 1929, the injunction was dissolved and the case later dismissed, leaving the department's order in full force and effect. These are the only cases that have arisen in the Federal courts attacking an order of the commission as to rates.

Now, Mr. Chairman, it is not true, as I see the record—and I care nothing for the passionate, prejudiced statements that have been made outside the record—it is not true that a large number of these cases have gone to the Federal courts and that justice has been denied because there has been great delay. On the contrary, hundreds of cases have been submitted to the State courts throughout the country without any appeal being taken to the Federal courts. But I agree with the gentleman who preceded me on the floor that some of the cases that came before the Federal courts in which there was great delay were such nationally known cases, involving such large sums of money, in which the abuse of the power of taking evidence by the master was so flagrant that the attention of the whole country was directed to them; and because of these isolated abuses we have before us the Johnson bill.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. CONDON. I yield.

Mr. MAY. I am very much interested in having the gentleman's reaction as to the effect certainty of tenure of office has on the judges. For instance, Federal judges are appointed for life subject to good behavior and are, therefore, free from political and local influences, whereas judges of the State courts are elected by popular vote and are not free from political influence.

Mr. CONDON. Answering the gentleman's question, I may say I believe one of the troubles with our Federal judiciary is that the Federal judges are appointed for life; and there is no power to remove them except by impeachment which, as I said on the floor of the House in the Louderback case, is almost a practical impossibility.

I favor the appointment of Federal judges, their tenure of office being based on good behavior. In my State and in the great neighboring Commonwealth of Massachusetts the judges are appointed. Judges are not elected in New England, to my knowledge, but they are appointed to serve during good behavior; and I am frank to say that I hear no great criticism of judges appointed by the Governors of our

States to serve during good behavior. Have I answered the gentleman's question?

Mr. MAY. Are not Federal district judges liable to removal for misbehavior?

Mr. CONDON. I do not understand that to be so. I understand there is no way in which to remove a Federal judge except by impeaching him on the floor of the House.

Mr. MAY. Of course, that is the method of removing him.

Mr. CONDON. But it is such a difficult method of removal that I do not approve of it. [Applause.]

[Here the gavel fell.]

The CHAIRMAN. All time has expired.

Mr. SUMNERS of Texas. Mr. Chairman, I wish to submit a unanimous-consent request. I do not mean to have anything more to say on the bill, but I ask unanimous consent that I may make a statement for the benefit of the House.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SUMNERS of Texas. Mr. Chairman, I assume that you understand what the vote will be on. As soon as the parliamentary situation makes it possible, what is known as "the Lewis amendment" will be offered to the Johnson bill. The vote will be on the Lewis amendment.

Some of the Members who understand parliamentary usage were in doubt this morning as to just how we might get a clear-cut expression of the attitude of the Members with regard to each of these propositions. Insofar as the members of the Judiciary Committee are concerned, I understand that they want to cooperate. We want to cooperate in making it possible to record the judgment of the House with reference to these propositions.

Mr. DOWELL. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. DOWELL. I suggest to the chairman of the committee that the vote in the Committee of the Whole will be on the Lewis amendment to the Johnson bill. If the Lewis amendment fails, and I hope it will, the Johnson bill will then be before the House for passage, and I hope the Johnson bill will pass? The only way the Lewis bill could then come before the House would be upon a motion to recommit.

Mr. SUMNERS of Texas. There was some question this morning as to whether that motion could be made under the rule.

Mr. O'CONNOR. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. O'CONNOR. I feel quite confident, after having discussed the matter with the Chairman of the Rules Committee and others, that the spirit and intent of the amendment made to the rule yesterday will be carried out and that a motion to recommit with instructions to substitute the Lewis bill may be made so there may be a vote in the House upon both propositions.

Mr. GOSS. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. GOSS. On the other hand, if the substitute, or the Lewis amendment, is agreed to in committee, when we get back into the House a separate vote can be had upon it. Is not this equally true?

Mr. O'CONNOR. I stated the alternative to that. So, whether the Lewis amendment is voted up or down in the committee a roll call can be had on the Lewis amendment in the House.

Mr. GOSS. In the one instance by a separate vote on the committee amendment, if the committee adopts the amendment, and in the other instance on a motion to recommit.

Mr. O'CONNOR. Exactly.

Mr. SUMNERS of Texas. May I make one further statement so the matter will be clear? I am sure I speak for both the majority and the minority of the Committee on the Judiciary when I say I hope all the Members of the House will cooperate in making the desire for a clear-cut test of the attitude of the House toward these two propositions possible.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That the first paragraph of section 24 of the Judicial Code, as amended, is amended by adding at the end thereof the following: "Notwithstanding the foregoing provisions of this paragraph, no district court shall have jurisdiction of any suit to enjoin, suspend, or restrain the enforcement, operation, or execution of any order of an administrative board or commission of a State, or to enjoin, suspend, or restrain any action in compliance with any such order, where jurisdiction is based solely upon the ground of diversity of citizenship, or the repugnance of such order to the Constitution of the United States, where such order (1) affects rates chargeable by a public utility, (2) does not interfere with interstate commerce, and (3) has been made after reasonable notice and hearing, and where a plain, speedy, and efficient remedy may be had at law or in equity in the courts of such State."

With the following committee amendment:

Strike out all after the enacting clause, page 1, line 3, down to and including line 10 on page 2 and insert the following:

"That the Judicial Code, as amended, is amended by adding after section 266 thereof a new section to read as follows:

"'SEC. 266A. In the case of any suit brought in a United States District Court to enjoin, suspend, or restrain the enforcement, operation, or execution of any order of an administrative board or commission of any State or any political subdivision thereof, or to enjoin, suspend, or restrain any action in compliance with such order, where (1) such order affects rates chargeable by a public utility, does not interfere with interstate commerce, and was made after reasonable notice and hearing, and (2) jurisdiction of such suit is based solely upon the ground of diversity of citizenship, or of the repugnance of such order, or of the law or ordinance under which such order was made, to the Constitution of the United States, or solely upon any combination of such grounds—

"'(a) The provisions of section 266, as amended, which relate to hearings and determinations by three judges, to the right of direct appeal to the Supreme Court of the United States, to a stay of proceedings, and to precedence and expedition of hearings, shall apply, whether or not an interlocutory injunction is sought in such suit; and, when an interlocutory injunction is sought, the provisions of such section relating to notice of hearing and to temporary restraining orders shall apply;

"'(b) The hearings and determinations shall be on a transcript of the record of the proceedings, including evidence taken, before such administrative board or commission with respect to such order, prepared at the expense of the complainant, and certified to the court by the board or commission in accordance with the law or practice of the State, except that (1) upon application of any party the court may take additional evidence if it is material and competent and the court is satisfied that such party was by the board or commission denied an opportunity to adduce it, and (2) in case no record was kept or the board or commission fails or refuses to certify such record, the court may take such evidence as it deems necessary;

"'(c) The court shall not have jurisdiction if the complainant (or, in case the complainant is a partnership, association, or corporation, if the complainant or a member or stockholder of the complainant) has theretofore commenced suit in a State court have jurisdiction thereof to contest the validity of such order on any ground whatsoever.'

"SEC. 2. The provisions of this act shall not affect suits commenced in the district courts, either originally or by removal, prior to its passage; and all such suits shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effects as if this act had not been passed."

Mr. TARVER (interrupting the reading of the amendment). Mr. Chairman, I ask unanimous consent that the reading of the committee amendment, which is merely the Lewis substitute bill, with which we are familiar, be dispensed with and the substitute printed in the RECORD at this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. RANKIN. Mr. Chairman, I rise in opposition to the Lewis amendment.

I have listened with a great deal of interest to the distinguished gentleman from Pennsylvania [Mr. BECK]. I am unable to understand his attitude today after all the years I have listened to his appeals for State rights. The passage of this Johnson bill without the so-called Lewis amend-

ment" will be one of the greatest steps back toward State rights that Congress has taken in decades.

We are being driven, under the present system, to State socialism or governmental ownership of public utilities. I have been one of those men who did not favor governmental ownership, but we are being driven to it, and the attitude of the gentleman from Pennsylvania [Mr. BECK] and the attitude of the other gentlemen who are sponsoring this Lewis amendment represent a school of thought that is driving us to that extremity.

I am going to show you in a moment some of the concrete results. When we speak of utilities, the one outstanding utility that bobs into the mind of every individual is the Power Trust, the great power interest with its multiplied ramifications. It reaches into every home and runs its fingers into every light bulb in America. We have been forced to resort to governmental ownership at Muscle Shoals. In doing so we have established a policy of producing and distributing power, not based upon the people's ability to pay, not based upon watered stock and overhead charges that are unreasonable and unconscionable, but based upon the cost of production and distribution. I am going to read you just a few of the concrete results of that work.

Our people were paying the same exorbitant rates that were being paid in Pennsylvania, Michigan, Texas, Colorado, and other States. Our contract between the Tennessee Valley Authority and the city of Tupelo, Miss., went into effect on the 7th day of February, and I hold in my hand copies of light bills showing the amounts paid in January and March by a citizen of Tupelo. In January, under the old rates, he paid $3.50. In March he paid 84 cents under the T.V.A. rates.

Here is another one who paid $10.66 in January and $5.98 in March. Another one paid $4.10 in January and $1.32 in March. Another one paid $6.98 in January and $1.72 in March. This is bringing electricity down to something like what it costs to produce.

I know the statement is being made that we are robbing the commercial and the industrial users of power for the benefit of the householder or domestic consumer. Let me give you just a few illustrations to refute that argument.

I suppose you would call a filling station a commercial user. Here is one that paid $62.85 for power and light in January. In March he paid $21.23. Here is a wholesale groceryman who in January paid $94.36; in March he paid $39.42. Here is a manufacturer of ice cream. In January he paid $92.19 and in March he paid $56.23. Here is a small manufacturer. In January he paid $210.25 and in March he paid $145.38.

I also hold in my hand the duplicate receipt of the operator of a cotton mill. Here is the answer to the charge that we are robbing the industrial users of electricity for the benefit of the domestic users.

In January they paid $3,181.33 for electricity. In March they paid $1,896.40. In January they used 204,803 kilowatt-hours; in March they used 258,000 kilowatt-hours, or 26 percent more. If they had paid the January rate in March the bill would have been $4,008, or $2,112 more than they did pay, a saving of $25,000 a year for one small manufacturing establishment, simply because we have been able to bring the rates down and base them on the cost of production and distribution. Every item of cost was considered in fixing these rates, even to the cost of the dam itself.

I know the power interests have gone all over this country and sold watered stock—what they call "preferred stock"—in order to build up political strength in order to defeat legislation of this kind.

Unless this Congress passes legislation such as this Johnson bill, reestablishes the confidence of the American people, and gives them proper protection we are going to be swept into governmental ownership of all public utilities. The people are sick and tired of being plundered by unreasonable utility rates. If you want the utilities to run the country, vote for the Lewis amendment. If you want the American people to receive justice at the hands of the utilities, vote down the Lewis amendment and vote for the Johnson bill as it came from the Senate. [Applause.]

[Here the gavel fell.]

Mr. GOSS. A parliamentary inquiry, Mr. Chairman. Does the vote now come on the committee amendment?

The CHAIRMAN. It does.

Mr. SUMNERS of Texas. Mr. Chairman, in order that we may understand, a vote of "aye" is in favor of the Lewis bill and against the Johnson bill. That is correct, is it not?

The CHAIRMAN. That is correct.

The question was taken; and on a division (demanded by Mr. MARTIN of Massachusetts and Mr. LEWIS of Colorado) there were—ayes 27, noes 112.

So the committee amendment was rejected.

Mr. MILLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER: Page 2, line 1, after the word "State", insert "or any rate-making body of any political subdivision thereof."

Mr. MILLER. Mr. Chairman, I should like to have your attention just a moment because this amendment means a great deal to some of the States.

In many of the States in this country, and this is true in Arkansas, the rate-making body in most cases is the town council or the city council. We have had many laws in Arkansas relative to rate-making bodies, and at various times in our history the rate-making power has been lodged in different boards or commissions. Your State may have today a rate-making commission or a rate-making board, which is a State-wide board and the next legislature may change the law and place this authority in your town councils, or in some board of a political subdivision of your State.

There is no one any more strongly in favor of the Johnson bill than myself, but when the bill becomes a law I want it to function and to accomplish the purposes for which it is intended; and, very frankly, unless this amendment is adopted, it will mean practically nothing to the States that are situated like Arkansas. We have not had much rate trouble down there, but we do not want to have any trouble; and I ask you, in all earnestness, to adopt this amendment in order that we may have the benefit of this law.

Mr. BANKHEAD. Mr. Chairman, will the gentleman yield?

Mr. MILLER. I yield.

Mr. BANKHEAD. Is this offered as a committee amendment?

Mr. MILLER. No. I will say to the gentleman that when we had the Johnson bill under consideration I offered this amendment in the committee and it was adopted by the committee, but it was not reported because the Lewis bill was reported as a substitute. I am now offering the amendment for adoption.

Mr. O'MALLEY. In other words, it was not in the Lewis bill which came out of the committee?

Mr. MILLER. That is true.

Mr. CARPENTER of Nebraska. Is the chairman of the committee in favor of the gentleman's amendment?

Mr. MILLER. I think he is.

Mr. TERRY of Arkansas. Mr. Chairman, I had not intended to speak on this subject because it was very fully discussed by the members of the Judiciary Committee, but this amendment which is proposed by my colleague from Arkansas is very essential to my State.

I am in favor of the Johnson bill. I want to obtain the benefit of that bill for our State, but it so happens that under existing law of my State the rate-making power for municipal rates is in the municipalities. We have a State commission, a fact-finding tribunal, that ascertains what is a fair and reasonable rate, but that is merely advisory, and it is up to the municipality to make the rate. I therefore ask you to vote in favor of this amendment. It will not hurt the bill.

Mr. O'MALLEY. Will the gentleman yield?

Mr. TERRY of Arkansas. I yield.

Mr. O'MALLEY. The only fear I have is this: I do not think it will hurt the bill, but it may send it to conference, and it may not get out before Congress adjourns.

Mr. TERRY of Arkansas. The gentleman need not worry about that.

Mr. KELLER. I should like to ask the chairman of the committee a question. Is this acceptable to him?

Mr. SUMNERS of Texas. It is the opinion of gentlemen of the committee with whom I have talked, that it would be a good idea to put this language in the bill.

Mr. GOSS. As I heard the amendment read, it seemed to me that it would take in any rate-making body of the municipality. I think that would be going a little farther than does the Johnson bill.

Mr. SUMNERS of Texas. Here is the reason: In many States the State rate-making agency does not make the utility rate for municipalities.

Mr. GOSS. A board of aldermen in a town might not be the rate-making body for a municipally owned plant. Now, if this amendment is adopted, the board of aldermen as such could make the rate.

Mr. SUMNERS of Texas. All right. Let us understand the situation. In a good many States the central rate-making agency does not make the rate for the utilities in municipalities. These rates are made—possibly by a board of aldermen or some agency of the municipality. The gentleman from Arkansas believes, and that belief is shared by most members of the committee I think, that as a matter of precaution the language suggested ought to be incorporated in the bill.

Mr. OLIVER of New York. Is it not a fact that when this was offered in the committee it was unanimously adopted, but it was lost in the Lewis amendment voted to the Johnson bill?

Mr. GOSS. Let us take an example. Suppose we have a municipal board of aldermen as the rate-making body, and they make a rate for a municipal plant. But here is a privately owned plant being located in the same town, and the rate would be made by the public-utility commission of the State. Therefore you would have a municipal plant operating under one rate, and a private plant operating under another.

And, if there was a break-down, and they were forced to run parallel, which rate would control?

Mr. SUMNERS of Texas. Where you have a State rate-making agency with jurisdiction, then no other agency or subdivision of the State makes the rate.

Mr. GOSS. Could not the board of aldermen make a rate for a municipal plant?

Mr. SUMNERS of Texas. I do not know.

Mr. OLIVER of New York. Mr. Chairman, I rise in favor of the amendment. This has nothing whatever to do with making rates. This is merely a proposition that if a rate be tested, it shall be tested in a State court. It does not make a particle of difference whether it is made by the State commission or by the board of aldermen. This does not grant any right to anybody to make a rate.

Mr. GOSS. But it would it reviewed.

Mr. OLIVER of New York. Reviewed merely by the State courts, instead of by the Federal courts.

Mr. O'CONNOR. Will the gentleman yield?

Mr. OLIVER of New York. Yes.

Mr. O'CONNOR. Take a concrete case. I think it is the transit commission in the city of New York that controls the subway.

Mr. OLIVER of New York. Yes.

Mr. O'CONNOR. If they did or could fix a rate, there is no reason why this utility company should go into the Federal court any more than if a State agency fixed a rate.

Mr. OLIVER of New York. Not at all. The question is not who fixed the rates, but in what court shall the rate be tested, prior to its going to the Supreme Court of the United States, if a confiscatory question is raised.

Mr. McKEOWN. Mr. Chairman, I move to strike out the last word. It is admitted that this amendment ought to be in the bill even by those who are opposed to it, because in some of these States the right to fix rates is granted to municipalities by the constitution, the organic law of the State. These are the ones who suffer most, because the record shows that it is in the cases of municipalities trying to get reduced rates that are worn out by litigation. They have no money to carry on the litigation, and as for anybody stopping this bill in conference, that is a bugaboo. Nobody is afraid of the "big bad wolf" at this stage of the game. We want to put this amendment in because these small municipalities in these States are distressingly in need of this relief.

Mr. McCORMACK. If this amendment is not adopted, and the rates are established by a local body in a city or town where, in case of local controversy, would that case—what courts would determine it?

Mr. McKEOWN. They would get you in the Federal court.

Mr. McCORMACK. Yes. In other words, if this bill passes without this amendment, those cases affected by the decision or action of a State commission would go to the State courts, and the local problems which this amendment covers would then be compelled to go into the Federal court.

Mr. McKEOWN. Yes; and they would be wiped out before they would get started. They cannot afford it.

Mr. GLOVER. Will the gentleman yield?

Mr. McKEOWN. I yield.

Mr. GLOVER. Is it not true also that these municipalities have been the ones which have been fighting for the principle that is involved in the Johnson bill all the time?

Mr. McKEOWN. Yes; always, because they are more easily whipped than the States.

Mr. O'MALLEY. Will the gentleman yield?

Mr. McKEOWN. I yield.

Mr. O'MALLEY. If this amendment is not adopted, the municipalities will be in no worse position than they are right now?

Mr. McKEOWN. Why?

Mr. O'MALLEY. Because they will have the right to appeal to either the State courts or the Federal courts.

Mr. McKEOWN. That is right. Then there is no use to pass the bill.

Mr. O'MALLEY. But the State legislatures can change their own laws to protect the municipalities under this.

Mr. McKEOWN. Not where the power to fix rates is granted in the organic law.

Mr. SABATH. Will the gentleman yield?

Mr. McKEOWN. I yield.

Mr. SABATH. It will give municipalities the same right and the same privilege that it gives to the States?

Mr. McKEOWN. Exactly. That is what we want to do.

Mr. SABATH. It is the gentleman's contention that those municipalities need that protection even to a greater extent than most of the States?

Mr. McKEOWN. Absolutely.

Mr. BROWN of Kentucky. Will the gentleman yield?

Mr. McKEOWN. I yield.

Mr. BROWN of Kentucky. With the aggressive leadership of the Senator who sponsored this bill in the Senate and our own leader in the House, is there any danger that this could get tied up and not become a law at this session?

Mr. McKEOWN. No.

[Here the gavel fell.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arkansas [Mr. MILLER].

The amendment was agreed to.

The Clerk read as follows:

SEC. 2. The provisions of this act shall not affect suits commenced in the district courts, either originally or by removal, prior to its passage; and all such suits shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if this act had not been passed.

The CHAIRMAN. Under the rule, the Committee will rise.

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. HANCOCK of North Carolina, Chairman of the Committee of the Whole House on the state of

the Union, reported that the Committee had had under consideration the bill (S. 752) to amend section 24 of the Judicial Code, as amended, with respect to the jurisdiction of the district courts of the United States over suits relating to orders of State administrative boards, and pursuant to House Resolution 350, he reported the same back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the Senate bill.

The bill was ordered to be read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. TOBEY. Mr. Speaker, I ask for the yeas and nays.

The yeas and nays were refused.

The question was taken; and on a division (demanded by Mr. TARVER) there were—ayes 201, noes 19.

So the bill was passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

EXTENSION OF REMARKS—S. 752

Mr. SUMNERS of Texas. Mr. Speaker, I ask unanimous consent that Members of the House may have 5 legislative days in which to extend their own remarks on the bill just passed.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. SMITH of Washington. Mr. Speaker, I feel confident that the United States Supreme Court will uphold the constitutionality of the Johnson bill.

Whenever salutary Federal legislation has been proposed, whenever some great national reform has been enacted into law by Congress, it has immediately been assailed by those who declared it to be in violation of the Constitution of the United States—"unconstitutional." This has been a matter of such frequent occurrence during our entire history as a Nation that today a wide-spread distrust of the Constitution exists on the part of those who are unfamiliar with the modern progressive tendency of the decisions of the United States Supreme Court. Unfortunately, instead of bearing only reverence and affection for that great document, many have come to view it as an instrument of oppression; for, does it not prevent our securing those measures of relief which we need, and, in justice, should have?

The most cursory sort of an investigation of the United States Supreme Court Reports will reveal the fact that this opinion of the Federal Constitution as construed by our highest judicial tribunal is not justified. The prevention of corporate aggression and the protection of the life, health, and happiness of the multitudes against the greed and cupidity of the few can be realized under our Constitution, the Supreme Court has repeatedly held in recent years. It is within the power of Congress to act in accordance with *State Bank* v. *Haskell* (219 U.S. 111), as—

> Held by the prevailing morality or strong and preponderant opinion to be greatly and immediately necessary to the public welfare.

I shall not on this occasion attempt any discussion of the commerce clause, what constitutes interstate and intrastate commerce, distinctions between the sovereignty of the State and Federal Governments, the fifth and fourteenth amendments, or any particular one article of provision contained in the Federal Constitution, but shall rather confine myself to a consideration of the broad outlines and dimensions of the Constitution as a whole and endeavor to catch something of its real spirit, if possible, in order to correctly answer this question, into which sooner or later all constitutional questions resolve themselves, to wit, Was the Constitution made for the people or are the people made for the Constitution?

The Constitution of the United States emanated from the people. It is "of the people, by the people, and for the people."

As was said by Mr. Justice Matthews, speaking for the Court in *Hurtago* v. *California* (110 U.S. 516):

> The Constitution of the United States was ordained, it is true, by descendants of Englishmen, who inherited the traditions of English law and history; but it was made for an undefined and expanding future and for a people gathered and to be gathered from many nations and of many tongues.

A constitution, from its nature, deals in generals, not in details. Its framers cannot perceive minute distinctions which arise in the progress of the nation, and therefore confine it to the establishment of broad and general principles—Chief Justice Marshall in *The Bank of the United States* v. *Deveaux et al.* (5 Cr. 87).

> Constitutions of government are not to be framed upon a calculation of existing exigencies; but on a combination of these with the probable exigencies of ages, according to the natural and tried course of human affairs. They ought to be a capacity to provide for future contingencies as they may happen. (Federalist no. 34.)

The Government of the American Nation is, then, "emphatically and truly a government of the people. In form and in substance it emanates from them. Its powers are granted by them, and are to be exercised directly on them and for their benefit" (Chief Justice Marshall in *McCulloch* v. *Maryland* 4 Wheat. 405)—a statement, the grandeur of which was to be enhanced 44 years later, when, standing on the battlefield of Gettysburg, Abraham Lincoln said that "a government of the people, by the people, for the people, shall not perish from the earth."

Beveridge says:

> The nationalist ideas of Marshall and Lincoln are identical; and their language is so similar that it seems not unlikely that Lincoln paraphrased this noble passage of Marshall and thus made it immortal. This probability is increased by the fact that Lincoln was a profound student of Marshall's constitutional opinions and committed a great many of them to memory.
>
> The famous sentence of Lincoln's Gettysburg address was, however, almost exactly given by Webster in his reply to Hayne. "It is * * * the people's Government; made for the people; and answerable to the people." But both Lincoln and Webster merely stated in condensed and simpler form Marshall's immortal utterance in *McCulloch* v. *Maryland*. (The Life of John Marshall, by Albert J. Beveridge, vol. IV, p. 293. Note.)

The Constitution was written in the spirit of the Declaration of Independence, the greatest exposition of the rights of the people which has ever been given expression by the heart and mind of man. The Constitution is to be interpreted and construed in the light of its preamble:

> We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic transquillity, provide for the comon defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

It is worth while to recall the words of James Wilson, who said in reply to the objection that the Federal Constitution had no bill of rights:

> Here the fee-simple remains in the people, and by this Constitution they do not part with it. The preamble of the proposed Constitution, "We, the people of the United States * * * do establish" contains the essence of all the bills of rights that have been or can be devised.

The Constitution is not a creature of circumstances, and, in order to meet the necessities of the people, should always be treated as an enunciation of fundamental principles rather than as declaratory of cramped and cabined rules of law, which latter canon of interpretation would make it an instrument of oppression instead of one of beneficence.

The Supreme Court of the United States has not lost sight of this fact. If there ever was a time when the truth of the words of Chief Justice Marshall in the celebrated case of Gibbons against Ogden was apparent, that time is now, when

our great, constructive emergency recovery legislation is under attack. Chief Justice Marshall said—what we are again witnessing:

Powerful and ingenious minds, taking, as postulates, that the powers expressly granted to the Government of the Union are to be contracted by construction into the narrowest possible compass, and that the original powers of the State are retained, if any possible construction will retain them, may, by a course of well-digested but refined and metaphysical reasoning founded on these premises, explain away the Constitution of our country and leave it a magnificent structure, indeed, to look at but totally unfit for use.

They may so entangle and perplex the understanding as to obscure principles which were before thought quite plain, and induce doubts where, if the mind were to pursue its own course, none would be perceived.

This is the very thing that eminent lawyers, some of them distinguished Members of this body, are doing—seeking to explain away the people's Constitution by arguing that the Federal Government does not possess the power to save the commerce and lives and institutions of the people in what everyone, even they, themselves, admit to be the most serious crisis and national emergency in our history.

What did Chief Justice Marshall mean when he said that "The Government proceeds directly from the people" and "Its powers are granted by them and are to be exercised on them and for their benefit"? Are not the courts a part of the Government? If not, why not? Shall only the executive and legislative departments be responsive to the will of the people? Should the judicial department nullify the will of the people and render our republican government a sham and a pretense?

Is the Federal Government helpless and impotent to act in a great national emergency? The Selective Service, Espionage, War Industries Board, Food Administration, Control of Railroads, Industrial Mobilization Acts passed by Congress during the World War and upheld by the United States Supreme Court furnish the negative answer. Justice Brandeis in the recent case of *The New State Ice Co.* v. *Leibmann* (285 U.S. 262, 76 L. ed. 769) has correctly said:

The people of the United States are now confronted with an emergency more serious than war.

Henry Upson Sims, one of the leaders of the American Bar and president of the American Bar Association in 1929–30, has well said:

It is gratifying to realize that there have been statesmen enough among the judiciary of this country to prevent the legal framework of the Constitution, which the early political statesmen drew for us, from being laid aside like the garments of childhood. The courts of the early days of our history may not have foreseen the proportions of the present industrial and commercial age. Of course, Marshall did not see it. But they did see that the constitutional provisions are rules of social order rather than mere laws to be interpreted in the light of the limited environment of the draughtsmen—

In its classical decision in *Gibbons* v. *Ogden* (1824), the Supreme Court inaugurated its interpretation of the so-called "commerce clause" of the Constitution and held that Congress possesses the right to regulate commerce and navigation, domestic and foreign—gave Congress exclusive power over interstate commerce—and yet almost 100 years elapsed before Congress passed the Interstate Commerce Act. Equally remarkable is it that the "general welfare" clause did not receive judicial construction until 1896.

In a decision rendered by the Supreme Court more than 50 years later—1877—Pensacola Telegraph Co. against Western Union Telegraph Co., it is said that—

The powers thus granted are not confined to the instrumentalities of commerce or the postal system known or in use when the Constitution was adopted, but they keep pace with the progress of the country and adapt themselves to the new developments of times and circumstances. They extend from the horse with its rider to the stagecoach, from the sailing vessel to the steamboat, from the coach and the steamboat to the railroad, and from the railroad to the telegraph. * * *

And we may now add, to the airship, the radio, as well as to any future means of communication.

Mr. Speaker, the meaning of the power to regulate commerce must keep pace with the development of modern conditions, for with changes in conditions the meaning of words change, and this also necessarily reflects itself in the process of interpretation.

Thus, Munro—The Government of the United States, Macmillan, New York, 1930, page 311—speaking of the commerce clause, says that the elasticity of the written word finds more ample illustration here than in any other field of American constitutional development; that a definition of the commerce power today would be out of date tomorrow, and an exact definition cannot be given of anything that changes its form and scope so frequently as the commerce power does.

Speaking of the Constitution, Mr. Justice Story said:

It is not intended to provide merely for the emergencies of a few years, but was to endure through a long lapse of ages, the events of which were locked up in the inscrutable purposes of Providence.

In the case of *South Carolina* v. *United States* (199 U.S. 448), Mr. Justice Brewer said, in delivering the opinion of the Court:

The Constitution is a written instrument. As such, its meaning does not alter. That which it meant when adopted it means now. Being a grant of powers to a Government, its language is general, and as changes come in social and political life it embraces in its grasp all new conditions which are within the scope of the powers in terms conferred. In other words, while its powers granted do not change, they apply from generation to generation to all things to which they are in their nature applicable.

Cooley says:

The principles of republican government are not a set of inflexible rules, vital and active in the Constitution, though unexpressed, but they are subject to variation and modification from motives of policy and public necessity.

I believe that those who are inveighing against the constitutionality of the National Recovery Act, the Agricultural Adjustment Act, and the series of acts of Congress designed to aid the people and the country in the present national emergency would do well to read and ponder the address of Hon. John J. Parker, judge of the United States Circuit Court of Appeals for the Fourth Circuit, delivered last summer before the annual convention of the American Bar Association of Grand Rapids, Mich. I should like to read just two paragraphs from the masterful address of this learned jurist and student of constitutional law. His logic and reasoning seem to me to be unanswerable. Judge Parker said:

It is no sign of the abandonment of our constitutional theory that the activities of the Federal Government should have increased greatly with the passage of time; for this increase has been in accord with the Constitution and not contrary to it. The Federal Government must necessarily control interstate and foreign commerce; and it is manifest that the scope of this control must have been enlarged as interstate and foreign commerce became more and more important with the development of transportation and interstate communication. The Sherman Act passed in 1890 was no departure from constitutional theory, but arose out of the necessity of curbing monopolies, which were growing up in interstate commerce and the realization that, because of the control vested in Congress over such commerce, the States were powerless to deal with the problem. The same was true of the Clayton Act and the acts creating the Federal Trade Commission and the Interstate Commerce Commission. For this reason I am not excited over the passage of acts further regulating interstate commerce. Certainly, if Congress may legislate for the purpose of preserving free competition, it may, when this free competition is on the verge of destroying industry itself, legislate to eliminate its destructive features and in the interest of controlled cooperation.

And I have the same feeling about increased activities of the Government under the general welfare clause. The people of the United States constitute a great nation. There is no reason why their National Government should not foster the healthy growth and development of that nation by encouragement to agriculture, industry, education, road building, and other activities essential to the national welfare. And in time of national distress, when the industry of the country is prostrate as a result in large measure of the collapse of interstate and foreign commerce, there is nothing in our constitutional theory which prevents the National Government using its powers for the relief of suffering and to place industry again on its feet. It is the only agency which the people have of sufficient size and power to approach the problem presented with any hope of success, and I see no reason why it should be precluded from exercising the power.

Thus we find that the people possess plenary power under the Constitution and that such power was to be enjoyed by them for all time. The Constitution was made for the peo-

ple, not the people for the Constitution. Further evidence of this is found in the fact that ours is a republican form of Government.

Our forefathers discarded the old Articles of Confederation and adopted the Constitution during a time of extreme distress and emergency.

The whole document, indeed, was not so much a declaration of faith as of fears, for it was put together in an atmosphere of restlessness, at a time when business conditions in the thirteen States were about as bad as they could be. Independence had been gained by war, but not prosperity, says W. B. Munro, in The Makers of the Unwritten Constitution.

The conditions of the Colonies are hard to realize in our day. Mr. Lawson has referred to them in his exhaustive work on the general-welfare clause. I quote:

Dark as was the foreign outlook for America, her domestic situation was worse. Mutual jealousy and antagonism dictated the policy of the States toward each other. Commercial rivalries and unfriendly imposts irritated the feelings of all. They quarreled over their lands, over payment of their debts, and over the apportionment of expense. All Government was threatened with dissolution.

It was imperative to adopt the Constitution to prevent national anarchy, Washington declared. He said:

We are descending into the vale of confusion and darkness. The confederation appears to me to be little more than a shadow and Congress a nugatory body. To me, it is a solecism in politics—that we should confederate as a Nation and yet be afraid to give the rulers of the Nation who are the creatures of our own making—sufficient powers to order and direct the affairs of the same.

In a letter to Carter he wrote that it was his—

Decided opinion that there is no alternative between the adoption of it (the Constitution) and anarchy.

The wings of Washington's wrath carried him far.

Good God—

Cried he—

who, besides a Tory, could have foreseen, or a Briton predicted, "the things that were going on." The disorders which have arisen in these States, the present prospect of our affairs * * * seems to me to be like the vision of a dream. My mind can scarcely realize it as a thing in actual existence. * * * There are combustibles in every State, which a spark might set fire to. (Washington to Knox, Dec. 26, 1786.)

In other words, the Constitution is not a fair-weather state paper, intended only for days of sunshine and calm. It came into being during the days of adversity and distress of panic and storm, of darkness and despair, a period not at all unlike that in which we are living today. Yet there are those who would contend that that same Constitution is an absolute barrier to a fulfillment of the people's needs and desires, that Congress is a "nugatory body" and does not possess "sufficient powers to order and direct the affairs of the Nation", that we must look exclusively to the bankrupt State governments to restore commerce, industry, and agriculture in these United States, and that the Constitution forbids the Federal Government to do so.

Mr. Speaker, let it be said to the everlasting credit and honor of the members of the United States Supreme Court, as more recently indicated in their decisions in the Minnesota Mortgage Moratorium and New York Milk Control Board cases, that they have never taken this view of the Constitution and have never nullified Federal legislation which was meritorious and needed to meet the demands of the national emergency. There are mirrored in their decisions the ever changing and progressing economic and social conditions of the American people. Our republican form of government would become a mere fiction today if the constitutional obstructionists had their way, but they will not. The Supreme Court has never construed the Constitution to consist merely of dead letters of faded ink upon a crumbling parchment. On the contrary, they have, by their decisions, rendered the charter of our fundamental laws a living, breathing, vital, growing document, with a soul and a spirit, expressing eloquently the hopes, the desires, the aspirations, the longings, the yearnings of the great heart of America for truth, for justice, for progress, for the welfare, and the happiness of all her children. The Constitution was made for the people, not the people for the Constitution.

Mr. YOUNG. Mr. Speaker, public utilities in rate cases invoke the jurisdiction of the Federal courts to defeat the will of the people in the States where these utilities are engaged in business. Jurisdiction of Federal courts in rate cases is not dependent upon diversity of citizenship. It is based on the claim that rates are confiscatory, and the Federal courts have jurisdiction regardless of whether the utility is a foreign or domestic corporation. Upon the allegation that the rate for telephone or other utility users fixed by State authority is confiscatory, then it becomes the duty of the Federal court to grant an injunction. Delay results to the injury of the taxpayer. Justice delayed is all too frequently justice denied.

I favor passage of the Johnson bill. I oppose the Judiciary Committee amendment. States should be permitted to supervise and fix rates of public utilities without interference by Federal courts. Congress should before now have enacted this remedial measure making it impossible for public utility companies to thwart the will of the people in States where such companies choose to do business. As a Representative of the people of a sovereign State, I protest against the continued and unfair practice of public utilities in invoking the jurisdiction of the United States judges. We are putting an end to that. In fact, I should like to do away altogether with the inferior Federal courts.

Public utilities in rate cases are accorded full and complete hearings before a State commission; in Ohio, before the Public Utilities Commission of Ohio. Then the corporation, if dissatisfied with the rate fixed, may apply either to the State or to the Federal courts for an injunction to restrain the rate-making authority from making its order effective. Of course, shrewd public utility lawyers invariably bring such action in the United States district court. These courts try the entire case de novo, and the judgment of the Federal judge, who is not responsible to the people of the State and who frequently owes his position to the favor of the State political boss, is then substituted both as to the law and the facts for the decision of the State public utilities commission or legislature. The Federal courts thereby perform a legislative function. These inferior Federal judges overcome by the stroke of a pen the carefully considered decision of the State rate-fixing authority. Great expense is thereby involved and years of delay have been occasioned in many cases of utmost importance.

President Roosevelt, as Governor of New York, in a message to the legislature of that State, said—

The special master becomes the rate maker; the public service commission becomes a mere legal fantasy. This power of the Federal court must be abrogated.

Let us pass the bill as introduced by Senator HIRAM JOHNSON and as passed in the other body. Let us proceed to divest the district courts of the United States of jurisdiction in public-utility rate cases of a purely intrastate character.

The resort to the Federal courts against the rates fixed tends to develop bad feeling between the people of the State and the public utilities; also it develops a feud between the State and Federal authorities. An example is the recent threat by the Governor of Georgia to call out the National Guard of that State to resist the enforcement of an injunction issued by the Federal court.

Public utilities have heretofore enjoyed the preferential status and special privilege of going to the Federal courts for injunctions against State authority. We should pass this bill taking away this special privilege, then public-utility officials will be less interested in the personnel of the Federal courts. Public utilities should be compelled to confine their appeals to the courts of the States involved, with the final right of appeal to the United States Supreme Court.

An individual in Ohio cannot elect to appeal from the State courts to the United States district courts. Heretofore property rights have been placed above human rights. Public utilities doing business in Ohio have been enjoying rights denied our citizens. Certainly any public utility after a full and fair hearing before the Public Utilities Commission of Ohio cannot justly complain when it is afforded a review in the courts of the State and an appeal to the United

States Supreme Court. We should no longer tolerate a situation which permits public utilities to wear down those seeking fair rates, through delays by long and expensive litigation in the Federal courts.

Public utility companies seeking business in my State or in any State should deal in a manner entirely fair to the people. If they do they will have no difficulty in securing justice in State courts. My vote is in support of the Johnson bill to abrogate entirely this power of the Federal courts to interfere in the fixing of rates for the public utility corporations. After this has been accomplished, I look forward to the time when we may further strip the United States district judges of power and authority now exercised in such courts. United States district judges are, as a rule, domineering, dictatorial, arbitrary, and tyrannical, and without responsibility to the people.

WORLD'S FAIR, CHICAGO, ILL.

Mr. SABATH. Mr. Speaker, I call up a privileged report from the Committee on Rules (H.Res. 360).

The Clerk read as follows:

House Resolution 360

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 3235. After general debate, which shall be confined to the bill and shall continue not to exceed 1 hour, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on the Library, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion, except one motion to recommit.

Mr. SABATH. Does the gentleman from Massachusetts desire any time on the rule?

Mr. MARTIN of Massachusetts. I should like the usual 30 minutes.

Mr. BLANTON. Will the gentleman yield for a question?

Mr. SABATH. I gladly yield to my friend.

Mr. BLANTON. Do I understand the gentleman from Illinois, when we reach the 5-minute rule, will offer an amendment to eliminate as much as $205,000 from this bill?

Mr. SABATH. I do not know yet, but I have assured the gentleman that I am willing to go as far as I can and practically as far as I will be obliged to go to meet any opposition.

Mr. BLANTON. I think the gentleman would get a great deal of opposition out of the way and he would have a much better chance to get his bill passed if he would agree to eliminate as much as $205,000 from the amount, because undoubtedly $200,000 would cover all the expense necessary, and the balance of it would be wasted.

Mr. SABATH. If the gentleman will allow me to go on now, I will take the matter up later. I want to be fair.

Mr. Speaker, I yield 30 minutes of my time to the gentleman from Massachusetts [Mr. MARTIN].

Mr. Speaker, this resolution makes in order Senate bill 3235, which has been unanimously passed by the Senate upon special request of the President. The rule provides for 1 hour of general debate upon the bill, and thereafter the resolution shall be taken up under the 5-minute rule.

President Roosevelt some 6 weeks ago sent a letter to the Senate recommending this appropriation so that the Government may again participate in the great Chicago World's Fair. Most of you remember that 2 years ago an appropriation of $1,000,000 was made by the Congress for participation in this great undertaking in the city of Chicago. I am satisfied that the people of America recognize that, notwithstanding the unfortunate economic conditions that prevailed last year, Chicago gave to the Nation a great fair.

I am sure that the millions who attended returned to their homes pleased with and benefited by the wonderful exhibits and with their treatment by the good people of Chicago.

The amount asked for and recommended is $405,000.

Mr. McDUFFIE. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I gladly yield.

Mr. McDUFFIE. Will the gentleman inform the House how much money Congress has already contributed to the Chicago fair? What is the total sum?

Mr. SABATH. The total sum is $1,000,000. Of this amount there was a balance of $77,000, but a portion of this has now been expended.

Mr. O'CONNOR. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield to my good friend.

Mr. O'CONNOR. I think the word "contributed" is a little unfortunate. As I understand the situation, the Federal Government did not contribute anything. They paid for their own exhibits. That is the purpose for which the money was appropriated. The different departments of the Government have exhibits there. That is the purpose for which the original $1,000,000 was appropriated, and that is the purpose for which this additional $400,000 is requested.

Mr. SABATH. The gentleman is correct.

Mr. McDUFFIE. How much longer are we going to be called upon to maintain these exhibits at the expense of the taxpayers at this exposition in the gentleman's city? I understood at the time the gentleman got his first resolution through that there would be no expense incident to Federal participation in the fair.

Mr. SABATH. There was no expense. The amount originally appropriated was spent by the Government for its own exhibits, and the fair did not receive and has not asked for any contribution from the Government.

Mr. McDUFFIE. The Government's exhibit has been of very material benefit to the Fair.

Mr. SABATH. In former years Congress has appropriated large sums of money for such purposes.

Mr. O'CONNOR. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield.

Mr. O'CONNOR. As far as concerns this $1,000,000 for the good Democratic city of Chicago, we appropriated nearly $3,000,000 for the good Republican city of Philadelphia for the same purpose.

Mr. McDUFFIE. Of course I do not want the good Democratic city of Chicago to be treated differently than the good Republican city of Philadelphia, but I am interested in the taxpayer; and, furthermore, I am interested in the proposition that there are other needs of the Government for which this nearly half-million dollars could be spent with better results.

Mr. SABATH. I would not ask for this appropriation were I not thoroughly and conscientiously satisfied in my own heart that the appropriation is absolutely required for the best interests not only of the good city of Chicago but of the entire Nation.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield.

Mr. BLANTON. When we appropriated $3,000,000 for the exhibition held by the Republican city of Philadelphia, we had plenty of Republicans, rich ones, all over the United States to tax to yield the money; but now the people all over the United States are Democrats and when we raised that $1,000,000 last year we had to raise it from Democratic taxpayers. This $405,000 also will come largely from the pockets of the Democrats of the Nation.

Mr. SABATH. And they are patriotically willing to contribute their fair share of the necessary cost of a really great fair.

Mr. BLOOM. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield.

Mr. BLOOM. Is not the situation in Chicago at the present time such that the Government has a very large building there housing all these exhibits; that these things have cost the Government a lot of money; and that the money asked for in this appropriation is merely to open the doors of this building and continue the exhibits that were out there during the past year? If we do not appropriate enough money to continue the exhibitions of the different departments of the Government, the Government building will remain closed for the 6 months the exposition is open this year.

Mr. SABATH. That is true.

Mr. BLOOM. There will be no further expense as regards the building; the only expense will be in connection with the exhibits.

Mr. SABATH. The gentleman is correct.

Mr. TRUAX. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield with pleasure.

Mr. TRUAX. I do not think we ought to be too hard on the Republican taxpayers because they seem to be hard up the same as the Democrats have been. Even Andrew Mellon, that great refunder of income taxes, is asking for a refund of the taxes that he paid last year.

Mr. SABATH. I concede that even the Republicans have been hard up; but economic conditions are improving, I may say to the gentleman from Ohio, and I feel that within a short time, with the usual and loyal cooperation of our splendid citizens, we will get back to the old-time prosperity.

Mr. DONDERO. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield.

Mr. DONDERO. Can the gentleman cite any precedent in the history of the Nation where a world's fair has been continued into the second year?

Mr. SABATH. I do not know that the world has ever had such a great exhibition as the present one in Chicago. In addition, the gentleman must know that the city of Chicago has gone forward under adverse conditions; and it was the same adverse condition which deprived millions of worthy persons of the privilege of visiting Chicago. Chicago desires to give these good people who were unable to attend last year the opportunity and privilege of visiting the city and the fair this year.

Mr. RICH. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield.

Mr. RICH. Does the gentleman think that the taxpayers of the United States outside of the city of Chicago would vote to spend $405,000 to keep this exhibit open?

Mr. SABATH. Yes; and I will tell you why.

Mr. BLOOM. It would cost more to keep it closed.

Mr. SABATH. If we do not appropriate this money, it will cost the Government a large sum to take care of the exhibits that are already there.

Mr. RICH. For $405,000 you can put on a whole show.

Mr. SABATH. I venture to say that this fair has done more good to the railroads of the United States than anything else that the gentleman can possibly mention.

Mr. LAMBERTSON. Will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Kansas.

Mr. LAMBERTSON. Is there any assurance that the city of Chicago, after another very successful year, might not ask us for a third appropriation?

Mr. SABATH. I am satisfied that the city of Chicago will not ask for an additional appropriation. I want you to realize that though this fair has been beneficial to Chicago the same as it has been to the United States at large, it was brought about by its citizens who spent millions of dollars, this money being contributed by the citizens of the city of Chicago originally, in order to make this great fair possible.

Mr. TREADWAY. Will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Massachusetts.

Mr. TREADWAY. Will it not be possible to get around the fair grounds by the same methods of transportation as were invoked last summer, namely, busses, trolley lines, and so forth?

Mr. SABATH. Yes.

Mr. TREADWAY. Then why ask for $2,500 for an automobile for the Commissioner?

Mr. SABATH. I am going to move to strike that provision from the bill. Of course, the gentleman understands that this is not my bill.

Mr. TREADWAY. That is the first sensible thing I have heard in connection with this bill.

Mr. SABATH. May I say to the gentleman that I was instrumental in eliminating this appropriation last year when it appeared in that bill.

Mr. TREADWAY. I think the gentleman is showing good judgment. Why not take out the other $400,000 and only leave $2,500 in the appropriation?

Mr. SABATH. If that were enough and if the gentleman were serious in his statement, I would consider the matter; but I know he is not serious. I feel that the gentleman from Massachusetts recognizes the need for this appropriation, and may I say that when the time comes there will not be a great deal of difference between us as to the amount.

Mr. TREADWAY. May I interrupt the gentleman to say that the words he is putting in my mouth are inaccurate? I do not recognize that we need an appropriation of $400,000 for a Government exhibit which last year cost a million dollars for the whole thing, including buildings and everything else. Now, the gentleman is asking for almost half as much and states that everything is there. I do not agree to that kind of an expenditure of the taxpayers' money.

Mr. SABATH. When we consider the bill I want to make it plain that I am not going to insist on any appropriation which I feel is unfair or not justified.

Mr. BLOOM. Will the gentleman yield?

Mr. SABATH. I yield to the gentleman from New York [Mr. BLOOM].

Mr. BLOOM. Answering the gentleman from Massachusetts, may I say that the expenditure for that automobile was a Republican Commissioner. That was for former Postmaster General New.

Mr. TREADWAY. That is immaterial. Will the gentleman tell us how many Democrats are riding in official automobiles in Washington today?

Mr. BLOOM. None.

Mr. TRUAX. Will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Ohio.

Mr. TRUAX. Was not this automobile bought for Charles Dawes?

Mr. SABATH. No. It was for former Postmaster General New, who is the Commissioner.

Mr. TRUAX. Is he a Republican?

Mr. SABATH. He is a Republican.

Mr. BOYLAN. Will the gentleman yield?

Mr. SABATH. I yield to the gentleman from New York.

Mr. BOYLAN. May I ask the gentleman this question? If we agree to appropriate this $405,000 that he wants, will the gentleman guarantee us safe custody while in the city of Chicago?

Mr. SABATH. May I say to the gentleman from New York that we have demonstrated to the people of America that the city of Chicago is the safest place in the world to visit. If each and every one of you Members of the House and friends will visit us and will avail yourselves of the opportunity, you will find Chicago to be the most law-abiding and the cleanest city in the United States.

Mr. PATMAN. Will the gentleman yield?

Mr. SABATH. I yield to the gentleman from Texas.

Mr. PATMAN. The gentleman said something about Chicago being the safest place in the world. Dillinger has found it to be the safest place in America?

Mr. SABATH. No. He found it pretty hard there and did not remain long. He soon became uncomfortably conscious that Chicago's peace officers were alert, able, fearless.

Mr. Speaker, I reserve the balance of my time.

Mr. MARTIN of Massachusetts. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Speaker, it is rarely the case that our good friend from Illinois [Mr. SABATH] ever brings on this floor any legislation that we all cannot support without hesitation. He is an able, zealous, dependable Member of this House, and his service is always most valuable to the country.

But he is so very loyal to his city of Chicago, and is always anxious to do so much in behalf of the people of Chicago, that when his home city has a measure here up for discussion, he is a partisan, and we always cannot follow him on Government bills that grant money to Chicago.