SAM RAYBURN AND NEW DEAL LEGISLATION
1933-1936

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CHAPTER I

SAM RAYBURN: THE MAN

No biography can be written of Sam Rayburn that will reveal the full story of his contribution to American history in almost fifty years of public service. His identification with Congress was marked in a leadership characterized by wise counsel, rigid standards of integrity and principle, and a sense of direction aimed directly at the target. He never made momentous decisions to accommodate power and prestige. His successor, John W. McCormack, paid tribute to the indomitable Rayburn when he said: "With him, right remained static and inflexible whether it affected potentates, presidents, either House of Congress, or the newest and least Congressional incumbent from the remotest state with the smallest voice."\(^1\) Although his voice was the strongest single one in Congress for over twenty-five years, there were never any manifestations of naked power, but there was authority, dignity, and reverence for the role of the democratic process. His benevolent leadership will remain forever engrossed in the law of a free people--laws that altered the face of America and affected the four corners of the earth.

Sam Rayburn's record as Speaker of the House was undoubtedly his best known accomplishment during fifty years in Congress. Nevertheless he played a vital role as proponent of the New Deal during the period from 1933 to 1936 when he was Chairman of the House Interstate and Foreign Commerce Committee. Since Rayburn's role in passage of early New Deal statutes has been neglected, the purpose of this thesis is to examine his contributions to the Roosevelt Administration as leader in the debates on key legislation.

As a basis for the evaluation of his leadership and political philosophy, it is essential to examine the influence of his background for any inherited tendencies. Very little was known of his paternal background. His grandfather, John Rayburn, was a typical pioneer of Anglo-Saxon heritage who settled along the Atlantic seaboard in the State of Virginia. Since John Rayburn was unable to make a living there, he soon moved his family westward over the frontier into eastern Tennessee. Simple tools such as crude rifles, axes, seed corn, and potatoes were employed to eke out an existence in the Tennessee hills.

In contrast to the limited information of his father's antecedents, more complete information was kept by his mother's side. The Waller family could trace its history back to Alured de Waller of Newark, Nottingham, who probably
participated in the Crusades. Rayburn's maternal great grandfather, George Waller, was one of the first justices of Henry County, Virginia. Moreover, he was sheriff, collector of public funds, and exchequer in addition to holding many honorary positions. Also, Colonel George Waller fought in the Revolution and participated in the surrender of the British forces at Yorktown. Thus, in reminiscing on the American Revolution, Sam Rayburn commented of the American patriots including his ancestors: "They fought well, wrought better, and laid the foundation of the greatest government the world has ever seen and while they bequeathed to us many blessings, they also laid upon us the obligations to carry on."\textsuperscript{2}

Martha Clementine Waller, Sam Rayburn's mother, was born August 26, 1836, the eleventh child of John Barksdale Waller and Katherine Pickle Waller. After she was married to William Marion Rayburn on May 14, 1868, they settled in a log cabin built with his own hands near Lenoir, Tennessee, in the Clinch Valley. Samuel Taliaferro Rayburn was born January 6, 1882, the eighth child of this union. He later dropped this middle name which he called a "highfalutin brand," and remarked, "I had to shed this thing, because so

\textsuperscript{2}C. Dwight Dorough, \textit{Mr. Sam} (New York, 1962), p. 48. Up to 1965, this volume was the definitive biography of Speaker Rayburn.
many of my friends couldn't spell it."3 Thereafter, he was known only as Sam.

Since the major crop was corn in this area of Tennessee, the industrious Rayburn family survived only through good management and raising their own food. Due to the fact that it was so difficult to make a living because of limited opportunities in the Clinch Valley, William Marion Rayburn, Sam's father, decided to move his family to Texas. Sam was then only five years old and faintly remembered the long train trip to Texas. Years later, he recalled the sights as he looked through the train window: "I was fascinated by the people I saw on their trek West, all their earthly belongings heaped on covered wagons, men in plainsmen's outfits with wide-brimmed hats and guns on their shoulders, leading the oxen."4

After an uneventful trip to Texas, William Rayburn settled with his family on a small farm which he had purchased near Windom in Fannin County. Although of rather modest means, Sam's father was never a tenant farmer. Mrs. S. E. Bartley, Sam Rayburn's sister, proudly declared, "The Rayburns always owned the roof over their heads."5

Sam Rayburn's lonely life on the farm was punctuated with voracious reading which included every available history

3Ibid., p. 56. 4Ibid., p. 57.

book—and everything he could find about Washington, Hamilton, Jefferson, the Adamses, Monroe, and Madison. Since Martha Rayburn was deeply interested in education and was an avid reader, it was only natural that her son would absorb these characteristics. Accordingly, an examination of the Rayburn Library reveals that this illustrious public servant was primarily interested in histories of government and biographies.

There were some moments of happiness in a boyhood marked by loneliness. Ed White, a companion of early days, reminisced about school when he recalled that there were approximately 100 boys under teacher Charles Farley who "had a stack of good bois d'arc switches in the corner and he knew how to use them." Rayburn's schoolmate remembered that the future Congressman then was well-behaved, and few switches had to be used on him. He was a good baseball player, but there was little time for sports. White commented that Sam Rayburn was a good mixer and always ready to help a neighbor when he was needed. He said, "I recall that one day he and I put in a full day's work helping to work out the crop of a woman whose husband had died only a short time before. He did as much work as any man in the field that day."  

7 Ibid.
Sam Rayburn's ambition to engage in public affairs stemmed from an early encounter with his predecessor in Congress, Joseph Weldon Bailey of Gainesville, Texas. As a youth, Rayburn hiked from the family farm at Flagg Springs to hear the silver-tongued orator speak at a gathering of his constituents in Bonham. The young farm boy stood in the rain for two hours listening to the Congressman from Gainesville. Many years later Mr. Sam reminisced about this eventful day: "It must have been under the spell of Bailey's oratory that I decided to become one day a Speaker myself."8

Sam Rayburn's career started when his father presented him with twenty-five dollars to make a train trip to Commerce for enrollment in Mayo's College (now East Texas State University). Equally important was William Rayburn's real contribution to his son's future success in his parting words of advice: "Sam, be a man." That the advice was heeded was evident in the distinguished political career of the Congressman from the Fourth Congressional District in Texas.

Sam Rayburn worked his way through Mayo's Normal College and received his B. S. degree in 1903. He took a teaching assignment at Dial, where he taught two terms; in 1905 he went to Lannius, a two-teacher school not far from Flagg Springs. Although his salary was modest, Sam Rayburn was able to pay all his college debts. After finishing the spring school

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term, he resigned the Lannius position and announced that he was running for the State Legislature in the summer of 1906. For this purpose, he made extensive trips campaigning through Fannin County and visited with many voters who were impressed with his sincerity and ready knowledge of farm problems. In addition, Rayburn became proficient in learning the names of those voters whom he had contacted. When his opponent, Sam Gardner, became sick during the campaign, Sam Rayburn took care of him for several days until he was able to renew the campaign. Although Sam Rayburn defeated Gardner by some 163 votes, they became friends for life, and subsequently, Sam Gardner was appointed postmaster of Honey Grove upon the recommendation of Rayburn.

Sam Rayburn's first term as a State Representative was marked by an investigation by the Thirtieth Texas Legislature of his idol, United States Senator Joe Bailey. In spite of the fact that Bailey had won the July election and had been certified as the Democratic nominee, charges were made concerning his connections with the Standard Oil Company. In order to refute the charges, Senator Bailey travelled all over the State of Texas explaining that he held a retainer's fee from his clients only when the United States Senate was in recess. During the whole investigation by the State Legislature, Sam Rayburn took no stock in charges about Bailey's relations with the railroads and Standard Oil since it was characteristic of Rayburn during his entire public
career never to listen to rumors about his friends. Finally, after a long investigation the Legislative Committee exonerated Senator Bailey.9

At the close of the legislative session, Sam Rayburn registered in the University of Texas Law School and passed his bar examination in 1908. Subsequently, he hung out his shingle to practice law in Bonham and was returned to the Legislature for a second term by the voters in Fannin County. The Thirty-first Legislature was soon embroiled in an investigation of the Speaker of the House, A. M. Kennedy, who was accused of paying money out of the treasury for equipping the Speaker's office. Although Representative Rayburn defended the Speaker and offered a substitute resolution for the one condemning Kennedy, the vindictive resolution was passed, and Kennedy was forced to resign before the session ended.10

Preceding the next meeting of the Legislature, Sam Rayburn announced his candidacy for Speaker of the House. After a heated campaign for the Speakership of the House of Representatives in the Thirty-second Legislature, Sam Rayburn was victorious on the second ballot over three opponents. In a short address of acceptance, Sam Rayburn expressed his thanks to his friends for their part in his campaign for the

9 Dorough, Mr. Sam, p. 79.

important office, but emphasized that there was no bitterness against his opposition.

His first act as Speaker of the House reflected his desire to systematize legislative procedure, and he appointed a committee to draft a set of rules regarding the duties and rights of the Speaker. The resulting codification of rules made the office of Speaker a powerful and yet a dignified one and indicated that Sam Rayburn was guided by legal reasoning instead of by his emotions. His actions in this early stage of his political career indicated that his first responsibility was to the Constitution, and he believed that it was his duty to operate within the framework of a statute regardless of whether it was a good or bad law. In the application of the Rayburn formula of procedure, it was evident that Sam Rayburn would come into conflict with his own colleagues and even with the traditions of his own region, yet the man from Bonham held unswervingly to a self-restraint of his own bias for the good of the whole.

Although the session of the Thirty-second Legislature was marked by partisan quarrels and strife between the "dry" factions in the House of Representatives, Speaker Rayburn was pleased by the legislation which had been enacted. Some of the laws included shorter working hours for women in industry,

the child labor laws,\textsuperscript{12} pure food laws,\textsuperscript{13} and establishment of a tuberculosis sanitarium.\textsuperscript{14} During his six years in the Texas Legislature, one of the most significant laws enacted was the Robertson Insurance Law, which established reserve requirements for foreign insurance companies doing business in Texas.\textsuperscript{15}

At the close of the session the Speaker was presented with gifts, and Representative A. D. Rogers offered a resolution which was a fine tribute to Sam Rayburn's conduct as Speaker of the House of Representatives. The Rogers resolution closed with these words:

\begin{quote}
\ldots We extend to the Honorable Sam Rayburn our sincere thanks for the uniform courtesy, fairness and intelligent manner with which he has presided over the desk as Speaker of the House. And \ldots we congratulate the people of Texas on having had the services of Mr. Rayburn in this exalted position, and we bear willing testimony to his zeal, energy, and fidelity in the discharge of every public duty.\textsuperscript{16}
\end{quote}

After he won the Speakership race in the Texas Legislature in January, 1911, it was the general belief in Bonham that Rayburn was planning to make the race for Congress in the Fourth Congressional District. When Representative William

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T. Bagby, one of his colleagues in the Texas Legislature, made a speech in high praise of Rayburn's ability, the resulting state-wide publicity paved the way for his announcement of entrance into the race for Representative of the Fourth Congressional District. When Sam Rayburn opened his campaign in Windom on February 3, 1912, all the business houses in the community of 300 people closed their doors to commemorate the event. Soon Rayburn clubs were formed, and automobile caravans made trips to the larger towns in the district to further his candidacy. In the election on July 27, 1912, Sam Rayburn received a plurality over seven opponents and was declared the Democratic nominee of the Fourth District, since at that time no run-off primary was required by law.

Thus began a political career in the House of Representatives in the United States Congress which spanned a period of forty-eight years. During his half-century of public service, Sam Rayburn dedicated his life to the service of his country. Although he was a rock-ribbed Democrat, Mr. Sam's principal concern was for the welfare of the whole people and the progress of his beloved country.

The freshman Representative arrived in Washington during the excitement over Woodrow Wilson's inauguration. The new Congressman exercised a wise choice in selecting the old Cochran Hotel since it was the residence of a number of fellow members in the Congress. The shy Bonham Congressman
frequently joined a group in the hotel lobby and listened to words of wisdom expounded by "Judge" Cordell Hull of Tennessee, a House leader who subsequently became Secretary of State in the Franklin Roosevelt Administration.  

Rayburn's desire to become a member of the Committee on Interstate and Foreign Commerce was fulfilled by a fellow Texan, John Nance Garner, who had recently been appointed to the Ways and Means Committee. Two months after entering Congress, Sam Rayburn made his maiden speech to the House and espoused the Democratic Party policy of "tariff for revenue only" in opposition to the Republican concept of protectionism. An excerpt from his speech later came to be known as "Mr. Sam's creed." In the speech, the Congressman declared his political philosophy in these words:

I have always dreamed of a country which, I believe, this should and will be. And that is one in which the citizenship is an educated and patriotic people, not swayed by passion and prejudice, and a country that knows no East, no West, no North, no South, but inhabited by a people liberty-loving, patriotic, happy and prosperous with its lawmakers having no other purpose than to write such just laws as shall in the years to come be of service to mankind yet unborn.  

In the course of his service in Congress, Rayburn was frequently called "the Great Compromiser," a tag previously given to Henry Clay, and yet the Bonham Congressman disliked this description since he felt that it implied sacrifice of

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17 Dorough, Mr. Sam, p. 128.  
principles for expediency. "I am not a compromiser," he denied emphatically, "I'd rather be a persuader. I try to compromise by getting people to think my way. Of course, there are times when you haven't got the votes. Then you have to make concessions. But, in the main, you can get what you want by sticking to your guns."¹⁹

Under his legislative leadership the Congress of the United States passed revolutionary statutes in the areas of soil conservation, rural electrification, production credit, production marketing, commodity credit, and farm-to-market roads. This legislation was the fulfillment of Sam Rayburn's prophetic statement made a number of years previously when he advocated a universal conservation program which called for an orderly marketing plan to stabilize prices. Likewise, he felt that low-cost power was essential to remove drudgery and darkness from rural homes and make them as attractive as urban dwellings. With this object he remarked, "All-weather roads and electricity will drive mud and darkness away in more ways than one."²⁰

Over the years, Sam Rayburn loved the soil and was a trail blazer in pioneering new methods of soil and water conservation. After purchase of an abused tract of land near

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Bonham, he took delight in restoring its appearance and usefulness by enriching it through conservation methods and soil-building crops. He observed that a rancher's prestige and profits were determined by the quality of his animals and the grazing capacity of his land. In addition, he believed that good fences were necessary for alternate and maximum grazing. As a result of this interest, as the Fourth District Congressman, he led the first legislative movement in tackling water and soil conservation problems.

In the late thirties, Mr. Sam bought 900 acres of range land in Fannin County and changed from dairy farming to beef cattle production since there was not enough time, labor, and management to maintain his dairy herd. The sandy loam on Coffee Mill Creek, where his ranch was located, responded quickly to Rayburn's conservation methods. Also, replacement of the run-down buildings and sagging fences occupied the number one spot in his rehabilitation plan. He remarked: "I want to know that my stock stay in the pasture in which I put them, and that they have plenty of good water, which is much harder to do without than feed."21

The relaxation on Coffee Mill Creek ranch served as a tower of strength in his ability to resolve each crisis as a servant of the people in the halls of Congress. Although Sam Rayburn achieved happiness and contentment working with his

21_Ibid., p. 37._
dairy cattle, as far back as the early 1930s he was cognizant of the need for rural electrification by the farmers of America. Furthermore, Sam Rayburn knew that good roads were essential in order to make markets accessible to the rural population. Accordingly, Mrs. S. E. Bartley, his sister, said that her brother always made it a rule to give the community any land needed for a better road. He thought that whatever was best for his neighbor was best for him and never hesitated to give the land regardless of its value. To this end, Sam Rayburn felt that good roads were a necessity since they carried the burdens of commerce. 

After Rayburn's death, Lyndon B. Johnson, who had looked to him for guidance as a freshman in Congress, memorialized him thus:

When you think of Sam Rayburn, you think at once of the plain, sturdy, homespun statesman of the early republic—the men who worked with Jefferson and Jackson to establish the American Republic on the foundations of democracy.

Lyndon Johnson, who was Vice-President of the United States at the time, quoted the words spoken by Sam Rayburn while in a reflective mood with a group of friends: "All of us are just a little way from Flagg Springs," he said, "you know, I just missed being a tenant farmer by a gnat's heel." 

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24 Ibid., p. 285.
Sam Rayburn never faltered in his long fight to make his country a better place to live, and his influence will remain forever. No finer tribute could be paid to any public servant than the words spoken by Representative James G. O'Hara, a Democrat from Michigan:

He devoted himself with singleminded intensity to the enchantment of the dignity of the House. Nearly all of his energy was concentrated to the end that the House should become a more responsible and more responsive body.25

Representative Fred Schwengel, a Republican from Iowa, said that the source of his legislative success was "the conviction that by knowing the past we would see the value and the means for improving the present, that we might have a better future."26 In commenting on Sam Rayburn's part in establishing the Rural Electrification Administration, Schwengel emphasized that rural electrification helped not only the South and Midwest, but had eased the burden on such cities as Washington by making suburban living possible.

In addition, Sam Rayburn retained the best aspects of the Populist movement. To this end, he never lost sight of his ultimate goals, but was never inflexible or doctrinaire. Thus, Sam Rayburn, as architect of the New Deal, exerted a key role in the enactment of the far-reaching laws during this evolutionary period in our history. In the significant words of Representative Schwengel: "He tailored the means

25 Ibid., p. 252.  
26 Ibid., p. 77.
of achieving these ends to fit the volatile and changing world."  

From the foregoing pages, it is evident that the able Representative from the Fourth Congressional District of Texas furnished Democrats with some of their most straightforward thinking and talking. The powerful, but always humble, Congressman from Bonham was conscientious and diligent in representing his district and his country. His great desire to make the world a better place for all mankind is reflected in four monumental acts of the New Deal which he co-authored and pushed through Congress: the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, and the Rural Electrification Act of 1936. These Acts will be the subject for discussion in the next four chapters.

27 Ibid., p. 75.
CHAPTER II

THE SECURITIES ACT OF 1933

Background

One of the initial problems to concern President Franklin D. Roosevelt shortly after his inauguration in 1933 was a matter which had plagued government for many years--the regulation of the sale of securities. Although the subject of such regulatory action was "as old as the cupidity of sellers and the gullibility of buyers,"¹ new impetus was added by the stock market crash of 1929, which triggered a major depression. While England had experimented in market regulation for centuries and the American states had for a generation attempted to legislate on the problem, no completely satisfactory solution to the question had been uncovered in the United States. It was quite natural, therefore, that one of the earliest New Deal measures should focus on stock market regulation and--carrying out a new philosophy of the role of the national government in the economy--should call for remedial legislation by Congress.

In order to properly understand the problem facing Congress and the President in 1933, it is desirable to inquire briefly into the early attempts at market regulation. In the

¹Louis Loss, Securities Regulation (Boston, 1959), p. 3.
First part of the eighteenth century, almost eighty years before the American Revolution, the English Parliament passed "an Act to restrain the number and ill practices of brokers and stock jobbers."² This act was the result of a commission study which found that the pernicious art of stock-jobbing had so perverted the purpose of corporations that the privileges granted to them had been used by the first procurers and subscribers to sell again "to ignorant men, drawn in by Reputation, falsely raised and artfully spread, concerning the thriving State of their Stock."³

About 1719 a Scotsman, John Law, organized the Mississippi Company and the South Seas Company with an exclusive monopoly, granted by the British Government, of trading with South America and the South Pacific Islands. After the shares of this speculative venture rose to a high level, the directors sold around $25,000,000 of stock at the ceiling. Therefore, when the price of these shares plummeted, many thousands from all ranks of society in England and France were ruined. As a result of the breaking of this South Sea Bubble and development of other joint-stock schemes, Parliament passed the Bubble Act of 1820. Among other things, the act prohibited the use of false or irregular charters and the taking of subscriptions for such enterprises.

²Ibid. ³Ibid.
Eventually, the Bubble Act was repealed in 1825, but was followed by the enactment of the precedent-setting Act of 1844, whose important principle was the requirement of compulsory disclosure through the registration of prospectuses inviting subscriptions to corporate shares.

This law was followed by the Companies Act of 1867, which specified the contents of the prospectus by requiring the disclosure of the names and addresses of the parties to every contract made prior to the issue of the prospectus. Subsequently, the British Parliament passed the Directors Liability Act in 1890, the purpose of which was to subject corporate directors and promoters to civil liability for untrue statements in the prospectus. In the Companies Act of 1900, the disclosure of contracts provision of the 1867 Act was repealed and a new provision specified an elaborate prescription of the contents of the prospectus. Although the Act of 1900 was successively strengthened in 1907, 1928, and 1947, it is evident that the British pattern had been formulated by the Companies Act of 1900.

With knowledge of this background of securities regulation in England, the American government was able to have some pattern in which to formulate the securities regulation of the 1930s. Drawing upon the British experience, the Roosevelt Administration proposed to create the Securities and Exchange Commission, and the Securities Act of 1933 was sponsored by Sam Rayburn. Since it was the first federal
act of this kind, it is desirable to outline in detail the provisions of the proposed law. The primary purpose of the Securities Act was to provide for disclosure of information at the time a security was issued by a corporation. As a result, this law, frequently referred to as the "Truth in Securities Act," required, prior to issuance of a security, a corporation to file with the Securities and Exchange Commission (1) a prospectus; and (2) a registration statement.

Provisions of the Bill

The following outline details the provisions of the Act sponsored by Representative Rayburn:

Section 1. States the title of the act.
Section 2. Defines various terms used in the act, including security, person, sale, issuer, interstate commerce, prospectus, underwriter, and dealer.
Section 3. Specifies the securities which are exempt from the registration requirements of the act.
Section 4. Specifies the transactions which are exempt from the registration requirements of the act.
Section 5. Provides that no person may lawfully sell or deliver a security, not exempt under Sections 3 or 4, through use of the mails or in interstate commerce unless a registration statement is in effect and a prospectus meeting the requirements of Section 10 is delivered to the purchaser.
Section 6. Sets forth the manner of filing the registration statement, including signature and fee requirements.
Section 7. Prescribes the information required in the registration statement, and provides for the filing of consents of experts to the use of their names in the registration statement.
Section 8. Provides for a "waiting period" between the filing date and the effective date of the registration statement, and establishes the effective date of amendments.

U. S. Statutes at Large, XLVII, Part I, 74(1933).
Authorizes the Commission, after opportunity for hearing, to issue an order refusing to permit a statement to become effective or suspending an effective statement.

Empowers the Commission to make such examinations as it deems necessary in order to determine whether an order should be issued as indicated above.

Section 9. Provides for court review of the Commission's orders.

Section 10. Prescribes the information required in the prospectus.

Section 11. Imposes civil liabilities for a false or misleading registration statement on the issuer, directors, principal officers, experts, and the underwriters of the issue.

Section 12. Imposes liability for damages or rescission on any person who sells a security in violation of Section 5, or who sells a security in interstate commerce or through the mails by means of a prospectus or oral communication which is false or misleading in a material particular.

Section 13. Specifies the period during which civil action may be brought under the act.

Section 14. Voids any stipulations waiving the requirements of the act.

Section 15. Provides for liability of persons controlling the activities of anyone who violates the act.

Section 16. Provides that the rights and remedies of the act are in addition to any other rights and remedies that may exist at law or in equity.

Section 17. Makes it unlawful for any person to commit fraud in the sale of any securities in transactions in interstate commerce or through the mails, and requires disclosure of the consideration received for "touting" a security.

Section 18. Removes any question of conflict of jurisdiction between the blue sky laws of the various states and the Federal law.

Section 19. Grants to the Commission the authority to make rules and regulations and the power to subpoena witnesses, take evidence, etc. in the enforcement of the act.

Section 20. Gives the Commission the power to make investigations, to bring action in court to enjoin any practices which are in violation of the act, and to apply to the court to issue writs of mandamus commanding any person to comply with the provisions of the law.

Section 21. Requires that hearings of the Commission shall be public.
Section 22. Specifies jurisdiction of the Federal and state courts of offenses and suits under the act.
Section 23. Makes it unlawful to represent that the act of registration constitutes a finding by the Commission as to the merits of the security or of the truth and completeness of the registration statement.
Section 24. Sets forth the criminal penalties under the act.
Section 25. Provides that the act in no way relieves any person from submitting to other units of the Federal Government reports required by law.
Section 26. Provides for the separability of the provisions of the law.
Section 27. Transfers the work of administering the Securities Act from the Federal Trade Commission to the Securities and Exchange Commission.
Section 28. Directs the Commission to make a special study of protective committees.
Schedule A. Specifies the information and documents to be furnished in the registration statement filed by a person other than a foreign government or political subdivision thereof.
Schedule B. Specifies the information and documents to be furnished in the registration statement filed by a foreign government or political subdivision thereof.

Introduction

President Franklin D. Roosevelt's message sent to Congress on March 29, 1933, some three weeks after his inauguration, called for "legislation for Federal supervision of traffic in investment securities in interstate commerce." Sam Rayburn, Chairman of the House Committee on Interstate and Foreign Commerce, sponsored the Securities Act of 1933 and introduced it into the House as H. R. 5480.

The bill contained three sanctions: first, the authority given the Securities and Exchange Commission to prevent by stop order or injunction the sale of securities because of false or untrue material statements or failure to furnish material information; second, the civil liability of those responsible for the flotation of the issue for false, untrue, or inadequate material representations; and third, the criminal liability for the wilful use of a fraudulent scheme or device or the wilful misstatement of a material fact or the wilful omission of material facts.

Hearings and Committee Report

In hearings on the Securities bill of 1933, before the House Committee on Interstate and Foreign Commerce, the following main points of disagreement developed: first, the revocation clause which allowed a purchaser to revoke and obtain the return of his purchase money by proof of the misstatement of a material fact in the registration statement; and second, directors were subject to criminal penalties as signers of the registration statement if it contained a false statement of a material fact, failed to give pertinent information, or failed to comply with the provisions of the Act. Opposition to the bill was expressed by William C. Breed, Counsel, Investment Bankers Association of America, Henry Woodhouse, Chairman of the National Recovery Council, and Samuel Pettengill, member of the House Committee.
Testimony favoring the bill was given by Huston Thompson, an attorney of Washington, D. C., and Representative John G. Cooper of Ohio, a Committee member. In short, the following testimony presents a consensus of opinion by proponents and opponents of the bill.

Huston Thompson, an attorney of Washington, D. C., alleged that in 90 to 95 per cent of securities issued by high-type people, the security issuer would not go wrong. However, he said, the security issuers would not dare to go wrong since the bill would act as a prophylactic and check them.7

An opposing opinion, however, was expressed by William C. Breed, Counsel, Investment Bankers Association of America, who asserted that the law must also be drawn so that it was perfectly clear that it did not cover the honest issuer or the honest director. Breed was interrupted by Chairman Rayburn, who said: "Why should it not cover him? You have got to cover everybody. In the 90 per cent of the cases that we have referred to there will never be a question of revocation in my opinion."8

In continuing his testimony, Breed maintained that the bill must be considered, not in the light of the investment banker, but in the light of its effect upon the trade and

8Ibid., p. 224.
commerce of the United States and the welfare of our country. In addition, Breed expressed doubt of the constitutionality of the bill in these words:

Many of you gentlemen may be better constitutional lawyers than I am, but I doubt very much if the Section with respect to the directors' liability would be sustained by the Supreme Court on the theory enunciated in the child labor cases; that is, that the sale of the Security would be prohibited unless all the directors sign this statement and guarantee its correctness, the truth of every fact, of every account, and so forth.  

When Representative John G. Cooper, of Ohio, a Committee member, asked why the public should not be protected, Breed declared that in the British Securities Act the directors did not become guarantors against any mistake of fact that might be contained in an accountant's report. Moreover, the Act, he said, should not prevent negotiations relative to the financing of issues of securities between corporations and underwriters or bankers and their associates before registration, and offering of sale to the public. Otherwise, he emphasized "there would be no basis for determining the character of the issue to be registered."  

Furthermore, opposition was expressed by Henry Woodhouse, Chairman of the National Recovery Council, who was disturbed by the revocation clause since he was a director of a number of corporations. In this connection, he believed that any director of a corporation, financed in good faith and the

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9Ibid., p. 168.   10Ibid., p. 171.
securities duly qualified, should not be told by a regulatory commission how to run his business. He commented thus: "I do not think that it is proper to permit a commission, no matter how Christian a commission, to determine how my business shall be run and then make me liable for the acts of the commission."11 Moreover, he commented: "... I am speaking of it from the standpoint of having had experience and having been a student of economics and of business."12 As an economist, he asserted that the enactment of the bill would close two-thirds of the industries of the Nation and throw ten million people out of work.

Furthermore, opposition to the bill came from a member of the House Committee on Interstate and Foreign Commerce, Representative Samuel B. Pettengill, who commented:

... but it seems to me that we might draw a distinction when an innocent mistake has been made, on a material fact, that the purchaser has a right to revoke and obtain the return of his purchase money from the corporation, but when the director has acted with a high degree of diligence and in good faith, should be a protection to him and not to the company. Because the company actually got the money and the director did not. A director acts as a quasitrustee and I do not know anywhere in the law where a trustee becomes the guarantor or absolute insurer of his acts.13

After hearings on the bill were concluded by the House Committee on Interstate and Foreign Commerce, the Committee

\[11\text{Ibid., p. 141.} \quad 12\text{Ibid.} \quad 13\text{Ibid., p. 244.}\]
issued a favorable report emphasizing the definite need for such legislation to prohibit the previous high-pressure salesmanship in sales of securities and "the deliberate over-stimulation of the appetites of security buyers." In summing up its findings the Committee concluded: "Whatever may be the full catalogue of the forces that brought to pass the present depression, not least among these has been this wanton misdirection of the capital resources of the Nation."  

Debate in the House  

After presentation of the Committee Report, Sam Rayburn led debate on the bill, defending this legislation before the House of Representatives. The Representative from the Fourth Congressional District noted that he had been dealing with matters touching interstate commerce for twenty years, and gave a brief review of the early history of production and distribution of goods in America. In this connection, he pointed out how the industrial revolution changed the relations between the stockholder and corporation from personal to impersonal. To illustrate this trend, he asserted that a wide distribution of stock enabled officials of corporations to perpetuate themselves in office without regard to the interests of stockholders.  

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14*House Report No. 85, 73d Congress, 1st Session, pp. 2-3.*  
16*Congressional Record, 73d Congress, 1st Session, LXXVII, p. 2918.*
Representative Rayburn emphasized that the purpose of the bill was to place the owner on a parity with corporate management and the prospective investor in securities on the same level as the seller. He cited the fact that a few hundred powerful managers controlled the destinies of companies whose stockholders had no direct contact with the company. Furthermore, he charged that the loss of billions of dollars through stock purchase in the period 1920-1932 "came through leadership that the average investor had a right to believe he could trust."17 For instance, Rayburn named the National City Bank of New York and Halsey, Stuart, and Company as peddling watered stock. The average stockholder, he said, could not fathom the financial statements of even the most reputable corporations. Thus, the Securities bill defined the duties of the corporate officials to public investors. He continued, "It undertakes to fix responsibility for information."18 By disclosing information (required in Schedule A of Section 7), and making it available to the public, such pertinent facts combined to put the purchaser on guard. To sum up, the author of the bill declared, "In this bill we demand not only a new deal, we also demand a square deal."19 In closing his plea for passage, the Bonham Congressman emphasized that cooperation of the best brains of large business

17 Ibid. 18 Ibid. 19 Ibid., p. 2919.
and small business, together with the big man and the little man, were needed for the protection and preservation of the great American institutions.\textsuperscript{20}

While the debate progressed in Congress, there was considerable discussion among the public about the bill and its implications. For example, Gerhard Hirschfield opposed the bill in \textit{The Commonweal}. He emphasized that the primary activity of commercial banks should consist of making short-term loans to supply business with working capital. However, he said that in the speculative era of the 1920s, practically all commercial banks overstepped their bounds and sacrificed the supreme law—to play safe—to a determination to get the profits. To this end, a great number of commercial banks were converted into investment houses. According to Hirschfield, "President Roosevelt wants to draw a clear line between the 'safekeepers of the Nation's wealth and the profit-seeking element by divorcing investment from commercial banking, at the same time trying to bring the commercial banks together in a unified system.'\textsuperscript{21}

In addition, Hirschfield said the plan to divorce commercial from investment banking would probably lead to some industrial changes. He argued that as a result of the

\textsuperscript{20}Ibid.

\textsuperscript{21}Gerhard Hirschfield, "Banking Reform," \textit{The Commonweal}, XVIII (May 12, 1933), 36.
bankers' return to conservative policies, industry of necessity, would reflect such conservatism. Obviously, the elimination of daring in finance and industry would bring about a new direction for industry. In this connection, the new order would force the manufacturer, the engineer, the statistician, and the board of directors to subordinate the previous goal of maximum production to the dominating factor of future prosperity, which instead would be consumption. Hirschfield added:

Accompanying this collapse of laissez-faire individualism will be the lessened significance of speculative investment trends with a corresponding gain on the part of what may be termed "operating investments," that is, investments for established and definitely planned productions.22

Hirschfield also expressed a belief that the government would gradually assume control over most economic operations through interference with credit. As a result, he prophesied that the harmless looking Security bill might eventually become a "formidable weapon in the hands of a determined government."23

As the debate continued in Congress, other opponents of the Securities bill pointed out its implications, as Hirschfield had prophesied. When Representative E. E. Cox, of Georgia, Democrat, asked Rayburn to interpret the language of Section 20 (dealing with the investigative powers of the Commission), the Texas Congressman replied: "This bill says

22Ibid., p. 37.  
23Ibid.
to the man who issues a security, 'You may register that security; you are not compelled to register that security, but if you do not register it, and send it through interstate commerce, we will penalize you.'\textsuperscript{24} Representative Cox asserted that this measure involved a projection of the Federal power by which Congress could exercise its authority under the commerce clause to uproot and destroy all police power of States. Rayburn answered this contention by declaring that nothing in the act should be construed to interfere with any State law on the subject. However, he emphasized that the States would be protected since it was unlawful to ship into a State through the instrumentalities of interstate commerce or the mails a security, the sale of which was prohibited in that State.\textsuperscript{25}

Furthermore, Representative James S. Parker, of New York, Democrat, came to the support of Rayburn's position. Announcing that he had been a member with Rayburn of the Interstate and Foreign Commerce Committee of the House for twenty years, he said that no one could possibly object to the principles of the bill. He added:

\begin{quote}
It \textsuperscript{[the bill]} is written in the spirit of prejudice, because we have had before us in the past three or four years perfectly colossal rotten failures in several of the large banks of the country, which
\end{quote}

\textsuperscript{24}Congressional Record, 73d Congress, 1st Session, LXXVII, p. 2919.

\textsuperscript{25}Ibid., p. 2920.
does not leave us in the proper mental attitude to write a bill of this magnitude and have it as clear as it should be. We are very apt to bend over backward.  

Moreover, the Congressman from New York believed that two things must be considered in connection with the bill. First, it was tremendously important to protect the gullible investor who had been imposed upon. Second, a more important consideration was the protection of the honest business man whose success in business was a determining factor in the success of the country. He believed that, under present conditions, Congress was only interested in the man who had lost his money.

In opposing the bill, Representative Loring M. Black, Jr., of New York, complained that nonenforcement of present Federal and State laws against larceny through the mails was a principal reason for need of the Securities Act. He elaborated thus:

There is a Federal law that has been on the books that could have taken care of anybody who has been charged before the Senate committee or generally in the public press, with having swindled the public but that law has not been enforced. Why? Again, because of the imposing names of the men who violated those laws.

Representative Black, therefore, urged that the Attorney General be directed to enforce all the present laws instead of taking up the time of Congress in passing a new law. The

26 Ibid.  
27 Ibid., p. 2954.
Congressman continued, "Take some of the big bankers from behind the bank cages and put them in others." Likewise, Congressman Black indicted the men from the West and the South who always found fault with New York in connection with stock operations, and praised the New York Stock Exchange as a channel through which the West and the South received the capital for their developments. The New York Congressman placed the blame for fraud in prospectuses on the businessman, the banker, the industrialist, and the utilities man who went to the stock exchange and made the misstatement of facts about a stock issue. Black concluded: "And he does not come from New York. The wildcat oil operator, the wildcat mine operator who took a New York address in order to swindle the men in the East are among the men who gave false statements."29

After much debate the Securities Act was passed by Congress some two months later on May 27, 1933. Nevertheless, the public drive against the Securities Law was continued by New York bankers. An editorial in The Nation decried the failure of the press of New York City to give space in its columns to a speech clarifying the Securities Act of 1933 which had been made by James M. Landis, the person most instrumental in drafting the controversial legislation. As a result, Landis' speech received much publicity at that point.

28 Ibid. 29 Ibid.
In defending the recently adopted law, Landis refuted charges that the Act represented hasty, ill-considered legislation. In addition, he pointed out that drafters of the Act drew on the experience of Great Britain with this problem, which was culminated by the English Companies Act of 1867, as well as extensive state legislation on securities and the experience of Congress with similar bills that failed of enactment.

Furthermore, Landis clarified the question on civil liability for misstatements of material facts by the issuer, underwriters, directors, and officials. To this end, he emphasized that all liability under this disputed Section 11 arose from statements required to be included in the registration statement, thus contradicting the argument that failure to state any minute fact could provide grounds for civil suits. Landis pointed out that the potential liability for signers of the registration statement was not great, due to the fact that few purchasers would be likely to bring suit and that the issue of liability would be retriable in every suit "and that each person liable has a right of contribution against every other person liable." \[^{32}\]

\[^{30}\text{Supra, p. 3.}\]

\[^{31}\text{Editorial, "The Securities Act: An Official View," The Nation, LXXVII (November 15, 1933), 555.}\]

\[^{32}\text{Ibid.}\]
Finally, Landis refuted Wall Street's claimed reform in the investment profession and called attention to reluctance of corporations to cite relevant but unpleasant facts in the registration statements.

Further indictments against the Wall Street opponents of the new law were made by The New Republic. Editorially commenting that the Wall Street bankers played a most important part in the drive against the Securities Act, the magazine pointed out that reading of the testimony by two important officers of the Chase National Bank, Winthrop W. Aldrich and Charles S. McCain, before the Banking and Currency Committee of the United States Senate, threw a different light on the act than the account as reported by newspapers. The testimony revealed that Ferdinand Pecora, a New York criminal lawyer, knew more about important transactions of the Chase National Bank than did the two officers who were directing its business. For example, when a senator questioned Aldrich about specific examples of new security issues prevented by the law, the New York banker replied, "I am not in the securities business at all." In short, the banker was being either naive or unwilling to divulge any information.

The editorial emphasized that evidence indicated that the Chase National Bank's affiliate unloaded millions of dollars worth of questionable securities whose value was

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33 Editorial, "Drive Against the Securities Act," The New Republic, LXXVII (December 20, 1933), 152.
subsequently wiped out in receiverships. In view of these losses to the public, it seemed ironical that bankers expressed anxiety over civil liabilities imposed on them and others by the Act for failure to tell the truth about securities prior to getting investors to purchase them. According to The New Republic, Washington sources believed that if the Securities Law was brought before Congress again, there was more of a probability that it would be strengthened. In addition, the bankers could impress Congress, therefore, only by witnesses who were "able to demonstrate some knowledge of the subject aside from what they get in the whispered promptings of their counsel while on the stand."³⁴

The public discussion of the precedent-shattering Securities Act was continued by Ferdinand Pecora, who as counsel to the Senate Banking Committee had conducted the banking investigation of 1933 relating to securities. Pecora's conclusions went into the bill which created the Securities Exchange Commission, of which he was a member until retirement to become a justice of the Supreme Court of New York. Pecora refuted the opinion of critics who maintained that the Securities Act of 1933 was hurting business by holding up the issuance of securities with a resultant decrease of the flow of funds into industry.

At the same time, the critics claimed that corporations were fearful of asking for new funds because of the time

³⁴Ibid.
required in preparing data. In addition, bankers, accountants, officers, and directors were unwilling to sign the registration statement due to liability which might be incurred by them if investors lost on the securities. In contradicting this argument, Pecora said that

... no one could incur civil liability unless he had participated in or could be fairly considered prima facie responsible for a really serious omission or false statement concerning the security in the formal registration statement filed in Washington.\(^3\)\(^5\)

Furthermore, Pecora believed that the Securities Act was a proclamation by the government to the effect that it had undertaken to drive the adventurers out of the market place and to end abuses in investment. Moreover, the Act placed safeguards around the investor by making it dangerous for promoters to deceive the investor. Finally, Justice Pecora indicated that investment bankers needed to realize that this Act was the greatest single blow struck for the rehabilitation of their business. Hence, the investment bankers should have recognized this fact and capitalized on it.\(^3\)\(^6\)

In opposing the Act, the *Washington Post* maintained that ill-conceived legislation had artificially held back and strangled the forces of recovery. It speculated that even the financing of reorganization plans had been seriously


\(^3\)\(^6\)Ibid.
retarded by the Securities Act. For example, the editorial cited the case of the bondholders' committee for bonds of the State of Arkansas, whose chairman alleged it had been impossible to proceed with a refunding plan voted by the State Legislature, "because of the unreasonable liabilities that the Securities Act would impose upon the Committee."37

Another indictment of the law, equally important, said the Washington Post, was the high price ruling for sound securities and the activity of new issues which were not subject to the law. Furthermore, the Roosevelt Administration should heed the testimony of bankers, financiers, and businessmen who had joined unanimously in urging revision of the Securities Act to stimulate recovery.38

Additional opposition was expressed in the report of a special committee of the American Bar Association, asking for revision of the Securities Act of 1933 and maintaining that the English Companies Act was less severe than the American Act. Furthermore, the English Act contained relatively simple provisions using business terms in their customary sense, interpretation being left to the courts. Moreover, the English Board of Trade, argued the Bar Association committee, had no powers in connection with administration similar to those given to the Federal Trade Commission. In

37 Washington Post, April 5, 1934.
38 Ibid.
describing the English Act the Bar Association committee said, "There are no regulations, there is no bureaucracy." 39

The American Bar Association, therefore, concluded that the Act should be revised, after a thorough investigation with the aid of corporation directors, bankers, and lawyers who were familiar with the practical problems presented by the legislation. In short, said the Bar Association committee, it was essential to simplify and clarify the Act by changing the substance of many provisions. 40

On the contrary, Representative C. A. Wolverton, of New Jersey, Republican, in his defense of the Securities Act of 1933, maintained that the Act provided a means of protection to the investing public without requiring the Federal Government to pass upon the value, quality, or desirability of the multitude of various types of securities which were subject to regulation by interstate commerce rules and interpretations. In short, said Wolverton, "It will prove highly beneficial to any investor who is intelligent enough to utilize the information made available by its provisions." 41

Summary

In his response to President Roosevelt's message calling for Federal legislation to provide supervision of traffic in investment securities in interstate commerce, Sam Rayburn

39 Congressional Digest, XIII (Washington, May, 1934), 142.
40 Ibid.
41 Ibid., p. 149.
introduced the Securities bill of 1933 and was successful in getting it passed by the House of Representatives. Moreover, Rayburn believed this legislation was necessary to protect the public from a recurrence of losses suffered by investors of stocks in the period 1920-1932.

In his plea for passage, Rayburn demanded not only a new deal but a square deal to put the prospective investor in securities on the same level as the seller. For this purpose, the Act provided for full and fair disclosure of the character of securities sold in interstate commerce and through the mails and prevention of fraud in the sale thereof. Rayburn persuaded his colleagues to vote for this bill, which defined the duties of corporate officials to public investors.

Furthermore, Rayburn held fast to his objective to prevent the exploitation of the public by the sale of securities through misrepresentation, to place adequate and true information before the investor, and to protect legitimate enterprises against the competition of fraudulent promoters in the sale of securities to the public. Thus, he was following the Democratic Presidential platform of 1932, which called for protection of the investing public by requiring to be filed with the government and carried in advertisements all offerings of stocks and bonds, true information as to the bonuses, commissions, principal invested, and interests of the sellers.
CHAPTER III

THE SECURITIES EXCHANGE ACT OF 1934

Background

In response to the public dissatisfaction over the Securities Act of 1933, President Franklin D. Roosevelt, on February 9, 1934, sent a message to Congress noting that in March, 1933, he had proposed legislation for Federal supervision of national traffic in securities. He complimented Congress for enactment of the Securities Act of 1933, saying that it had performed a useful service in regulation of the investment business and in protection of investors in acquisition of securities. However, he decried the fact that under the legislation the use of naked speculation was too easy for those who could and for those who could not afford to gamble. Equally important, he alluded to the fact that a pool of individuals or large corporations were able to use their resources to manipulate market quotations, resulting in loss to the uninformed investor. To eliminate obvious abuses by managers of these exchanges (in order to remove the possibility of speculation) he proposed:

... the enactment of legislation providing for the regulation by the Federal Government of the operations of exchanges dealing in securities and commodities for the protection of investors, for the safeguarding of values, and, so far as
it may be possible, for the elimination of unnecessary, unwise, and destructive speculation.¹

In accordance with the recommendations of President Roosevelt, Congressman Rayburn introduced into the House of Representatives the Securities Exchange Bill H. R. 9323 (Fletcher-Rayburn bill), which was immediately referred to the Committee on Interstate and Foreign Commerce of which he was chairman.

Provisions of the Bill

The bill was a voluminous one, but the following summary indicates the most important provisions affecting the operation of the Securities Exchange Act of 1934:

1. National securities exchanges must register with the S. E. C. and they and their members are subject to S. E. C. discipline.
2. A corporation whose stock is listed on a national securities exchange must register with the S. E. C. and furnish periodic reports to the S. E. C.
3. The directors, officers and other "insiders" of a corporation must disclose their trading in the corporation's securities and may not make "short-swing" profits in the corporation's securities or sell such securities short.
4. The management of a corporation whose securities are listed on a national securities exchange can solicit proxies for shareholders' meetings only under rules prescribed by the S. E. C.
5. Market stabilization, manipulation and fraud is prohibited of all persons.
6. Brokers and dealers in securities are subject to S. E. C. discipline and may engage in their business only pursuant to S. E. C. rules.

¹Congressional Record, 73d Congress, 2nd Session, LXXVIII, p. 2264.
7. Brokers, dealers, and bankers may extend credit for buying or carrying securities only under regulations prescribed by the Federal Reserve Board.2

Committee Stage

In hearings before the Interstate and Foreign Commerce Committee, points of disagreement were expressed on Section 5 relating to supervision of stock exchanges, self-regulation of exchanges by their own remedial rules, behind the scenes influence, autocratic powers of the regulatory Commission, and attempts to establish a planned economy by indirection. Opposition to the bill came from Richard Whitney, president of the New York Stock Exchange, Edward A. Pierce, president of a New York brokerage house, and James Rand, chairman of Remington-Rand, Inc. Testimony for the bill was given by James M. Landis, Commissioner, Federal Trade Commission, with pertinent remarks added by Chairman Rayburn. Although there were prolonged hearings before the House Committee on Interstate and Foreign Commerce, the subsequent testimony provides a consensus of opinion from both sides of the question.

In his testimony before the House Committee on Interstate and Foreign Commerce, Richard Whitney, president of the New York Stock Exchange, expressed his dissatisfaction with the Securities Exchange bill in these words: "But I would like

to draw your particular attention to the fact that any regulation of stock exchanges naturally affects all investors.\textsuperscript{3}

Also, the vast majority of owners of listed securities, he said, were investors and not speculators.\textsuperscript{4}

In addition, he alleged that regulation would destroy the free and open market for securities, the liquidity of one form of investment that had remained liquid throughout the depression. Besides, although they had declined in value, these securities were marketable.

Moreover, Whitney maintained that Section 5 would give the regulatory commission power not to regulate but also to supervise and manage all stock exchanges. Chairman Rayburn interrupted by charging that Whitney made a broad statement on supervision by the Federal Trade Commission. On the other hand, he said that the duty of the Commission was to issue very definite instructions according to provisions of the Act. Moreover, he emphasized: "It is presumed that reasonable men will administer these acts. Of course, we had in the beginning, with reference to the Interstate Commerce Commission, the railroads said its powers were destructive and yet they have been added to for more than forty years."\textsuperscript{5} Rayburn said, therefore, that the text of the bill was to form reasonable rules and

\textsuperscript{3}House Committee on Interstate and Foreign Commerce, Hearings, Stock Exchange Regulation, 73d Congress, 2nd Session, 1934, p. 153.

\textsuperscript{4}Ibid.

\textsuperscript{5}Ibid., p. 155.
regulations that could be followed even in emergencies. Accordingly, he declared that all boards and commissions of the Government were expected to be reasonable, and the members of his Committee were reasonable men.

As the hearings continued, Edward A. Pierce, president of Pierce and Company, New York brokers, angrily remarked: "I resent the imputation that if the stock exchange adopted remedial rules that [sic] they would be rescinded as soon as Congress adjourned."\(^6\) Again, Pierce charged that if the archangel Gabriel came down and spoke on the ethics of those connected with the stock and commodity exchange businesses, he would be doubted. Rayburn quickly responded that Gabriel would not be any more doubted in Congress than any other place.

In defense of the New York Stock Exchange, Pierce said that it had taken generations of experience and experimentation, and an expenditure of much time and money to build up such an organization. Too, he declared that a great part of that organization would have to be scrapped and "if it is scrapped you will have a bitter taste of bootlegging in the security market that will make the experience of the Eighteenth Amendment look like a pink tea."\(^7\) The Chairman quickly responded: "Do you not think that §6 or §7 a quart whisky is going to make it look worse than it was during prohibition?" Pierce retorted: "I think it will and I do not know much about whisky."\(^9\)

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\(^{6}\) Ibid., p. 312.  \(^{7}\) Ibid., p. 314.  \(^{8}\) Ibid.  \(^{9}\) Ibid.
As hearings resumed, James H. Rand, Chairman of the Board of Remington-Rand, Inc., alleged that a mysterious backstage influence was at work since he had seen a London cablegram from Felix Frankfurter urging support of the bill. To this allegation, Rayburn inquired whether Frankfurter was an American citizen and, if so, why could mysterious influences be assumed. Besides, Chairman Rayburn said: "You do not intend to try to say because Felix Frankfurter sent a cablegram over here, a man who is an American citizen sojourning in England, to make a few lectures, that the English people are interested in the bill?"¹⁰

Rand continued, charging that experienced business men were not invited to help draft the bill since it was drafted by a group of young men, holding no elective office, who were attempting by indirection to establish a "planned economy." Also, he angrily remarked: "Never, even in war, have such far-reaching powers over private property been asked by any administration."¹¹ He charged that, in order to be effective and enforceable, it should have behind it the support of an informed public opinion and such opinion could not be developed by hasty, high-pressure enactment without time for analysis.

In answering Rand's charges that young theorists drafted the bill, Rayburn asserted that the Treasury Department and

¹⁰Ibid., p. 757.  
¹¹Ibid., p. 758.
the Federal Reserve Board sat in on the last draft. Rayburn commented:

Now, just let me straighten you out . . . .
Frankly, if you have arguments for or against this bill, we would like to hear you, but I, myself, have sat in these conferences in the redrafting of this bill, and if you did me the honor of listening to me last Monday night over the radio, I said that I was not one who believed in any further regimenting of business.12

However, he charged that business did not always conduct itself in the public interest, and therefore, congressional authority must be called in.

On the contrary, James M. Landis, Commissioner, Federal Trade Commission, maintained the bill had a nice degree of balance with the desired degree of flexibility which would, he alleged, be used with the same intelligence and sympathetic understanding that characterized the administration of the Securities Act of 1933. In short, he commented that the Commission had acquired considerable experience with the provisions of the Securities Act and in the exercise of its powers always made an effort to call in men directly interested with a problem, in order to give them the fullest opportunity for presenting their views before a regulation affecting them was promulgated. Finally, he emphasized "that you can expect sympathetic, informed, and intelligent administration from the Commission."13

12 Ibid., p. 760. 13 Ibid., p. 887.
On April 27, 1934, after hearings were closed, Chairman Sam Rayburn of the House Committee on Interstate and Foreign Commerce, submitted a report to the House of Representatives which provided an analysis of the provisions of the Securities Bill. He pointed out that the bill could be broken down into six major divisions: (1) control of credits; (2) control of manipulative practices; (3) provision of adequate and honest reports to securities holders by registered corporations; (4) control of unfair practices of corporate insiders; (5) control of exchanges and over-the-counter markets; and (6) administration.

Rayburn explained that the requirement of adequate and honest reports to securities holders by registered corporations was designed to prevent manipulative and dishonest practices veiled under mystery and secrecy. He quoted the Committee report by saying:

> The reporting provisions of the legislation have been approved by such conservative investment services as Moody's and Standard Statistics and despite the wild fears spread throughout the country by powerful lobbyists against this bill, intelligent business men recognize that general knowledge of business facts will only help and cannot hurt them.15

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15 Ibid.
Another important provision of the bill, he said, required the disclosure of the corporate holdings of officers and directors and stockholders owning more than 5 per cent of any class of stock and immediate disclosure of any changes that occurred in their corporate holdings. However, this section was designed to prohibit insiders from perpetuating themselves by a misuse of corporate proxies.

Furthermore, the Securities Exchange Commission was empowered to regulate and, if necessary, prohibit floor trading in order to prevent artificial stimulation of the market. In summary, the Committee Report expressed the following opinion: "It is hoped that the effect of the bill will be to give to the well-managed exchanges that power necessary to enable them to effect themselves needed reforms and that the occasion for direct action by the Commission will not arise."\(^\text{16}\)

There was not unanimous agreement, however, as a minority report on H. R. 9323 was filed before the House Committee on Interstate and Foreign Commerce. The dissenters alleged that the regulatory commission designed to administer the bill was given indeterminate power over all issues of stock, and therefore, over all the corporations in the country. In addition, a minority view expressed fear that the holding of 26,000,000 stockholders of record would be adversely affected by actions of the regulatory commission.

\(^{16}\text{Ibid., p. 15.}\)
Moreover, one specific objection was to the requirement of a statement of any remuneration for an employee whose total compensation was in excess of $10,000 per year, and which constituted disclosure of confidential information. Again, the minority report pointed out that exchanges had already initiated various regulations to eliminate evil practices. Since there was no immediate crisis which called for stock exchange regulation, therefore, the minority held that it would be wise to delay passage so as to enable experts in the business to present their recommendations on this matter to the next Congress. In view of these reasons, the minority report recommended defeat of the bill by the present Congress.

The minority view was supported by many outside the Congress. However, one favoring the bill wrote in The Atlantic Monthly that although the national well-being demanded that the annual savings of the people should flow into the most deserving industries, certain practices of stock exchanges had militated against such a desirable distribution of funds. He pointed out two objectionable practices: first, manipulation of a stock on the exchanges by the issuing corporation, its bankers, syndicates, or individuals interested in the sale of the stock; second, dissemination of false rumors through communication media for the purpose of attracting the investors. As a result, the flow of savings into enterprises whose merits were misrepresented, brought
about a loss of potential wealth by society.\textsuperscript{17} Thus it was to be expected that the fight for passage of the proposed law would not be an easy one.

Debate on the Bill

After presentation of the House Interstate and Foreign Commerce Committee Report with the accompanying minority report, Sam Rayburn proceeded to defend the bill during debate on the floor of the House. He said that the opponents of the bill took up three-fourths of the time during five weeks of hearings, but alleged that the bill he sponsored represented no one man or group and was the work of twenty-five men on the Committee. In support of H. R. 9323, Sam Rayburn declared that the stock exchange bill had thorough consideration starting with hearings before the Senate Banking and Currency Committee in 1932. But he continued:

And to complete the uncertainty that the bill in its present form had been given consideration at least so far as hearing opposition is concerned, we have worked out the terms of this bill under the pressure of the most vicious and persistent lobby that any of us have ever known in Washington --a lobby that has relentlessly opposed the bill, not only in the original form as my Committee brings it to you; and which would, I am convinced, protest against it in any form so long as there was a tooth left in it.\textsuperscript{18}

\textsuperscript{17}N. R. Danielian, "The Stock Market and the Public," The Atlantic Monthly, CLIII (October, 1933), 498.

\textsuperscript{18}Congressional Record, 73d Congress, 2nd Session, LXXVII, p. 7712.
In the debate Rayburn did not criticize the efforts of the New York Stock Exchange and other exchanges to organize opposition on the ground that it would cut down on their profits. However, he did object to what he said was an unfair campaign waged to get all financial interests and anyone else to pull their "chestnuts out of the fire" with prophecies of dire disaster.\(^{19}\) Too, he emphasized his firm belief in honest criticism but resented a deliberate campaign to swamp Congress with a false appearance of wide criticism.

In spite of the impression that operators and members of exchanges were universally opposed to this legislation, Rayburn stated that many brokers came to his office and filed strong statements advocating the bill, but asked that their statements be placed in the \textit{Congressional Record} without filing their names.\(^{20}\) He called the attention of the members to three letters he had received containing the identical statement that Thomas Jefferson would have used every influence at his command to defeat the bill. Since Rayburn was an authority on Thomas Jefferson, he called on this knowledge to refute the statement in the following words:

May I ask that this great Democrat—\textit{not} speaking in a partisan sense of the word—what would that great democrat who believed in honesty in all affairs of men, have said about 1929 and the conditions and practices that brought about the loss of untold millions to the people of this country? What would Jackson have said, what would Cleveland

\(^{19}\text{Ibid.}, \text{p. 7694.}\) \(^{20}\text{Ibid.}, \text{p. 7695.}\)
have said, what would Theodore Roosevelt have said? They would have said the same thing, that this President Roosevelt today says; that he "wants a law that will prevent the elements getting so mixed that it will bring conditions like we had in 1927, 1928, culminating in 1929."\textsuperscript{21}

The Congressman voiced the opinion that the people who operate the exchanges were opposed to any form of regulation; they favored self-regulation only. He expressed dissatisfaction with recently adopted rules of self-regulation by the New York Stock Exchange on the grounds that it could revoke a rule as easily as it passed a rule. He continued: "We want to lodge the authority, power, and direction somewhere in some agency of the Government as representing the people of the country ... ."\textsuperscript{22}

In the course of the debate, he charged that part of the business public had swallowed the invidious statements of propagandists. Nevertheless, he claimed that efforts of the New York Stock Exchange to stir up an appearance of protest were not representative of public opinion "and the public as a whole perfectly conscious of the propaganda, are watching with interest to see whether we succumb to it."\textsuperscript{23}

Rayburn continued his remarks by declaring that he did not want the New York Stock Exchange and its hirelings to write the bill. He indicated that he had been branded as a reactionary and public enemy of business, but refuted this

\textsuperscript{21}Ibid. \hspace{1cm} \textsuperscript{22}Ibid., p. 7696. \hspace{1cm} \textsuperscript{23}Ibid.
by saying his career in Congress did not warrant such insinuations. To substantiate this statement he added:

When I came along following the recommendation of the President of the United States and the platform upon which he was elected and upon which each and every one of you on my right was elected, trying to carry out this legislation in the protection of the people against the rapacities of the past, I am again branded as one who is willing to go out and destroy business.24

As the debate continued, Rayburn's bill was attacked by some of his colleagues in the House. Representative Schuyler Merritt, of Connecticut, alleged that the Securities Exchange Act went beyond the desires of President Franklin Roosevelt, and further, would continue the unsettled state of mind of business men and the manufacturers to the extent that they would not be willing to make forward contracts. He added that fear of a change in the rules by the regulatory commission would deter them from buying and furnishing capital goods. Although Congressman Merritt acknowledged that the bill had been drawn with great care, he doubted that there was a man on the House Interstate and Foreign Commerce Committee who would be willing to say with certainty what the bill would do in very many directions.25 Finally, Congressman Merritt urged that the bill be allowed to sleep and enactment be delayed until the next session of Congress.

To refute this argument, Representative Francis T. Maloney, also of Connecticut, said his views coincided to

24 Ibid., p. 7697.  
25 Ibid., p. 7712.
some extent with those of his colleague, Congressman Merritt, in desiring to protect the typical businessman from actual domination by the Federal Government or from any reasonable fear of that domination. On the other hand, Congressman Maloney expressed disagreement with his colleagues on the existence of any fair basis for fear, and on the wisdom of postponing the enactment of the Securities Exchange Act due to the creation of unjustifiable fears. Representative Maloney stated:

I do, however, join in the attack upon the manipulation of our system of government by men of high finance, and I do join in the attack upon every set-up, whether it be in Wall Street or Pittsburgh, which permits an abuse of power by men who have been given that power by the sweat of another man's brow.26

In conclusion, Congressman Maloney defended the bill by saying he was inspired "by no socialistic or romantic dream. I regard myself as a liberal conservative. This is a conservative bill. I urge you to pass it in its present form."27

Opposition to the bill was expressed by Representative Charles M. Bakewell, of Connecticut, in complaining that the causes of apprehension throughout the country were due to unclear provisions in the bill. Nevertheless, the Representative from Connecticut (Bakewell) expressed agreement among a majority of members on the general purpose of the Securities Act to regulate the unfair and inequitable practices which

26 Ibid., p. 7867.  
27 Ibid., p. 7869.
had developed. Bakewell declared that he had received protest letters from industrialists of his State, public-spirited citizens who were fearful of the results of enactment of the measure. For example, one of the letters, written by N. W. Pickering of the Farrell-Birmingham Company, was an indictment of the insidious policy of the "brain trust," which was working for the sole purpose of nationalizing of industry. In addition, Pickering's letter maintained that the Securities Exchange Act would eventually destroy the initiative and independence of action which had been the bulwark of success in the United States.28

Furthermore, Representative Bakewell advocated a more elastic margin provision and the establishment of a non-partisan regulating commission composed of a representative from industry, a representative from the exchanges, and a representative of the people who was not in either of the above categories. Also, Bakewell protested the provision requiring that any stockholder who owned 5 per cent of the stock in any company must disclose at the end of every year the extent to which he had increased or decreased his holdings. Therefore, a statement of a decrease in holdings might spread panic among other stockholders with the resultant destruction of values. Again, rules, regulations, and reports, called for by the regulatory commission, would

28 Ibid., p. 7937.
set up a financial burden upon smaller industries in the Nation. Representative Bakewell concluded that the bill "is just one more step in setting up a complete centralized bureaucratic control from Washington of the entire life of the people, and as such it certainly cannot be regarded as a conservative measure."29

Opposition, in the form of a personal attack, was expressed also by Representative Fred A. Britten, of Illinois, Republican, who charged that the bill "was conceived in the little red house in Georgetown and borne to the Capitol on last Friday."30 Furthermore, Congressman Britten called the Securities Exchange bill the last bill for regimentation of the country's industries that would come from the young intellectuals who had, according to Britten, framed all the "planned legislation" during the second session of the seventy-third Congress. He maintained that the real object of the bill was to "Russianize everything worthwhile under the unqualified and unprepared Federal Trade Commission, an act that would make that Commission the most powerful and far-reaching arm of the Federal Government."31

In addition, the Congressman from Illinois argued that stock-exchange regulation would give the "brain trusters" a vehicle for controlling all credit and corporate practices. He stated: "The boys in the little red house breathed easier

29 Ibid., p. 7938.  30 Ibid., p. 7944.  31 Ibid.
when their child was finally deposited in the Congressional hopper by Chairman Rayburn. 32

Although Sam Rayburn charged Representative Britten with coining "the little red house in Georgetown," he said he did not object to playing this up for publicity. 33 However, he voiced his displeasure that various members expressed the need for legislation to control stock exchanges, although they opposed this bill as a remedy. He declared that his Committee had done its best to present a bill that would be helpful to the American people and to the investors in securities. With this object in mind, Rayburn said it was necessary to call in experts since the Committee members were laymen. He added: "If we were as able as some people in this country think they are, and as some members of this House think they are, we would feel so self-sufficient that we would have to call in no experts." 34 He came to the defense of Thomas Corcoran and Benjamin Cohen, advisers to President Franklin D. Roosevelt, by saying that these young men had appeared before the Committee, not as representatives of institutions that had robbed the investors of the United States, but in the capacity of people's counsel. Rayburn also emphasized that his Committee was practically solid behind the bill and that his colleagues were determined to fight down efforts of people who favored legislation to regulate

32 Ibid. 33 Ibid., p. 8013. 34 Ibid.
the stock exchanges, but intended to offer chiseling amendments and speeches in opposition to the bill.

In his defense of a margin requirement of 45 per cent, Congressman Rayburn maintained that this provision was flexible. Also, the Securities Exchange bill, said Rayburn, authorized the Federal Reserve Board to change the original margin if it was essential to the best interests of business and commerce. As a result, he argued that the margin requirement was reasonable. Again, the Bonham Congressman urged adoption of the bill in order to prevent a recurrence of the crash in 1929 as a culmination of the speculative orgy in the 1920s. To this end, Rayburn implored his colleagues:

I trust that friends of this measure, friends of legislation to provide some sort of control of the practices on the stock exchange, will stand behind the members of the Committee who are for regulation in voting down these amendments that would draw a knife under the chin of the bill.35

Despite Rayburn's plea, additional opposition, as the debate continued, was made by Representative James R. Claiborne, of Missouri, Democrat, who accused Chairman Rayburn of an attempt to prejudice new members of Congress by implying that a vote against the bill indicated that the Representatives were taking orders from Wall Street. Claiborne stated he was not ashamed of his acquaintanceship with the

bankers and businessmen of America. He further maintained his intention of not going along with the Democratic Party if its purpose was to destroy any business whether it was big or small. Likewise, the Missouri Representative mentioned various telegrams of some constituents who opposed the Fletcher-Rayburn bill as both unwise and unworkable since it would block the free flow of private capital into productivity. Other constituents, according to Claiborne, believed that Washington control with its inevitable abuses, leaks, scandals, and temptations would ultimately destroy the confidence of investors in both stock markets and investments generally.36

In refuting Claiborne's remarks, Representative Frank H. Lee, also of Missouri, Democrat, alleged that Congress would follow the wishes of President Franklin Roosevelt who proposed the bill; he told his colleagues that he (Claiborne) would not get the vote of any of "the suckers who were trying to rob the poor." He counseled Claiborne: "You have got to depend on the poor, Mr. Claiborne, because you run on the Democratic ticket."37

During the course of the debate, Representative Samuel B. Pettengill, of Indiana, Democrat, offered an amendment to the bill which would exempt stockholders from Section 15, requiring a stockholder who owned as much as 5 per cent of the stock of a company to file a report every time he bought or

36 Ibid., p. 8035. 37 Ibid., p. 8036.
sold a share of stock. He alleged that if such a stockholder were forced to sell some of his shares to finance his own business, the filing of a report on such a transaction could impair the credit of the company and be injurious to the other stockholders.38

In his rebuttal to the Pettengill amendment, Congressman Rayburn noted that the Committee's investigation of utilities and other corporations revealed very few directors or officers owned even a tenth of the stock. As a result, many large stockholders would refuse to be elected officers or directors, but would prefer to stay on the outside, exercise control, and manipulate the stock up and down. Chairman Rayburn, therefore, declared his view: "I think it would be most unfortunate to let out the man who in the last analysis, in my opinion, really controls the corporation."39

In the continuing debate, Representative Hamilton Fish, Jr., of New York, objected to Section 18(b) which read:

Every person who becomes liable to make payment under this section may recover contribution as in cases of contract from any person who, if joined in the original suit, would have been liable to make the same payment.40

He called this section a grab bag, a trick, and the joker in the bill. Therefore, he said, it was beyond the bounds of reason to hold a club over the heads of business by dictating

38 Ibid. 39 Ibid., p. 8038.
40 U. S. Statutes at Large, XLVII, Part I, 898(1934).
who their officers were to be, fixing rates of commission, interest, listing, and other charges. If this were done, according to Representative Fish, powers of the Federal Reserve Board would be transferred to the Federal Trade Commission. 41

In his contradiction of remarks by Representative Fish, Congressman Carl E. Mapes, of Michigan, observed that his colleague, by failing to read this section carefully, made the wrong interpretation. According to Mapes, this particular clause required the stock exchanges to amend their rules as to the classification of members, and as to the methods of electing officers and committees if the Commission found this necessary for the protection of investors. 42

Other opposing views were expressed by Representative Bertrand H. Snell, of New York, Republican and minority leader of the House, who maintained there should be limits on regulatory measures in order for business to operate. For this reason, Representative Snell asserted: "Let us try for a little while to leave honest business and industry alone; and if we do, I believe they will do their part in aiding recovery and prosperity." 43

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41 Congressional Record, 73d Congress, 2d Session, LXXVIII, p. 8087.
42 Ibid., p. 8088.
43 Ibid., p. 8090.
John E. Rankin, of Mississippi, Democrat, one of Sam Rayburn's chief lieutenants, joined in the debate by delivering a scathing denunciation of opponents of the stock-exchange bill. He declared:

I wonder where these gentlemen were from 1926 to 1929. "Oh where was Roderick then?" No blast upon their bugle horns to warn the American people of the grave dangers that confronted them; no protest came from them at that time against the unjust, cruel, and inhuman practices on the stock exchanges. 44

As he continued his indictment, Congressman Rankin criticized Representative Hamilton Fish, Jr., and other colleagues who were exhausting themselves in their opposition to the bill. Rankin queried: "Where then were these Republican leaders who are now criticizing this bill and proclaiming so loudly their desire to regulate the stock exchanges by some other method and at the same time fighting this measure which they know will regulate them?" 45

At the close of the debate on the Stock Exchange bill, Rayburn asked for a conference committee to iron out differences between the House of Representatives and the United States Senate in three main categories of the bill as follows: (1) The Senate version of the bill called for an independent regulatory commission composed of five members, and for jurisdiction over the Securities Act of 1933 to be transferred to the Securities Exchange Commission; (2) a difference developed

44 Ibid., p. 8107.  
between the two Houses over jurisdiction on margin requirements; (3) there was no agreement on requirements of initial margins required for borrowing. Sam Rayburn, as one of the House conferees, pointed out that the Senate prevailed in its version calling for an independent regulatory commission. However, he said, the House conferees were successful in resolving the second major difference by giving jurisdiction over margin requirements to one body, the Federal Reserve Board. Moreover, the House solution prevailed in requiring borrowers to put up margins of 45 per cent or a loan value of 55 per cent, unless the Federal Reserve Board found that, in the interest of trade and commerce, adjustment should be made.

Furthermore, asserted Rayburn, amendments to the Federal Securities Act of 1933 were incorporated with the Securities Act of 1934 (the Stock Exchange bill) as Title II of the new bill. Likewise, these amendments, Rayburn emphasized, were worked out in conference committee as follows:

Section 11(a) is amended so as to require proof that the purchaser of a security at the time he acquired the security, relied upon the untrue statement in the registration statement or upon the registration statement and did not know of the omission. But this requirement is imposed only in the case of purchase after a period of 12 months subsequent to the effective registration date and then only when the issuer shall have published an earning statement to its security holders covering a period of at least 12 months after the registration date. The basis of this provision is that in all likelihood the purchase and price of the security purchased after publication of such an earning statement will be predicated on that statement rather than upon the information disclosed upon registration.
Amendments to Section 13 reduced the periods of limitations on actions from those at present provided by the section. They also correct an apparently inadvertent omission by making the limitation expressly applicable to actions under Section 12(2).

Section 15 is amended so as to more accurately carry out its real purpose. The mere existence of control is not made a basis for liability if it is shown that the controlling person had no knowledge of or reasonable ground to believe in the existence of the facts upon which the liability of the controlled person is alleged to be based. Amendments to Section 19(a) to permit the regulations of the Commission, under the powers conferred upon it, adequately to protect persons who rely upon them in good faith. The powers of the Commission are also extended to include the defining of technical as well as trade and accounting terms. Other amendments make clear that the provisions of the Act apply to fractional undivided interest in oil, gas and other mineral rights; exempt from the Act municipal bondholders' protective committees and the securities of additional public state instrumentalities and extend exemptions to real estate organizations where they are supervised by a court or state insurance or banking commission.46

According to Rayburn, other clarifying amendments were more psychological than material.47 Finally, the conference report was agreed upon by the House of Representatives on June 1, 1934, the effective date of the Act being July 1, 1934.

Summary

Although the House Committee on Interstate and Foreign Commerce had been subject to the pressure of a vicious and

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46 Congressional Digest, XIII (June-July, 1934), 192.

47 Congressional Record, 73d Congress, 2d Session, LXXVIII, p. 10256.
persistent lobby, the Committee, under the strong leadership of Chairman Sam Rayburn, was able to work out the terms of the Securities Exchange Act of 1934.

Furthermore, Rayburn was able to persuade the members of the House of Representatives that efforts of the New York Stock Exchange to stir up an appearance of protest against the bill were not representative of public opinion since the public was watching to see whether Congress would succumb to this propaganda. He refuted insinuations that he was a reactionary and public enemy of business. Likewise, he emphasized that this legislation was necessary for the protection of the people against the rapacities of the past and was backed by Congressman Maloney, who remarked that the Act was conservative.

Equally important was his success in getting across to his colleagues the idea that the bill was a remedy for previous abuses by the securities exchanges. In short, he convinced the House of Representatives that the Securities Exchange bill would be helpful to the American people and to the investors in securities; and his powers of persuasion were evidenced by his success in prevailing over the Senate conferees in two major differences between the two houses of Congress.

Finally, in commending House conferee Rayburn's fairness and ability for inclusion of modifications to the Securities Act of 1933 as beneficial to business, Representative Hamilton Fish, Jr., an opponent of the Stock Exchange bill, paid a
fitting tribute to the legislative skill of the Congressman from Bonham as follows:

I commend the chairman of the committee and the conferees for the ability they displayed and their fairness in yielding on the Bulwinkle amendment for a separate commission and for including modifications of the Security Act which I believe will be beneficial to business and help the flow of capital into industry.48

48Ibid., p. 10269.
CHAPTER IV

THE PUBLIC UTILITY HOLDING COMPANY

ACT OF 1935

Background

Before considering the development of holding companies, it is essential to define several terms and concepts. A holding company may be defined as that type of business organization which owns or controls another business organization. Further, it exercises control over subsidiary companies through ownership of voting stock which, in most cases, can frequently be far less than one-half for the purpose of practical control. On the other hand, a subsidiary company could possibly be either another holding company, an operating company, or a company exercising non-utility functions.

Operating company generally refers to a service organization which generates, transmits, and distributes electricity or transmits and distributes gas. Again, the operating company may serve as a holding company to control other companies.\(^1\) In the first public utility structures, it was not uncommon for a non-utility subsidiary to handle such things as

engineering, legal, financial, accounting, and economic services for the operating companies.

With these definitions in mind, therefore, it is necessary to sketch briefly the early development of public utility holding companies. For example, in the 1890s General Electric took steps to provide a market for its electrical equipment by ownership or control of electric distributing companies. For this purpose, the most successful technique of control was the holding company device by which General Electric held bonds and some stocks of electric distributing companies. Also, in some instances the holding companies were used to promote the development of new operating companies.

As a result, therefore, of holding a controlling interest in holding companies, which, in turn, bought securities of operating companies, General Electric was able to furnish a minimum capital outlay. Thus, operating companies were provided sufficient capital and, in addition, their credit ratings were underwritten by General Electric. Moreover, consumers benefited in the early years through better service and lower rates. Nevertheless, General Electric discovered a defect in this arrangement whereby managerial control remained in the local utility company with the end result of poor planning, inefficient management, and a shaky capital structure. Therefore, General Electric's decision in 1905 that it needed a larger voice in the operating utilities, brought about a solution by the formation of Electric Bond and Share Company.
(Ebasco) under the leadership of S. Z. Mitchell, a highly-skilled and successful utility manager. Immediately, Ebasco bought large blocks of utility stocks and began to revamp the management of the utility operating companies.²

Although General Electric provides one example of early holding company development, another group of holding companies was organized by investment banking groups which were vitally interested in the expansion of the utility industry due to the large quantities of capital that had to be raised. As a consequence of performing the underwriting function, these bankers were frequently left with large blocks of unsold securities which they could dispose of by establishment of holding companies. Accordingly, holding companies began to gain control of many operating utilities.

Three generalizations can be made of the early types of holding companies. First, the use of the holding-company device was, for the most part, beneficial to investor and consumer. Second, the holding company was not set up primarily as a profit-making organization of itself. Third, the holding company was a logical step in the evolution of the gas and electric industries.

As industrial activity accelerated its pace in the first three decades of the twentieth century, the complexion of the public utility holding company changed rapidly. Contrary to the motive of the first holding companies, which sought long-term, non-speculative profits, it was soon apparent to

²Ibid., p. 437.
financial manipulators that the holding-company device was ideal for two purposes: (1) to reap large, short-run speculative profits; (2) to afford complete legal protection to those controlling the holding company. It was evident, therefore, that abuses would arise, of which three are most significant. First, pyramiding, a process involving creation of layer after layer of holding companies on top of operating companies, was the most general abuse by holding companies. By means of various practices such as selling and buying back of properties and use of interlocking directorates, it was possible for a small investment at the top to control huge amounts of assets. Second, many financial abuses appeared, such as writing up of assets of operating companies when they were transferred from one holding company to another in the same pyramid, stock watering, falsification of accounts, and payment of dividends by operating companies without making adequate provisions for depreciation. Third, service companies were used to milk operating companies through excessive fees. Consequently, these fees were employed to drain off profits for the benefit of the top-level holding company.

With a tremendous increase in abuses and diminishing of benefits throughout the 1920s, State attempts to regulate the holding companies by special legislation or commission

\[^{3}\text{Ibid.} \quad ^{4}\text{Ibid., p. 439.}\]
regulation failed completely. Since it had been proved that monopoly and suppression of competition among utilities was for the most part beneficial, it was evident that an application of the anti-trust laws could not provide the solution. Therefore, the remedy to this dilemma was the passage of a Federal law whose aim was

(1) to retain the benefits to the public generally of having public utilities serve as natural monopolies but
(2) at the same time to make sure that concentration of economic power not consistent with greater public benefit was avoided.  

Introduction

Consequently, after a prolonged investigation of public utility holding companies by the Federal Trade Commission and upon recommendations of a report from his National Power Policy Committee, President Franklin Roosevelt sent a message to Congress calling for action to regulate the utility holding companies.

Acting in accordance with President Roosevelt's recommendations, on February 6, 1935, Representative Sam Rayburn introduced in the House a bill (H. R. 5423) for the control of holding companies. It was referred to the Committee on Interstate and Foreign Commerce, of which Rayburn was chairman, and hearings were held from February 19 to April 15, 1935. At the same time Senator Burton K. Wheeler, of Montana, Democrat, introduced an identical bill in the Senate,

\[5\text{Ibid.}, \text{p. 440.}\]
which was referred to the Committee on Interstate Commerce, of which he was chairman.

There were three parts of the Wheeler-Rayburn bill: Title I dealt with the public utility holding companies; Title II dealt with interstate transmission of electricity; and Title III related to the transmission of gas. The provisions of the proposed bill concerning public utility holding companies were summarized as follows:

Section 1 sets forth, as reasons for the act, that public utility holding companies are affected by the national public interest because their securities are distributed through the mails and instrumentalities of interstate commerce and because their activities, being distributed over many states, are not susceptible to effective state regulation.

This section declares, also the legislative policy to be "that of eliminating the evils connected with the public utility holding company, and, in order to effectuate such a policy, to compel the simplification of public utility holding company systems and the elimination therefrom of properties not economically and geographically related in operations, and to provide for the abolition of the holding company at the end of five years."

Section 2 defines the terms used in the bill.

Section 3 establishes the mechanism by which holding companies are brought under the jurisdiction of the Securities and Exchange Commission, provides for registration with the Commission of every holding company that has outstanding any securities offered since 1925, and gives the Commission authority to exempt from registration utility companies whose business is wholly interstate.

Section 4 sets up the machinery for registration and describes the necessary procedure.

Sections 5 and 6 set forth the rules under which holding companies may issue securities.

Section 7 provides for the restriction of the activities of holding companies designed (1) to confine their activities to the operation of gas and electric utilities and to the holding of securities of such utilities, (2) to prevent indiscriminate combination of domestic and foreign
utilities and (3) "to prevent the use of the holding company to deny to the public the widespread and economic use of both natural gas and electric energy merely because it is to the selfish advantage of a given company to foster the use of one of its products as against the other and deprive the public of the benefits of the competition between the two."

The restrictions of this section are to go into effect January 1, 1937.

Section 8 makes it unlawful for any registered holding company or subsidiary company to acquire any securities or capital assets of another company without the approval of the Commission.

Section 9 prescribes the procedure for application by holding companies for the Commission's approval of the acquisition of securities and capital assets.

Section 10 requires the simplification of existing holding companies and their liquidation by January 1, 1940, and provides for the procedure under the supervision of the Commission.

Section 11 provides for the regulation of intercompany transactions pending liquidation of holding companies.

Section 12 makes it unlawful for a registered holding company or subsidiary to enter into service, sales or construction contracts with any company in the same system without the approval of the Federal Power Commission. The object of this section is to prevent the holding company from forcing an operating company to buy equipment or service from a company also owned by the holding company.

Section 13 provides for the filing with the Securities Exchange Commission by holding companies of periodic and special reports.

Section 14 provides for a uniform accounting system by registered holding companies.

Section 15 imposes civil liability for false statements contained in holding company declarations filed with the Commission.

Section 16 requires reports by the Commission on its investigations and findings.

The remaining sections--17 to 33--contain the administrative provisions of the bill covering the procedure of the Commission, etc. Section 29 directing the Federal Power Commission to study and investigate public utility companies with a view to improving their operation in the public interest.6

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6"The Wheeler-Rayburn Bill," Congressional Digest, XIV (May, 1935), 139.
Hearings and Public Reaction

During the eight weeks of hearings before the House Committee on Interstate and Foreign Commerce from February 19, 1935, to April 15, 1935, there were two main points of disagreement over the Public Utility Holding Company bill: first, the divorcement of the holding companies from the management and control of the operating companies; and second, the regulation of holding companies.

Although eleven proponents of the bill appeared before the Committee, a consensus of opinion may be ascertained from the testimony by Walter M. W. Splawn, Counsel for the Committee, and Sam Rayburn, Chairman. On the contrary, opposition of thirty-four witnesses may be summarized from statements by Wendell L. Willkie, president of the Commonwealth and Southern Corporation, H. Lester Hooker, chairman of the Legislative Committee, National Association of Railroad and Utilities Commissioners, and the presentation of a brief by the Electric Bond and Share Company.

In support of the bill before the Committee on Interstate and Foreign Commerce, Rayburn maintained that Federal legislation was necessary to deal with the evils of the public utility holding companies and to restore sound conditions in the public utility field. In addition, he alleged that the great utility properties were controlled by men who had a small stake in their real ownership and who had shown
"neither prudence nor capacity in the management of other people's property."7 Furthermore, the holding companies, he charged, ignored considerations of business need and utility properties had been gerrymandered for private advantage instead of being integrated for the public good. He added: "Such intensification of economic power beyond the point of proved economies not only is susceptible to grave abuse, but it is a form of private socialism inimical to the functioning of democratic institutions and the welfare of a free people."8

Furthermore, Rayburn admitted that the problem was difficult and that it was impossible to simplify complicated corporate structures overnight. However, he emphasized that a special report by Walter M. W. Splawn, a member of the Interstate Commerce Commission, reports of the Federal Trade Commission, and the work of the National Power Policy Committee had given Congress a comprehensive knowledge of the holding-company problem.9

Walter M. W. Splawn asserted that the holding companies used their time before the Committee with testimony pointing out the time of the organization of the holding companies and their relationship to the operating companies, tracing the

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8 Ibid.
9 Ibid., p. 345.
history of operations, and explaining services which the holding company undertook to do for the operating company.

Next, Splawn reviewed some of the abuses perpetrated by holding companies such as the write-up which made an excessive valuation of an asset. He alleged the purpose of the write-up was to recover from the public, through the sale of securities of the sub-holding company, the cost of the operating property. This device left in the top holding company, therefore, the control of these properties without risk; it shifted the risk to all the bondholders, noteholders, and preferred stockholders who termed and classified themselves as investors instead of speculators. And yet, these investors in securities of the sub-holding company paid as much as the property cost, but were disfranchised by the people who controlled the property without contributing a dollar of capital.\(^{10}\) Thus, the people who had contributed nothing, through these arrangements, had drawn in from the investing public the total amount of risk in the enterprise, while the holding companies, without any risk at all, were left in control of the profits.\(^{11}\)

In short, this device, transferring the risk to the investors while the profits were taken by those who had maneuvered themselves out of risk, was contrary to the institutions of private property.

Although holding companies claimed that risk was distributed all over the country, Splawn countered this claim by charging that the most widely scattered companies, those that owned the most widely distributed operations, were the ones whose stocks were among the lowest on the stock exchange.\textsuperscript{12} He concluded with the following indictment:

They have tried, during these 8 weeks, to convince you that you should accept them into the good society of regulated corporations, place upon all these write-ups, as it were, an implied approval of the Federal government to permit them to sit down by the side of controlled operating utility companies. They are not operating companies. They are not manufacturing companies. These holding companies manufacture nothing, so far as I can find out, except securities.\textsuperscript{13}

In his testimony opposing the bill, Wendell L. Willkie, president of Commonwealth and Southern Corporation, admitted that some practices engaged in by the holding companies prior to 1929 were wrong. Still, he emphasized that it was the indictment of a period and the indictment of a system of doing business rather than an indictment of the holding company since other business concerns had engaged in the same practices.

However, he believed that excessive profits on supervision and engineering should be eliminated and, in addition, efforts should be made by every public utility holding company to eliminate its intermediaries in order to simplify

\textsuperscript{12} Ibid., p. 2195. \textsuperscript{13} Ibid., p. 2200.
its capital structure. Also, Willkie said there was no justification for some write-ups, but alleged that there were fewer write-ups in the utility business than in any other American industry. Furthermore, Willkie suggested prohibiting any operating company, over which the holding company had jurisdiction, or its employees, from selling any holding company securities.

The president of the Commonwealth and Southern Corporation, in defense of his company, asserted that it had never acquired a municipal or private power plant without immediately establishing a lower rate. Besides, he alleged, the rates charged by his company were 17 or 18 per cent below the national level.

When Willkie became angry over questions by the Committee, Chairman Rayburn interposed with these words: "You understand, Mr. Willkie, when we ask these questions we are endeavoring to get information about the general situation. Please do not think we are trying to accuse anyone." Willkie replied:

But for 2 years we have been continually under attack, and perhaps we have developed too much the complex that I speak of, which is only natural for men to get under those circumstances.

With respect to the Securities and Exchange Commission, Willkie expressed doubts in giving to any Federal body the right to say just what particular type of securities should

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14 Ibid., p. 606.  
15 Ibid., p. 645.  
16 Ibid., p. 650.  
17 Ibid.
be issued as against another type. Furthermore, if such power was granted and the country went through another collapse, he alleged that the people would be just as critical of government as they had been of the business system. Also, he emphasized that the Federal government would be assuming a great responsibility if it put into the hands of a Federal body the power to say when and what type of securities the utility holding company could issue.\textsuperscript{18}

Other opposition to the bill was expressed by H. Lester Hooker, chairman of the Legislative Committee of the National Association of Railroad and Utilities Commissioners, whose organization did not favor this legislation because

First, it undertakes to duplicate and supercede, in many important matters, the system of regulation with respect to the operating companies now provided for by States.

Second, it includes all subsidiaries of holding companies by the Federal Commission which will result in conflict between State Commission regulation of the operating companies and their subsidiaries, as provided for in the bill.

Third, it provides for the complete elimination of all holding companies on January 1, 1940.\textsuperscript{19}

Finally, Hooker admitted that certain holding companies must be eliminated if it had been conclusively shown that they could not be satisfactorily regulated.

Opposition was manifested by Electric Bond and Share Company in a brief summarizing the effects on electric

\textsuperscript{18} Ibid., p. 652. \hspace{1cm} \textsuperscript{19} Ibid., p. 1608.
operating utilities which would accompany the enactment of the Public Utility Holding Company bill of 1935 with these points:

1. Forced coordination in regional groups of privately and publicly owned facilities.
2. Loss of financial and executive control over system planning, new construction, installation of equipment operating methods, labor policies, business practices, with shifting of managerial authority from company's directors to Federal agencies.
3. Financially unsound limitations on types of securities which may be issued, restrictions on short-term debt, tying up of proceeds of security issues in a separate fund under Federal direction, making security issuance subject to any conditions which may be imposed by Federal agencies at their discretion.
4. Possible forcing of operating utilities to divest themselves of operating subsidiaries such as street railways, busses, steam heat, ice, water, merchandising of appliances.
5. Prohibition of the economic savings and the advances in the art obtainable through central service organizations responsible to the owners of the properties.
6. Closing the door of pooling equity investments through a holding company to gain the stability arising from economic diversity, such as will command a country-wide investment market, and adequate flexibility as to times of financing.
7. Devastating effects upon credit and solvency resulting from dumping upon a demoralized market of operating-company stocks, bonds, and notes.
8. Nullifying of state and local regulation and establishment of Federal control.
9. Complications resulting from dual regulation.\(^{20}\)

While hearings on the bill were being conducted in the House Interstate and Foreign Commerce Committee, unanimous consent was given Chairman Rayburn by the House of Representatives on February 21, 1935, to extend his remarks made over

\(^{20}\)Ibid., pp. 2286-2287.
a radio station in a fireside chat with Cecil Dickson of the Associated Press, and Sherman Mitchell of the National Home Library Foundation. In his remarks, Rayburn blamed the secret dealings of holding companies for loose and careless practices which had been perpetrated against whole communities. Furthermore, Rayburn maintained that the purpose of his introduction of the bill was to insure customers a fair price in electricity and to protect investors in stock of a local light company from fraud originating in the secrecy of a holding company. 21

In continuing his radio address, Rayburn maintained that about forty holding companies controlled 2,000 operating companies. In addition, one holding company dominated one seventh of all the property operated by electric-light companies. Equally important, he stated, was the fact that banking houses controlled the holding companies which, in turn, controlled the operating companies. Likewise, one banking house had an arrangement which tied together eight or ten holding companies to dominate one fourth of the electric-light companies in the whole country.

Moreover, Rayburn, in his fireside chat, answered Cecil Dickson's observation that the five-year "death sentence" of holding companies, providing for elimination of all holding companies within five years, came as a severe shock to the

21 Congressional Record, 74th Congress, 1st Session, LXXIX, p. 2432.
utility industry. Also, he charged that holding companies had been oblivious to the public interest; consequently, Congress had deliberately made up its mind to eliminate the abuses of the holding company and the terrific concentration of power it gave to a few bankers and promoters. Rayburn likewise defended the bill's "death sentence," saying it was good sense to put a deadline of five years so that the power industry and the public would both know there would be a definite end of the holding-company business.

Next, Rayburn emphasized that other regulatory provisions of the bill were designed to protect both the consumer of electricity and the stockholders who financed the local operating companies. With this object in mind, he said, it was necessary to provide immediate protection for the public regardless of the ultimate disposition of the holding companies.

Further, Rayburn prophesied that all kinds of propaganda would be used to defeat the holding-company bill. For this purpose, the people would be told that securities would be dumped on the market, that the banks would call loans, and that the public utility business would be demoralized. However, he reminded his listeners: "But just remember that when we passed the Stock Market Control Act last year, some leading brokers claimed that it would close the stock markets,
and instead they are operating better under Federal regulation than before."\textsuperscript{22}

To sum up, Rayburn emphasized that the holding company bill combined the findings, after years of investigation, by the Federal Trade Commission, the Federal Power Commission, and National Power Policy Committee, and many state commissions. He advised his listeners: "If you have to trust someone, why don't you trust your Government in this business rather than the people who sold you securities at 100 that are now selling about 10?"\textsuperscript{23}

Furthermore, an article in The Nation asserted that the bill to abolish public utility holding companies was the democratic answer to the fact that ten holding companies controlled four-fifths of the operating companies and generating capacity of the United States. The article declared that if a holding company's assets were good, the shareholders would not lose by the distribution of them in an orderly way permitted by the Wheeler-Rayburn bill.

Moreover, The Nation said the assets of the holding company consisted only in the operating company whose credit was sound. And yet, the credit of the holding company, two or three layers removed from the operating company, became more unsound to the degree it was removed from the operating property. As a result, the article said: "It stands to reason

\textsuperscript{22} Ibid., p. 2434. \textsuperscript{23} Ibid., p. 2435.
that the earning base is most deserving of credit; the super-
structure is an extravagance."24

The article quoted Judge Healy's testimony before the
House Interstate and Foreign Commerce Committee. Judge Healy
called the holding-company system "more or less a parasite
and excrescence on the actual operating companies of the
country."25 In conclusion, The Nation emphasized that the
public wanted this legislation and declared, "It is a belated
but effective attack on the most brazen of the outrages com-
mitted by finance capitalism in the name of rugged individ-
ualism."26

On the other hand, an editorial in Collier's Weekly
maintained that the holding-company device was essential for
the unification of management of subsidiary companies and,
for this reason, Congress should concentrate its fight on
pools and trusts. Furthermore, the bill was another mile-
stone on the road whereby the politicians had been fighting
corporations with laws intended to throttle them. In spite
of these regressive statutes, corporate business had grown
"because the American people decided that the corporation was
a useful tool."27

24"Holding Companies Must Go," The Nation, XLC (March 27,
1935), 350.

25 Ibid. 26 Ibid.

27 Editorial, "A Poor Way to Clean House," Collier's
Weekly, XLV (April 13, 1935), 78.
Nevertheless, the editorial did not condone the obvious abuses of corporate power, but charged that it was futile to outlaw an organization in order to prevent the commission of a crime. In short, the present bill before Congress was a poor way to clean house. In order to remedy the situation, Congress should, according to Collier's, "strengthen the law so that the abuses committed in recent years may be unequivocally forbidden and penalized."28

Other opposition to the bill before Congress appeared in the Review of Reviews, asserting that the proposed holding company legislation was dangerous and against the public interest. To support its argument against the Public Utility Holding Company bill, the article quoted some remarks made in 1929 by David Lilienthal, a member of the Tennessee Valley Authority, who observed:

... Perhaps, most important of all, to the holding company must go the credit for the unprecedented flow of capital into the public utility industry, making possible extensions and improvement of service.29

On the contrary, the article admitted mismanagement on the part of a few holding companies, but claimed that a majority of the abuses had been eliminated. Although some mismanagement had occurred in both large banks and small banks,

28 Ibid.

these abuses could not provide the vehicle for elimination of such a necessary business and profession.

The result of the adoption of this bill, according to the article, would be the annihilation of business and placing all public utilities under ownership and operation of the Government. Moreover, it was feared that such a sinister measure could cause stock market speculation with a resultant loss due to the alarm of investors. Also, the article advised businessmen to take aggressive steps to expose the racketeers who were scheming to "rob investors while enriching the business-wrecking plotters and sophisticated speculators."  

Another case for the public utility holding company was made by W. W. Cumberland, who suggested that it be reformed and allowed to live. According to Cumberland, holding companies mobilized savings of small investors and used them more effectively than the individuals could have done. Likewise, holding companies could afford research laboratories for the creation of new products and, because of their size, it was possible to employ the best managerial talent.

On the other hand, certain corporations abused the holding-company device by acquiring patents for the express purpose of preventing their utilization. Moreover, size was used to coerce employees and throttle competition by strong-arm methods. With the growth of population and the resultant

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30 Ibid., p. 20.
increase in demand for electric power, the demand for new capital was incessant, affording a magnificent opportunity for the seizure of power by financial buccaneers.31

Although there had been many defects, said Cumberland, a comparison with other countries, with proper allowances for different operating conditions, vindicated the holding company for rendering substantial service during an era of rapid growth in the power industry. Furthermore, Cumberland asserted it would be unwise to fear mere size in the utility companies or to eliminate the holding-company device since consolidation could be accomplished better through holding companies. Cumberland advised: "Utility holding companies represent merely a cross section of our population. Quiet reflection would seem to suggest that it is neither intellectual nor liberal to burn down the house in order to roast the pig."32

Additional arguments in favor of the holding companies were advanced in a radio address on April 9, 1935, by Philip H. Gadsden, Chairman, Committee of Public Utility Executives, who bemoaned the fact that Section 1 (... and to provide for the abolition of the holding company at the end of five years) would abolish the public utility holding company. He defended the holding-company principle, by means of which it was possible to develop an "electrical" America. On the other hand, Gadsden admitted that a bad name had been acquired

31 Ibid., p. 22.  
32 Ibid., p. 63.
by holding companies prior to the crash of 1929 and that many innocent people lost money in public utility securities. As a result, the public utility executives favored reasonable Federal and State regulation. He added: "This bill is a sentence of death passed on all the members of an industry because of the past sins of a few."33

Moreover, Gadsden explained why a dissolution of holding companies would result in the loss of savings. For example, a dissolution required the raising of cash by selling their assets--their operating company stocks--to pay off their bonds and preferred stock. Consequently, the dumping of stocks by all these holding companies would depress the market so that, in all probability, only enough money would be raised to pay off the bonds and part of the preferred stock. Accordingly, the investor in common stocks would lose everything.

Thus, said Gadsden, a dissolution of holding companies, according to testimony in hearings before the House Interstate and Foreign Commerce Committee by public utility executives, bankers, economists, and investors, would have ruinous effects upon investments. Hence, it was not surprising that thousands of letters had poured in to Congressmen protesting the bill. In addition, the Chairman of the Public Utility Executives declared that his Committee was doing its best to

33Philip H. Gadsden, "Should Power Holding Companies be Abolished?" Congressional Digest, XIV (May, 1935), 141.
protect the interests of millions of stockholders by a campaign that would enlighten public opinion.\textsuperscript{34}

Raymond Moley, a presidential adviser, summarized the case for the holding company in two points: "They provide centralized means of pouring capital into needy operating companies; they offer centralized sources of technical services, with more resources than any one company could afford to maintain. The validity of these claims is not denied."\textsuperscript{35}

However, according to Moley, the holding company became the parent of two glaring evils. First, the holding company issued senior securities of its own with collateral which consisted of nothing more substantial than the common stocks of its operating companies. Second, management, service, and construction companies were rigged up for the purpose of serving subsidiary operating companies. As a result, the utility construction field was closed to independent engineering and construction companies and standards of competitive costs were non-existent.

Moley asserted that the purpose of the Wheeler-Rayburn bill was to serve as an instrument for simplifying the structure of holding companies "in order to provide sound,

\textsuperscript{34}Ibid., p. 143.

economic management and operation of companies linked together in groups based upon regional interests and circumstances.\textsuperscript{36}

In order to accomplish the above purpose, said Moley, the bill proposed to do two things. First, the bill would retain only such holding companies that qualified on the ground that they provided a sound financial structure within an area regionally suited to unified control. Second, the bill would retain only those service, management, and construction companies whose sole purpose was to provide service to operating companies at a sound competitive cost.

Finally, Moley advised parties on both sides of the question to confine their arguments to a consideration of what the important measure proposed to do and the means to accomplish this end. He concluded by saying: "Arguments that are intended to frighten people are decidedly not in order, particularly at a moment when business is ready to move into a period of sound and steady improvement."\textsuperscript{37}

Walter M. W. Splawn, as General Counsel, House Committee on Interstate and Foreign Commerce, advanced two reasons whereby the present holding company set-up was illogical. First, investors in the holding companies were too far away from the operating properties. Second, the power business was different from other organizations such as telephone companies and railroads, which were essentially interstate operations. On the

\textsuperscript{36} Ibid. \hspace{1cm} \textsuperscript{37} Ibid.
contrary, operations of the power business were regional at
the most and many of the soundest operations altogether
intrastate.\textsuperscript{38}

According to Splawn's viewpoint, it would be impossible
for Congress to reach all of the abuses that had grown out of
inter-regional holding company activities. In short, he
favored outright elimination of the holding companies instead
of regulating them. He concluded: "It is better to put these
activities right back into the regions and localities they
serve."\textsuperscript{39}

As the controversy over the Public Utility Holding Com-
pany bill raged in Congress, the \textit{New York Times} published
some pertinent facts about operations of a public utility
holding company in New York State. The \textit{Times} revealed a ten-
year net (1925-1935) by the Consolidated Gas system of
\$27,000,000 on a \$29,300,000 investment in Westchester Light-
ing Company of New York. Testimony before a New York State
Legislative Investigating Committee indicated that the holding
company (Consolidated Gas) had owned the Westchester Company
since 1904. At this time, it acquired the entire stock with-
out paying any cash, nor did it invest any new capital in the
company until 1925. Furthermore, John E. Mack, the New York
Legislative Committee's Counsel, characterized tactics of

\textsuperscript{38} Walter M. W. Splawn, "Statement on Holding Companies,"
Congressional Digest, XIV (May, 1935), 156.

\textsuperscript{39} Ibid.
Consolidated Gas as "the use of burglar tools, corporate acrobatics, and plain watering of stock."  

In addition, stated the Times, charges were made during the hearing that abandoned gas-tank sites, garages, and land on which dismantled gas plants made up the principal structures, were included in the Westchester Company rate base as "used and useful property." Again, according to a witness, when the board chairman of Westchester Company was sought for an explanation of how he sold a piece of property owned by him at an inflated price to the Westchester Company, he disappeared and had not been found at the time of the investigation by the State of New York.  

In the meantime, several important observations were made by newspapers concerning the price of utility shares on the stock exchange during this debate in Congress. The Washington Evening Star reported a modest rally in utility shares gave the curb market a steadier tone in trading on June 11, 1935. Although most of the standard trading favorites, said the article, were hesitant and generally lower the preceding day due to a lengthy debate in the Senate over the Wheeler-Rayburn utility holding bill, these stocks advanced as much as one-half point due to a broad demand.

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41 Ibid.  
Furthermore, other pertinent observations were made by C. Norman Stabler, financial editor of the *New York Herald Tribune*, who commented that the Dieterich amendment would have transformed this bill into a simple regulatory measure. In addition, Stabler emphasized that the close vote on the amendment "encouraged some of the Street to think that the Senate might frown on the entire bill, but such was far from the case, for it went through with a margin that indicated great solidarity."²³

Meanwhile, during the debate in Congress, Owen D. Young, Chairman of the Board of the General Electric Company, wrote Senator Burton K. Wheeler, asking the Senator to clarify his (Young's) position on the usefulness of a holding company. Among other things, Young was convinced that the holding company was a useful instrument through which to group utility operating companies which, by their very nature, must be local. He concluded:

I see no more reason for abolishing the holding company merely because abuses have crept into its operation than I do for abolishing the automobile because of the disasters which come from reckless drivers. The important thing is to restrain and correct the abuses and not to abolish a useful instrument.²⁴


²⁴ *Congressional Record*, 74th Congress, 1st Session, LXXIX, p. 9274.
Debate in Congress

In the course of the debate on the holding company, Congressman Rayburn made an important speech to the House of Representatives of the United States Congress on June 27, 1935. He emphasized that his committee had done its work on the bill for the past five months under trying circumstances but, nevertheless, had given it more conscientious consideration than any other bill had ever received. Furthermore, the bill had been misrepresented in every section of the land by propaganda in the mail, by telegrams and by advertisements in the newspapers. He charged that "Motives have been impugned. Backstage talk has been indulged in." 45

In continuing his discussion before the House, Rayburn asserted that holding companies existed by reason of technicalities and loopholes in the law. And yet, originally a corporation did not have the right to own stock in another company. Moreover, as a result of the ingenuity of lawyers in persuading state legislatures to write cunning statutes, and of interpretations by the courts of the statutes, the American people had been given a master in the form of a soulless, impersonal, and intangible holding company. Hence, this corporate creature was able to strip local stockholders of their equities, reduce employees to a state of serfdom, and siphon off the earnings of profitable operating companies to the stockholders of other companies. Rayburn elaborated thus:

"Through the simple device of pyramiding, a small investment by those in control of the top holding company enabled them to do as they liked with hundreds of millions, and in some instances, even billions of other people's property." For example, said Rayburn, in one set-up an investment of approximately $23,000 at the top of the pyramid controlled $1,200,000,000. Furthermore, these top holding companies dictated to their operating companies what they could buy, from whom to buy, at what price, and with whom they could engage services and contract for supplies.

Because of this device to create special privilege, the States were helpless in the presence of these supercreatures. Moreover, he continued, the operating companies were in charge of employees who were allowed no authority or independent judgment; thus, complaints on high rates and poor service could not be acted upon, but must be referred to officials in New York City. Meanwhile, according to Rayburn, a few men in the top holding companies were able to enrich themselves and their friends, which made "America a byword in the eyes of our neighboring countries by reason of the extravagance and vulgarity of these privileged people, sheltered by the most amazing legal device contrived in the history of mankind." In continuing his indictment of the holding companies, Rayburn asserted that the guilty were opposing the bill. He

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46 Ibid. 47 Ibid., p. 10318.
charged: “They are the ones who do not want to die; they are the ones that do not want to be crippled; they are the ones that do not even want to be regulated.”

On the contrary, said Rayburn, any bill that Congress passed would provide equitable arrangements for security holders. He added that owners of stocks of holding companies had not fared too well without Federal regulation. As examples he quoted the low price of common stock of such holding companies as American Power and Light, Commonwealth and Southern, and Stone and Webster. As a result, therefore, the stocks of power and gas holding companies had ceased to be attractive.

With respect to hearings before the House Interstate and Foreign Commerce Committee, Chairman Rayburn charged that the Public Utility Executive Committee of three, headed by Gadsden, refused to allow Associated Gas and Electric and the Cities Service Company to be heard during the Committee's time; but at the close of the hearing, said: “We ought to hear the Associated Gas and Electric and we ought to hear the Cities Service Company.” When Cities Service Company was allowed time, its representatives maintained it was the only company that was controlled by the public and was not banker-controlled. To this statement Rayburn replied: “I do not know whether they are controlled by the public or not, but the public has been well-bitten by them.”

48 Ibid., p. 10319.
49 Ibid., p. 10320.
50 Ibid., p. 10321.
As he continued his charges against the public utility holding companies, Rayburn called the attention of the House to the reprehensible practice of writing up assets for the express purpose of allowing the holding company to get back what it had invested and still control the properties. He said: "Conservative accounting practice does not favor write-ups even when based on careful and independent appraisals."\(^{51}\)

Rayburn named other abuses of holding companies such as high interest on advances to operating companies, profits on the sale of appliances, excessive management and legal fees. Next, he addressed his observations to some fellow Texans who protested that the bill would take away the right to control their own affairs, when he charged that in Texas "there is no utility commission to control."\(^{52}\) Whereupon, addressing his remarks to the gallery which included a number of Texans who came to Washington in opposition to the bill, Sam Rayburn charged these same Texans were the instrumentalities in prior years who blocked enactment of any effective utility regulation. As a result of the absence of a Public Service Commission in Texas, the holding companies and big operating companies went to the town mayor and council and argued rates.

Furthermore, said Rayburn, the agents of the public utility holding companies were spreading propaganda against the bill in radio broadcasts. In addition, the Congressman

\(^{51}\) Ibid.  
\(^{52}\) Ibid., p. 10325.
from Bonham blamed J. J. Taylor, an editorial writer of the Dallas Morning News, with making a false statement when he wrote that Sam Rayburn didn't care about the bill and would kill it if his constituents let him know they did not want it. Rayburn warned J. J. Taylor not to impute motives to anyone before he investigated the facts.

As the debate continued, Representative John G. Cooper, of Ohio, Republican, emphasized that he was not in agreement with Rayburn's position on the original bill "which contained the death sentence which, to my mind, is one of the most vicious and un-American proposals ever submitted to an American Congress."53 Although he was not oblivious to some evils which existed in public-utility holding company operations, Representative Cooper believed that these abuses could be corrected through Federal regulation without destroying the industry entirely. He continued by observing that the bill, if enacted, would mean nationalization of the electric-utility industry. Cooper continued:

Today we find the Federal Government engaged in spending, and will spend when the program is completed, more than $500,000,000 of the taxpayers' money in the construction of plants for the generation, transmission, and the sale of electric energy in competition with private industry.54

Furthermore, Cooper claimed that the Tennessee Valley Authority was spending more money on power development than in all the

53 Ibid., p. 10327. 54 Ibid., p. 10328.
rest of its program and, when completed, would have the capacity to generate more electricity than was being consumed in all the Southeastern States.

Another Congressman, Representative James W. Wadsworth, of New York, Republican, voiced his opposition to the bill by coming to the defense of Electric Bond and Share Company, one of the largest public utility holding companies. Representative Wadsworth maintained that Electric Bond and Share Company provided engineering service, legal advice, service in the purchase of supplies, and kindred subjects for a fee against the operating company amounting to one-fortieth of 1 per cent per kilowatt hour delivered by the operating company. This was not milking anybody since these little companies, he claimed, could not get this service so cheaply elsewhere. Thus, the destruction of Electric Bond and Share Company would injure the little operating company and also injure the consumers.

In his reply to the Congressman from New York, Sam Rayburn pointed out that the Electric Bond and Share Company, in one year, made a profit of $4,969,449.40 on their services to operating companies. Furthermore, added Rayburn: "Either it should have gone in dividends to the stockholders in the operating companies or in reduced rates to consumers, but not to Electric Bond and Share."55

55Ibid., p. 10373.
As the debate continued, Representative John E. Rankin, of Mississippi, Democrat, came to the defense of Sam Rayburn with these words:

Mr. Chairman, probably it is in order at this time for me to refer briefly to the gentleman from Alabama [Mr. Huddleston] who so attacked the Democratic administration, as well as the chairman of the committee, the gentleman from Texas [Mr. Rayburn] because, forsooth, the gentleman from Texas, after months of struggle with all these Power Trust lobbyists that have been down here in Washington for the last five months with all the propaganda that could be poured in here, and all of the other influence they could bring to bear, has been forced to bring in from this committee a bill to this House, this monstrosity that we hope to amend before we get through . . . .

I say this Congress and the American people owe the gentleman from Texas a debt of gratitude for the labor he has spent in this matter and for his courage in coming out here and saying, "I am going to help amend this bill and make it what it should be before it leaves this House."56

Another defense of the bill came from Representative Alfred F. Beiter, of New York, Democrat, who condemned the lavish spending policies of the utilities lobby and maintained that opponents of this legislation, due to their business and personal interests, were unable to look upon the matter in an unbiased manner. He added:

I have very great admiration for the gentleman from Texas [Mr. Rayburn] who is the very able chairman of the committee that reported this bill, and I listened with growing interest to his recent remarks concerning the concerted efforts of lobbyists to defeat the measure.57

In short, according to Representative Beiter, all of the lobbyists had one idea--killing the Wheeler-Rayburn bill,

56 Ibid., p. 10374. 57 Ibid., p. 10455.
and it was self-evident that they could not distinguish be-
tween a holding company and an operating company.

In further defense of the bill, Representative Maury
Maverick, of Texas, Democrat, called the attention of House
members to the Democratic platform with reference to holding
companies:

Regulation to the full extent of Federal power
of--
(a) Holding companies which sell securities in
interstate commerce.
(b) Rates of utility companies operating across
state lines. 58

In addition, Representative Maverick defended the holding
company bill as representative of good Democratic doctrine
since this party from year to year had always denounced
monopolies and there was no question but that the holding
companies were monopolies. "He said: "When any company be-
came too complicated in its structure, too widely spread,
and too powerful, it must in some way be curbed." 59

After
several weeks of debate on the Public Utility Holding Com-
pany bill, the matter was referred to a conference committee.

There was only one real controversial feature in the
entire Wheeler-Rayburn bill and that was subdivision B(3),
Section 11, of the Senate version which contained the "death
clause." Although a conference committee was necessary to
resolve differences on this section, the House and Senate

58 Ibid.
59 Ibid., p. 10677.
versions of the Wheeler-Rayburn bill, in other sections, were virtually identical. According to the compromise that was eventually adopted, orders of the Commission having to do with the elimination of a holding-company relationship must be confined to holding companies "whose corporate structure is at least three times removed from direct control or ownership of an operating company." 60

Furthermore, every order of the Commission in this limited field was subject to judicial review, and no order could be effective unless and until the court had approved it by its own order. The House conferees, under Rayburn's leadership, therefore, prevailed in the elimination of Senate provision B(3) of Section 11 which arbitrarily would have put out of business every holding company without respect to the degree of its remoteness from the operating company, without regard as to whether it was lawful or unlawful, and regardless of whether it was a necessary or an unnecessary holding company.

In opposition to the conference report, Representative Samuel B. Pettengill, of Indiana, Democrat, voiced his disapproval of Section 11(b)2 which gave the regulatory Commission power to require every operating company in the Nation that was part of the holding-company system to be reorganized for the purpose of redistributing its voting power in any way the Commission might lay down. As a result, Pettengill argued that bond houses and agencies that handle the sales of

60Ibid., p. 10678.
operating company stocks, together with investors, would be reluctant to handle securities whose voting rights were an unknown quantity.

Moreover, added Pettengill, this uncertainty thrown over operating-company stocks would inevitably result in increased dividend and interest rates which would be reflected in added cost to the consumer. Pettengill affirmed his respect for the sincerity of those who believed in public ownership and the nationalization of the utility industry. On the other hand, he admonished his colleagues: "Let us not subject the privately owned companies of the Nation to slow financial starvation, and thus make public ownership and nationalization inevitable."61

In this connection, the Indiana Representative emphasized that it had been difficult for the public to understand that the holding company bill affected operating companies equally. He concluded by stating his belief in the Democratic party platform calling for the strict regulation of holding companies, but was unalterably opposed to the destruction of privately owned operating companies. He concluded: "If any bill could be written which would more completely hamstring and retard the development and growth of the operating companies of this Nation, than the present bill, it is altogether beyond my imagination."62

61 Ibid., p. 14170. 62 Ibid., p. 14625.
In his rebuttal, Sam Rayburn said that he did not entertain the fears of either the gentleman from Indiana, Mr. Pettengill, or the representative from Alabama, Mr. Huddleston. In short, he emphasized that a vast majority of the 10,000,000 investors in utilities were the holders of stock in the operating companies rather than in the holding companies. In addition, he admitted that the Public Utility Holding Company bill was a drastic measure which would eliminate operations of many holding companies. On the other hand, he believed there were few people in the House of Representatives who were not convinced that a large number of holding companies, as they were set up, should go out of business. In any event, Rayburn declared that it was a good bill, and he was glad to have had his part in it. At the conclusion of Sam Rayburn's remarks, the House of Representatives voted to accept the conference report on the Public Utility Holding Company bill, thus successfully ending the long fight courageously led by the Congressman from Fannin County.

Summary

Sam Rayburn emphasized that his Committee had worked on the bill for five months and had given it more conscientious consideration than any other bill. Accordingly, he was able to gain enactment of this drastic bill through adroit maneuvering after a struggle with the power trust whose

Ibid., p. 14626.
lobbyists had used every device and influence to defeat the measure. Moreover, Rayburn refuted the opposition's argument that holding companies should be restrained rather than abolished. Since monopoly in the utilities industry had proved beneficial for the most part, therefore, an application of the anti-trust laws would not provide the solution. Consequently, Rayburn pushed for a Federal law to retain the benefits to the public by having public utilities serve as natural monopolies, but to eliminate that concentration of economic power inimical to the public interest. With this purpose in mind, he labored courageously to make the bill what he thought it should be and was successful, as a House conferee, in eliminating the drastic Senate version of Section 11 which would have dissolved all holding companies.

Furthermore, he convinced his colleagues that legislation of this character was necessary to preserve our system of private property in protecting the millions of investors and consumers. In short, Sam Rayburn fought vigorously for the holding company legislation, maintaining it was essential to make the system of individual enterprise and private property work fairly.
CHAPTER V

THE RURAL ELECTRIFICATION ACT

Background

In order to understand the circumstances necessitating the passage of the Rural Electrification Act of 1936, it is necessary to consider the thirteen-year struggle to bring electricity to rural America. This effort, initiated by representatives of the National Electric Light Association and the American Farm Bureau Federation, culminated in the organization on September 11, 1923, of the Committee on the Relation of Electricity to Agriculture known as "CREA."

The CREA, operating on the premise that agricultural prosperity depended on electrification, advocated use of private ownership of public utilities rather than ownership by municipal, state, or federal governments. The CREA was a research organization and an educational agency whose findings were used in an attempt to convince American farmers that electrical energy would be more profitable to agriculture than would be animal or other forms of motive power. Various journals and other media kept both the farmer and the electric industry informed of the Committee's discoveries. Although the practical objective of CREA was to increase the number of farms using electricity from 177,000 in 1923 to 1,000,000
in a ten-year period, this modest goal was not attained. On January 1, 1935, only 10.9 per cent of farm homes were equipped with electrical energy, leaving 6,000,000 American farms without electricity.

The reason for failure of the Committee is summed up by Harry Slattery: "The first essential of success was ignored because it was impossible for the average farmer to pay cash for constructing the lines, or contract for expensive wiring and equipment." By the end of 1931 widespread criticism was directed against the power companies for acting as a roadblock to the rural electrification movement. The narrow views of electric power companies were stated in Electrical World, May 28, 1932, in these words:

The primary interest of the electric utility in rural electrification is revenue. Sound responsibility is a factor, a strong one, but electric utilities are not eleemosynary institutions and they cannot undertake to serve any class of customers on any narrower base than that the revenue will pay at least the cost . . . .

It is evident from the above statement of policy that the electric industry's short-sighted attitude eliminated any chance for rehabilitation of farmers by private utilities and that dire economic circumstances necessitated action by government. The farm organizations maintained that electric

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2Ibid., p. 25.
cost must be lowered to a level where farmers could pay it out of their present incomes. Since farmers had expressed a unanimous desire for electricity, the American Farm Bureau Federation and the National Grange asked President Roosevelt to assist the rural electrification cause. Furthermore, President Roosevelt had become aware of the high farm electrical rates during one of his visits to "the little White House" in Warm Springs, Georgia. Realizing that his Georgia electric bill was four times the amount paid per kilowatt hour in his other home in Hyde Park, New York, and in line with the request of the American Farm Bureau Federation and the National Grange, he initiated a review of the whole subject of providing electricity for farm homes at a reasonable rate. This study was culminated by issuance of Executive Order No. 7037 on May 11, 1935, creating the Rural Electrification Commission "to initiate, formulate, administer, and supervise a program of approved projects with respect to the generation, transmission, and distribution of electric energy to rural areas."\(^3\)

Pursuant to the President's request, Congress appropriated $100,000,000 for rural electrification. In the judgment of one writer, the Executive Order was the result of lobbying of the major farm groups. He observed:

It is clear . . . that the President created the REA on the urgent solicitation of, and in

\(^3\)Congressional Record, 74th Congress, 2d Session, LXXX, p. 5281.
cooperation with major farm organizations of the nation, and also on the recommendation of special agencies of a highly technical character that had but recently investigated the question.4

In the first few months after the creation of the Rural Electrification Commission by Executive Order No. 7037, private utilities were slow to respond. Utility companies, in reply to REA tongue-lashings blaming them for backwardness in this field, said they could not afford to extend their lines into remote rural districts and still make a profit. Furthermore, utility companies claimed it was unfair to compare rural electrification in this country, where farms were scattered over a large territory, with that of France, Sweden, or Japan, where a concentration of population on compact farms could be easily and economically covered by transmission lines.5

Nine months after Executive Order No. 7037, a bill was introduced into Congress which would extend operations of the Rural Electrification Commission for a period of ten years. In the House, Sam Rayburn, as chairman of the Committee on Interstate and Foreign Commerce, sponsored the bill, while in the Senate, it was sponsored by Senator George W. Norris, of Nebraska, Independent.

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4 Slattery, Rural America Lights Up, p. 30.

5 "Brighter Farms," Literary Digest, CXXI (June 13, 1936), 8.
Provisions of the Bill

The proposed legislation was designed to create and establish an agency of the United States Government known as the Rural Electrification Administration (REA) under the direction of an Administrator who was authorized to make loans in the several states and territories for rural electrification and to make investigations and progress reports on the program.

The REA bill provided two types of loans: (1) those for the wiring of consumers' premises and acquiring and installing of electrical and plumbing appliances; (2) those for generating plants and distribution lines.

To finance the REA in its infancy, the Reconstruction Finance Corporation was authorized to make loans to the Administrator upon his request, approved by the President, not exceeding an aggregate amount of $50,000,000 for the fiscal year ending June 30, 1937. These loans were to be secured by obligations of borrowers from the Administrator. For the fiscal year ending June 30, 1938, and for each of the eight years thereafter, the bill authorized an annual appropriation by Congress of $40,000,000, thus eliminating the Reconstruction Finance Corporation's participation in the program.

It also provided that 50 per cent of the annual sums made available by the bill should be allotted yearly by the Administrator for loans in the several states. In addition,
the bill required that one-half of the annual sums would be divided among the states in proportion to their present lack of rural electrification, the balance allocated by the Administrator of the REA where he thought it could best be used.

Furthermore, the President was then authorized to transfer to the Rural Electrification Administration the jurisdiction and control of the records, property, and personnel used in the exercise of functions of the Rural Electrification Commission which had been established by Executive Order No. 7037.6

Committee Hearings

The Rural Electrification Act (known as the Norris-Rayburn Act) enjoyed the unusual position of being popular enough to go through the legislative process with practically no opposition at the Committee stage. In fact, the Senate Committee on Agriculture and Forestry eliminated hearings on the bill. Senator Norris explained this action as follows:

There are all kinds of organizations in almost every state in the Union—farmers' organizations, consumers' organizations, commercial organizations—which would have been glad to appear; but they were all in favor of the bill. They were all on record in favor of it. All of the great farm organizations, I think, have formally adopted resolutions favoring it and similar resolutions have been adopted by other organizations all over the United States.7

6U. S. Statutes at Large, XLIX, Part I, 1363(1936).
7Congressional Record, 74th Congress, 2d Session, LXXX, p. 2753.
Although hearings on the bill were held before the Interstate and Foreign Commerce Committee of the House of Representatives, little opposition developed, although opposing briefs were filed by the Committee of Utility Executives. The reason for lack of opposition was that the REA, by observing a cardinal principle not to compete with private utilities, won industry cooperation by showing that only a long-range program, subsidized by the Government, could accomplish large-scale rural electrification. Likewise, according to Time magazine, when REA provided no yardstick competition, the private power companies raised little objection to the Norris-Rayburn bill. Moreover, the power companies were in a position to receive additional profit from the sale of electricity in areas where they did not wish to make expenditure in extending their own transmission lines.

Debates in Congress

Since Sam Rayburn had undergone the privations of rural life in the East Texas agricultural area of Fannin County, it was especially fitting that he was to co-author the Rural Electrification Act because he realized that rural electrification could be one of the catalysts for economic recovery. In his opening remarks on the Rural Electrification bill, Chairman Rayburn stated:

3"Brighter Farms," Literary Digest, C.XXI (June 13, 1936), 8.

Mr. Chairman, it is a pleasure to me to be able once more to present a bill about which there is not so much controversy, and several members of the House, since the Securities Act of 1933, the Stock Exchange Act of 1934, and the Utility Holding Company Act of 1935, have also expressed great gratification that the Committee on Interstate and Foreign Commerce could bring a bill about which there was no seething controversy.10

He continued that it was evident that a government appropriation to ease the burdens of the farmers by bringing some of the comforts of life to their doors was not socialism. He supported his view with statements of bankers from his district, saying that their largest percentage of collections came from the farmers.11

In further defense of the bill, Rayburn expressed his belief that this legislation would be of great help to private industry in that electricity would be purchased from a power company if it could be obtained at a reasonable rate. Since the cooperatives would be set up on a non-profit basis, electricity could be furnished at the cheapest possible rate.

The Texas Congressman believed, however, that for this reason, the power industry would fight rural electrification cooperatives. He prophesied:

I have been dealing with them [the power companies] in politics up to my neck and am going to be from now until the 24th of July; but I do not think that with the Rural Electrification Administration

10 Congressional Record, 74th Congress, 2d Session, LXXX, p. 5281.
11 Ibid., p. 5282.
alert and vigilant, we are going to have much trouble about injustices being done to communities by a loan to a private company, and I do think it will enhance very greatly the rural electrification of the country, and bring a little more ease, a little more comfort, and a little more happiness to those people out there on the farm.\textsuperscript{12}

Congressman Rayburn pointed out the fact that there was little rural electrification in some of the richest agricultural sections of the country by citing as an example the rich farm lands of his Fourth Congressional District where only 621 of the 30,490 farm homes had the conveniences of electricity. It was, therefore, his desire to make farm families know they were no longer the forgotten people, but the strength of the Government.

Subsequently, he referred to a Committee Report on the bill by the House Interstate and Foreign Commerce Committee, presenting the views agreed upon. Incorporated within this report, at Chairman Rayburn's request, were the views of Administrator Morris L. Cooke of the REA on the bill. Quoting from the Administrator, Rayburn noted that Cooke expressed gratification that this legislation was being considered at this time and enumerated conditions which were revealed to the Rural Electrification Commission during its nine months of organization and operation:

1. American farmers are deprived of electricity in comparison with the farmers of many leading countries who have been assisted by their governments. . . .

\textsuperscript{12}Ibid., p. 5284.
2. Rural residents in all parts of the country are demanding electric service. . . .
3. The cleavage between urban and rural living conditions may be closed in a large measure by making electricity available to the millions of farms which are today lighted by oil lamps and which are without any semblance of plumbing and sanitation facilities.
4. Electricity, cheap and widely distributed through rural areas, is a prerequisite in the national effort to preserve our soils against erosion.\(^1\)

Again citing Administrator Cooke, Congressman Rayburn further emphasized that rural residents were dependent on a coordinated program such as this bill provided and that a national effort was necessary to furnish electrical power for the vast majority of the rural population. He repeated the indictment against the power companies in their efforts to skim off the cream of the business. This narrow policy resulted, he said, in the elimination of 90 per cent of the farmers from the benefits of electric service. The REA had adopted a policy of including all areas which could be covered in a self-liquidating project. Cooke emphasized, "Unsound practices must give way to the policy of considering the electrification of an entire area at one time, a progressive program which would be made possible by the bill under consideration.\(^1\)

\(^{1}\) Cooke, convinced that a service regarded as basic to urban society would enter into the planning and


\(^{14}\) Ibid., p. 27.
living of the American farmers, suggested a provision of unified control in which one agency would coordinate the financing of rural electric lines, wiring of the premises of rural consumers, and the purchase and installation of electrical and plumbing appliances. In short, such an effort would provide a primary step in cutting down the cost of rural electric service.

In conclusion, the Administrator enumerated the following benefits which would accrue to this country by the enactment of the Norris-Rayburn Act:

1. Orderly progress in rural electrification during the next decade, resulting in an improved standard of rural life.
2. Increased demands for durable and semi-durable goods which will contribute to the absorption of idle plant capacity, and the building and operation of new factories, which in turn, mean substantial additions to factory payrolls and industrial earnings.
3. Increased employment in needed construction for thousands of able Americans who are now seeking employment.
4. Permanent employment for thousands in the maintenance and operation of these lines.15

In concluding his discussion of the Committee findings to the House, Chairman Rayburn submitted a general statement that reflected the views of his Committee on the REA bill, in which he emphasized that no grant or subsidy was provided for in the bill, and that it was the express intention of the Act that all of the money loaned by the Government be returned with the specified interest. He noted that hearings

15Ibid., p. 6.
before the Committee revealed that 6,000,000 farms were not receiving central-station service, which convinced him that the rural electrification program would result in the farmer's becoming a better consumer of electricity than the urban dweller. In addition to the use of all the usual household appliances, Rayburn said the farmer was potentially a large consumer of power for water pumps, feed grinders, milking machines, small motors for a variety of purposes, and refrigeration. To this end, electricity would mean a saving of money and relief from drudgery on the farm.\textsuperscript{16}

According to Chairman Rayburn's statements, the Committee was convinced that for every dollar spent for line construction at least another dollar would be spent by consumers for wiring and appliances. It was a logical assumption that direct labor employed in line construction was supplemented by the increased work made possible in the manufacture of materials for this construction. Finally, Rayburn presented the summary statement of his Committee with regard to the REA bill:

There is no reason why the farmers of America should not have the conveniences, economies, and comforts which are a part of the modern, electrified home. It is believed that the 10-year program provided by this bill will aid greatly in establishing the much needed balance between urban and rural standards of life.\textsuperscript{17}

After Rayburn's presentation, Congressman Schuyler Merritt, of Connecticut, criticized the great powers given

\textsuperscript{16}\textit{Ibid.} \hspace{1cm} \textsuperscript{17}\textit{Ibid.}, p. 4.
to the Administrator by the bill. In his answer, Rayburn said that he was satisfied to lodge the power in a man like Administrator Morris Cooke, who was recognized as honest, sane, and patriotic. According to him, it was better to lodge the power in one man's hands since it was inevitable that a commission would develop into a debating society with the resultant delay in the expedition of business. Moreover, Rayburn contradicted Congressman Merritt's contention that the bill would socialize the industry when he emphasized that it was his belief that the industry would remain in private hands—a statement concurred in by REA Administrator Cooke.

In addition Rayburn said Congressman Merritt's section of the country was ruraly electrified more than 30 per cent in contrast to a mere 2 per cent of the farms in the State of Texas. The Bonham Congressman called the attention of his colleagues to the fact that there was no opposition from the great industrial centers when the Reconstruction Finance Corporation was set up to make loans to business which, Rayburn alleged, applied to only one certain class of people. He argued:

But why endorse loans to a certain class of people under the Reconstruction Finance Corporation and not to others? That is not socialism; that is not socializing industry to loan to one class; but when we appropriate a sum of money to make the burden of the people on the farms a little lighter and bring to their door some of the conveniences and some of the comforts of life, then some of our dear friends argue that we are going to try to
socialize the industry and that we are plunging the United States so deeply into debt that it can never get out.18

As the debate continued, Representative Luther Johnson, of Texas, Democrat, queried Rayburn about how the organization would be set up and whether units would be confined to some particular locality or county. Rayburn answered that there were communities in which present utilities could build lines provided the money was available. The bill provided loans for utility companies since some communities were too small to set up an independent rural electrification administration. Chairman Rayburn emphasized that his Committee was interested in bringing rural electrification to the country by any utility company who could provide it in the most economical manner. He explained that a community wanting rural electrification would form a cooperative under state laws and would then have its engineers draw up a report on the feasibility of the plan and forward the application to the Rural Electrification Administration. He pointed out that when the Rural Electrification Administration determined that the project was large enough and the use of electricity sufficient to liquidate the cost over a period of twenty-five years, it could then make a loan to this cooperative, private corporation.19

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18Congressional Record, 74th Congress, 2d Session, LXXX, p. 5281.
19Ibid., p. 5282.
In his opposition, Congressman Schuyler Merritt maintained the Federal Government was getting into many areas which the states ought to attend to themselves. Also, he reminded his colleagues that the more fully electrified states were not the result of any help from the Federal Government. Representative Merritt emphasized that the states had been built up under great hardships which resulted in a sturdy citizenship, and speculated that electrification would go on faster if the existing companies did not fear they would be decimated by Congress and the Administration. Congressman Hampton P. Fulmer, of South Carolina, Democrat, contradicted this statement by asking the gentleman from Connecticut (Congressman Merritt) to explain why the utility companies, prior to 1933, hesitated and completely stopped expansion. Likewise, Congressman Gardner R. Withrow, of Wisconsin, asserted that the power companies were pursuing their short-sighted policies of the past in their opposition to the formation of these cooperative companies. He said that power companies' charges of waste and excessive spending could not be associated with the Rural Electrification Commission created by Executive Order No. 7037.20

Representative James W. Wadsworth, Jr., of New York, offered an amendment to require farmers to furnish 15 percent of the cost of rural electrification projects. In offering the amendment he scathingly remarked:

20 Ibid., p. 5280.
I predict that if an act of God strikes one of these lines, the Government will have to take it over, unless the Administrator requires the rates charged to be large enough to provide a cushion, in which case they will be prohibitive. I am sick of the disillusionment handed out every year to farmers by Congress.²¹

As the controversy over this issue continued, Rayburn presented a strong defense of the 100 per cent loan in declaring that if Congress required the farmers to put up 15 per cent of the cost, it would be impossible for them to borrow on any such terms; but he reasoned that the farmers could finance connections with rural electrification lines and could buy their own electrical appliances.²² As a result of Rayburn's defense, by a majority of four to one, the Wadsworth amendment was defeated. By the combined unceasing efforts of Representatives Rayburn and Rankin in the House of Representatives and Senator Norris in the Senate, the United States Congress on May 20, 1936, one year after the President's Executive Order, passed the precedent-shattering Rural Electrification bill.²³

Summary

Five months after passage of the Rural Electrification Act, Louise Stanley of the United States Bureau of Home

²¹Ibid.
²³U. S. Statutes at Large, XLIX, Part I, 1363(1936).
Economics, proclaimed the effectiveness of REA policies in reducing the cost of electric service. As a result of modern design and construction methods, line construction costs had dropped by $500 to $1000 a mile. Consequently, the previous reluctance of utilities to provide service had been replaced by an eager desire from progressive companies to make line extensions. In addition, said the writer, rural electric rates were reduced 50 per cent in some areas. Thus, more farmers were obtaining electricity for the first time, and those who already had electricity were increasing their consumption of current.24

Senator Norris and Representative Rayburn, as leaders in the battle for creation of the Rural Electrification Administration, met a national need in arresting agricultural decline by presenting a program for a prosperous rural America. Although there were many obstacles in the path of this program, cooperating farmers and REA administrators were able to master new problems in law, engineering, finance, and relations between local, state, and Federal Government. To this end, the ability to organize and operate electric cooperatives was an amazing development characterized by skill in methods of employing professional and technical staffs. Moreover, the methods which members employed in organizing

and managing electric cooperatives furnished a concrete example of the functioning of the democratic process. Sam Rayburn, as co-author of the REA, saw a dream fulfilled when lights started to burn all over the farms of America.
CHAPTER VI
SAM RAYBURN: AN EVALUATION

Sam Rayburn's political skill is probably best exemplified by his patience in hammering out the cornerstones of the New Deal: the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, and the Rural Electrification Act of 1936. The statesman from Bonham executed the promise made in his first speech to Congress on May 6, 1913, when he said: "It is now my sole purpose here to help enact such wise and just laws that our common country will by virtue of these laws be a happier and more prosperous people."\(^1\)

As evidence that Sam Rayburn achieved his goal, President John F. Kennedy paid the following tribute to his statesmanship in November, 1961, following the Speaker's death:

... A strong defender of constitutional responsibilities of the Congress, he had an instinctive understanding of the American system and as a loyal counselor and friend of Presidents of both parties on the great matters which affected our national interest and security ... \(^2\)

In the realm of parliamentary procedure, Rayburn's knowledge of rules was tempered by his insight on how to use

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\(^1\) *Congressional Record*, 63d Congress, 1st Session, p. 1249.

\(^2\) *Houston Post*, November 17, 1961.
them. Although he spent a lifetime in partisan politics, a gentleness of spirit held down any bitterness from Democrat or Republican. He always followed his advice to freshman members of Congress when he said: "Be reasonable. Be fair." Consequently, the Texas Congressman believed that the law should never be used as an instrument of revenge by announcing this cardinal principle: "Legislation should never be designed to punish anyone. It must be fair. And ordinarily it's a question of regulating the minority--the pistol-toting minority." When queried on the concentration of minorities in some of the key committees in Congress, he commented: "We find out what seems to be a public wish is only that of a small minority. We determine that it is not in the public interest so we don't enact it."

Likewise, when asked if he was disturbed by the growth of government, Rayburn replied in the negative, saying it was the natural result of the growth of business and emphasized his belief in these words:

As we grow the Government must grow. It is one thing to pass the law and it is another thing to enforce it. I don't shrink from the proposition that the Government has grown, it has

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3 Memorial Services for Sam Rayburn, 87th Congress, 2d Session, p. 437.

4 David L. Cohn, "Mr. Speaker," Atlantic Monthly, IV (October, 1942), 74.

been adding something that was in the interest of the public.6

Although some of his conservative views of government contrasted sharply with those of the liberal Democrats, the net effect of his influence was moderation which helped bridge the gulf between the Northern and Southern wings of the Democratic Party. Hence, the Washington Post editorialized on his insight with these words: "It cannot be said of him that he was always right, nevertheless, he had a statesman's toleration for the public will running somewhat at variance to his own."7

In his opening campaign speech for Congress, July 15, 1912, Rayburn sounded a principle that was his guide through forty-eight years in national leadership. He pointed out that he had never represented a public service corporation; he referred to his experience with the law firm of Steger, Thurmond and Rayburn, in which Steger and Thurmond represented the Santa Fe Railroad Company. When he was offered a third of the monthly fee paid by the Santa Fe, Rayburn turned it down saying that a member of the legislature should be far removed from concerns whose interests he was liable to be called on to legislate. Therefore, he did not accept a dollar

6 Ibid.
7 Memorial Services for Sam Rayburn, p. 437.
of the railroad's money although he said: "I was legally entitled to it."\textsuperscript{8}

After Franklin D. Roosevelt's victory in the Presidential election of 1932, Rayburn was asked about Hoover's failure to alleviate conditions in the country during his term of office. Rayburn quickly charged that Hoover failed to cope with problems of 14,000,000 unemployed and of farmers who had to sell their products at a price below cost. The Congressman from Bonham emphasized in his speeches that in 1932 cotton sold for 4½ cents per pound, oats 9 cents a bushel, corn 15 cents a bushel, wheat 28 cents a bushel, a canner cow 1½ cents a pound, and a good steer 3½ cents a pound. Also, he repeated this speech for the next ten years in the Fourth Congressional District, telling his advisers that it continued to get the votes. In short, it was his desire to impress the younger generation that the seeds of depression were planted under Republican leadership in the White House and Congress.

A brief consideration of Rayburn's role during Republican ascendancy in the period 1920-1932 provided an essential background for the New Deal when as Chairman of the House Committee on Interstate and Foreign Commerce he was responsible for steering major legislation through the House. During the 1920s Rayburn sank into an inactive role due to

\textsuperscript{8}Bonham Daily Favorite, October 8, 1957.
Republican dominance and his own lack of initiative. However, he was building up his seniority and was content to wait for a more friendly atmosphere in the House. Although he was cognizant of what he called the abuse of executive appointive power, maldistribution of income, and foreign trade stagnation, Rayburn did not agitate for their correction. Rayburn, during this period, found much satisfaction as a protege of Congressman John Nance Garner of Texas by being "included in the after-hours group that realistically discussed the ins and outs of arising issues." The group, commonly referred to as Garner's "Board of Education" was generally well fortified with various liquors which they diluted with "branch water" and downed with enjoyment. The prohibitionist phrase they used to conceal this activity was commonly referred to as "striking a blow for liberty." These meetings, as unwholesome as they might sound, were actually the source of Rayburn's practical political knowledge since he learned many parliamentary maneuvers as he listened to the "Old Guard" Democrats discuss issues, conflicts, and controversies of the past and present. Subsequently, Rayburn organized his own "Board of Education" which functioned to mold a consensus.


10 Ibid.
about business before the House among a few influential Democrats.11

With the stock market collapse of 1929 and the ensuing depression and its urgent needs, Rayburn used the rising power of the Democratic party in the House to meet the challenge. Moreover, he had been preparing for this opportunity for three years by conducting investigations and preparing legislation.

After the election of 1932, Vice-President elect Garner considered Rayburn for Speaker of the House of Representatives. However, since previous commitments had been given to Representative Henry E. Rainey, of Illinois, Democrat, Garner saw the futility of his cause.12 Also, the Administration realized that Rayburn could be more influential as Chairman of the House Committee on Interstate and Foreign Commerce in passing the legislation which Roosevelt had outlined in the securities and holding company fields. At this time Rayburn faced a fundamental conflict between his older, conservative concepts and new liberal proposals. However, the decision to give his whole support to the New Deal was an easy adjustment for such a strong believer in party regularity. Thus, with the backing of fellow members of Garner's


12 Dorough, *Mr. Sam*, p. 224.
"Board of Education," Chairman Rayburn was in a strong position to contribute to passing four major bills: The Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, and the Rural Electrification Act of 1936.

In speaking of the bills he sponsored, Rayburn believed that the securities legislation and the holding company legislation were necessary to preserve the system of private property. He felt that the system of private property and individual enterprise, therefore, must be made to work fairly "if it is to be preserved from the attacks of predatory rich men on the one hand and selfish demagogues on the other." Again, he reminded his colleagues that it had become increasingly difficult for the Government to steer a middle course since the extremists to the right and the extremists to the left were coming more and more to have the same philosophy of government. He emphasized that the true conservative must fight vigorously to maintain the principle of fair play unless Americans were willing to change their system of private property. In other words, Rayburn held fast to the tenet that the bills he sponsored were conservative since they were aimed for the protection of millions of investors and consumers.

13 Congressional Record, 74th Congress, 1st Session, LXXIX, p. 2435.
Sam Rayburn, in his long fight with the power trust, had the respect and friendship not only of those who followed his leadership, but also of those who strenuously and adamantly opposed it. As evidence of Rayburn's conciliatory spirit, Wright Patman, of Texas, Democrat, a member of the House for over three decades, remarked: "When areas of conciliation were to be found, the welfare of the country and the free world often being involved in the stakes, you found them, not on the basis of capitulation of principle, but on the basis of mutual honor."\(^{14}\)

The Securities Act of 1933 provided for full and fair disclosure of the character of securities sold in interstate commerce and through the mails, and was designed to prevent fraud in their sale. By persuading his colleagues to vote for this bill which defined the duties of corporate officials to public investors, Rayburn achieved not only a new deal but a square deal to put the prospective investor in securities on the same level as the seller. After the bill reached President Roosevelt, the Chief Executive remarked that "this measure at last translates some elementary standards of right and wrong into law."\(^{15}\)


\(^{15}\)Franklin D. Roosevelt, The Public Papers and Addresses of Franklin D. Roosevelt (New York, 1938), p. 213.
The Securities Exchange Act of 1934 was the second major piece of legislation for the protection of the investor and, together with the Securities Act of 1933, placed a limitation on the bank credit for speculative purposes. According to the New York Times, the bill was "one of the most drastic regulatory measures ever submitted to Congress."\textsuperscript{16} Although Wall Street expected to be regulated after the 1929 crash, it fought for a more moderate measure. However, Rayburn said "the vicious attacks on the stock exchange bill, trying to tear it up by the roots, were not going to get anywhere but that the bill should pass substantially in its present revised form."\textsuperscript{17}

Under the Act, national securities exchanges and securities' brokers and dealers were required to register with the Securities Exchange Commission (S. E. C.) and file reports with it. In addition, the S. E. C. was given disciplinary powers over them. A corporation whose securities were traded on an exchange was required to register the securities with the S. E. C. and file periodic reports with it. The management of such corporations was prohibited from selling the corporation's securities short and from making short-term profits from trading in such securities. The management was required to file reports of holdings of the corporation's


\textsuperscript{17} New York Times, April 3, 1934.
securities, and management was prohibited from soliciting proxies except under conditions prescribed by the S. E. C. The extension of credit by banks and brokers to investors for the purpose of buying securities was to be made only on terms enumerated by the Federal Reserve Board. National associations of brokers and securities dealers were required to meet the regulations of the S. E. C. Finally, fraud and manipulative practices were made federal offenses.

The fight to pass the Public Utility Holding Company Act of 1935 was made against great odds by five men: President Roosevelt, Benjamin Cohen, Thomas Corcoran, Senator Burton K. Wheeler, and Congressman Rayburn. In the judgment of one writer, Rayburn's role was described as "friendly, soft-spoken, discreet, he handled deserters, recalcitrant captains and plain and fancy saboteurs in the holding company fight with patience and understanding and skill."18 Pursuant to the resolution which passed the House on January 19, 1932, authorizing the House Committee on Interstate and Foreign Commerce to investigate public utility holding companies, Rayburn called for assistance on Walter M. W. Splawn, former railroad commissioner of Texas, former president of the University of Texas, to have charge of the investigation. Immediately Splawn, together with a staff of experts, investigated every phase of the holding company in the utility field

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for a period of two years and filed on February 20, 1934, a report totaling 8,927 pages. For the next year, said Rayburn, Splawn and other experts were called in to work on details of a bill to cure the evils that had become evident in the field of public utility holding companies. Consequently, a year later, on February 6, 1935, Rayburn introduced the Public Utility Holding Company bill (H. R. 5423) after questions of the power of Congress to deal with the subject were cleared through the Attorney General of the United States. Therefore, Chairman Rayburn of the House Committee on Interstate and Foreign Commerce entered the conflict well-armed with facts.

After the bill was enacted, Rayburn emphasized that the day of the far-flung utility empire with its absentee management was done. Within three years, he said, holding companies which continued to exist, must limit their operations to a single compact system of operating companies, physically interconnected to form what the Act called an integrated system. He continued, saying: "No holding company can continue to hold scattered properties; no holding company can continue to dictate the rates and financial practices of local operating companies from one great financial center."20


Further, he claimed that the term "death sentence" was coined by the power trust not to protect investors but in an effort to maintain the power trust's profits and privileges and control over other people's businesses and lives. On the contrary, he charged, this term made the legislation popular because the American people demanded the destruction of the power trust which had cheated the investor and robbed the consumer.\(^1\)

Also, Rayburn said the Act would help investors since the only legitimate assets of the holding companies were the common stocks of the operating companies which would be benefited by removal of unnecessary holding company control, unnecessary holding company fees, and unnecessary commissions. He continued in these words:

> This Act will help the industry by freeing it from the control of high finance and restoring to it the good will of its consumers and investors without which its future growth would be imperiled—without which it could not possibly withstand the demand for public ownership. This is truly conservative legislation. It reforms—but it reforms to conserve.\(^2\)

In answer to die-hards boasting they would have the Act nullified as unconstitutional, he warned, the Act was reviewed by the best legal talent in America. In addition, he charged that no free government could tolerate the holding company evil, and, if the Supreme Court denied the power of Congress to

\(^1\)Ibid. \(^2\)Ibid.
effectively regulate the holding company, the Congress would tax the holding company out of existence.

Finally, Rayburn expounded his philosophy behind major New Deal legislation which he steered through the House of Representatives:

With the Securities Act of 1933, the Stock Exchange Act of 1934, and this holding company bill to complete the cycle, I believe that control is restored to the Government and the people and taken out of the hands of a few and that the American people will have cause to believe that this administration is trying and is establishing a Government of the people, by the people, and for the people. 23

The Rural Electrification Act of 1936 was also resisted by the power companies who raised the old battle cry of socialism, government interference, and extravagant spending. However, the effect of competition between the cooperatives and private corporations served to allay general criticism that the New Deal was socialistic. Rayburn refuted the cries of socialism by saying "that it is not socialism to lend to industry, but when we seek to make lighter the burden of rural residents some of our friends cry that it is socialistic." 24

As the author or co-author of major legislation in the New Deal period, Mr. Sam always looked with justifiable pride to the fact that none of these measures were invalidated by the Supreme Court. In short, the four precedent-shattering laws, discussed in this thesis, to protect

23 Ibid. 24 New York Times, April 10, 1936.
investors in industries, to regulate stock exchanges, to eliminate the majority of the holding companies, and to provide farmers with rural electrification, stand as everlasting monuments to his half-century of public service and to his unmatched leadership in the most important legislative body in the world.

The importance of his fine press relations was indicated by Washington reporters, Leslie and Elizabeth Carpenter, who observed that Rayburn measured up to the qualities which reporters asked of any public figure: (1) that he never lie to them, (2) that he be accessible. Furthermore, according to these Washington reporters, Mr. Sam never deceived the press in over forty years of public life. Such favorable relations with the press undoubtedly influenced public opinion which provided a necessary adjunct for steering major New Deal legislation through the House of Representatives. In addition, the correspondents maintained that Sam Rayburn exemplified these "qualities essential to democracy: compassion for people, action to assure the people the rights a democracy guarantees, and humility in the eyes of his neighbors and his God."25

Eric Sevareid, news commentator, paid tribute to Rayburn in a speech January 31, 1951, alleging that Rayburn was neither an orator nor a gifted man. In any event, he said, the

25 Bonham Daily Favorite, October 8, 1957.
ultimate test, which politics, as well as all forms of social life, made in the end was the test of character. He observed:

A few have learned to love Sam Rayburn, many to like him, all have learned to respect him. They respect him for his firmness, his patience, and his mastery of his job. But there is more to it than that—when they came to know him even a little, they sense in this homespun man a deep inexplicable faith in other men, an unarticulated love of his country, in its past and present and a natural unquestioning belief in its future. Most men are a little bit lost, most men of present politics are confused in this time of high pressure techniques and showmanship, of fear, and witty disbelief, and they sense in this man Rayburn something firm and clear, something that one can cling to.

... He follows the facts wherever they may lead. But because he feels that too many men live too meager a life, the facts generally lead him to conclusions which are liberal in the best, the moral sense of that word.26

A dominant theme running through Sam Rayburn's congressional record was his dedication to party loyalty. In this connection, it was his belief that the two great political parties, acting as a check on each other, must be preserved since competition would bring about the development of new ideas. Moreover, his complete commitment to the presidential leadership of the Democratic party brought this humble, honest man to the pinnacle of national prominence. During his early years in Congress, he was a strong supporter of President Woodrow Wilson's legislation and policies. Yet, in the period of Republican ascendancy, 1920-1932, Rayburn

26 Ibid.
turned to John Nance Garner and other "Old Guard" Democrats for guidance. As a result, he was ready for action in 1933 in working to bring this country out of the depression in accordance with the program of his close friend, President Franklin Roosevelt. In short, Sam Rayburn must be considered as a partisan Democrat who was closely aligned to the President. The New York Times commented a decade later on his partisan spirit which provided the foundation for holding the Democratic party together in enactment of legislation during the evolutionary New Deal period. The Times observed:

Mr. Rayburn, at 74 years of age, and quite apart from the fact that he is the most elevated Democrat in national office, is the undoubted patriarch of his party. He is the symbol of such helter-skelter unity as it possesses. He is a southerner whose greatest hero is Robert E. Lee but a politician with the longest record for liberal legislative achievement of any now alive. He is a fiercely loyal partisan in any and every season. In the most literal sense he holds his party above himself and all other men.  

Sam Rayburn's lengthy public career was marked by the depth and effectiveness of his leadership, which was characterized by loyalty to his country, unassailable honesty, and love for his fellowman. A key to his success was the ability to know people, to learn how to deal with them, and how to persuade and lead them. In this connection, Time magazine explained his actions on the floor of the House of Representatives thus: "In the House he seldom makes speeches

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on the floor and often appears at the back of the chamber standing by the hour with his arms on the rail behind the rearmost row of seats, quietly keeping an eye on what is happening, conferring in whispers with colleagues."\textsuperscript{28} Congressman Wright Patman commented on his legislative leadership: "In all my time," said Patman, "I never saw so much strong leadership and so little arrogance in a personality of such force in a position of such power."\textsuperscript{29} Patman declared that although his colleague could never be a doctrinaire New Dealer, he was responsible for putting on the statute books the "inner soul of the best legislative features of New Deal philosophy."\textsuperscript{30}

Furthermore, his belief in coming straight to the point characterized all of his speeches to the House of Representatives. For this purpose, he avoided flowery phrases and prepared speeches and preferred to speak extemporaneously with a minimum of notes. He was outspoken in deplored the use of ghost writers when he remarked: "A man ought to know what he wants to say and stand up and say it—or else keep his mouth shut."\textsuperscript{31} This device was effectively used by

\textsuperscript{28}"Leader Apparent," \textit{Time}, XXVIII (December 14, 1936), 15.
\textsuperscript{29}House Document No. 247, 87th Congress, 1st Session, p. 33.
\textsuperscript{30}Ibid., p. 34.
\textsuperscript{31}Jesse Laventhol, "Mr. Sam," \textit{Laredo Times}, November 21, 1961.
Rayburn in persuading other members of the House to agree with him.

An editorial in *Life* depicted the statesmanship of the farm boy who came originally from Tennessee as follows:

We shall not see his likes again. No other Speaker can possess his personal link to Appomattox or the wagon trail West. But the American character that forged Sam Rayburn's own need not change if we can teach ourselves and our sons to pursue as diligently his concepts of duty, integrity, loyalty, fairness, forgiveness and humility which made this simple man a great man. In his words we've got to if this country is to be free. . . .\(^3^2\)

In pursuing diligently his concepts of duty, integrity, loyalty, fairness, and humility, Sam Rayburn adhered to the principles of representative government when he fought to keep government at all times a true servant and not the master of the people. In addition, the Congressman from the Fourth Congressional District of Texas exerted untiring efforts to enable this country to maintain its world leadership in the struggle for peace, liberty, and justice for all men. With this object in mind during his congressional career, Sam Rayburn became a symbol of good government, sound legislation, and common sense in national affairs. He was a great statesman who never sought publicity and, therefore, was not so well-known to the public as some inferior Congressmen who had used publicity to good purposes. For this reason, Mr. Sam presented an image that was opposite to the concept of a

politician, particularly as that appearance was applied to a Texan since his restrained dress of dark suit, white shirt, and dark tie reflected dignity, modesty, good taste, and reserve.

Sam Rayburn's abiding faith in humanity was eloquently expressed when he responded to tributes paid by his colleagues as follows:

I know our country is great--men and women have made it great. I have the faith to believe that the youth of this land and the great schools, the high schools, colleges and universities of this land have within them the elements of good citizenship so that they will in the years to come preserve, protect, defend, and perpetuate the institutions of this the mightiest, the freest, and the best government that has ever blessed human beings at any time or in any clime.\(^{33}\)

Finally, his life story is that of an East Texas boy who set his goal on a rainy day in Bonham when he listened in awe to the silver-tongued orator, Congressman Joseph Weldon Bailey, and vowed to enter Congress and become Speaker. In his forty-eight years of public service in the Congress of the United States, Sam Rayburn followed the advice of his father on the occasion of his departure for Mayo's Normal College: "Sam, be a man."

\(^{33}\text{House Document No. 247, 87th Congress, 1st Session, p. 118.}\)
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