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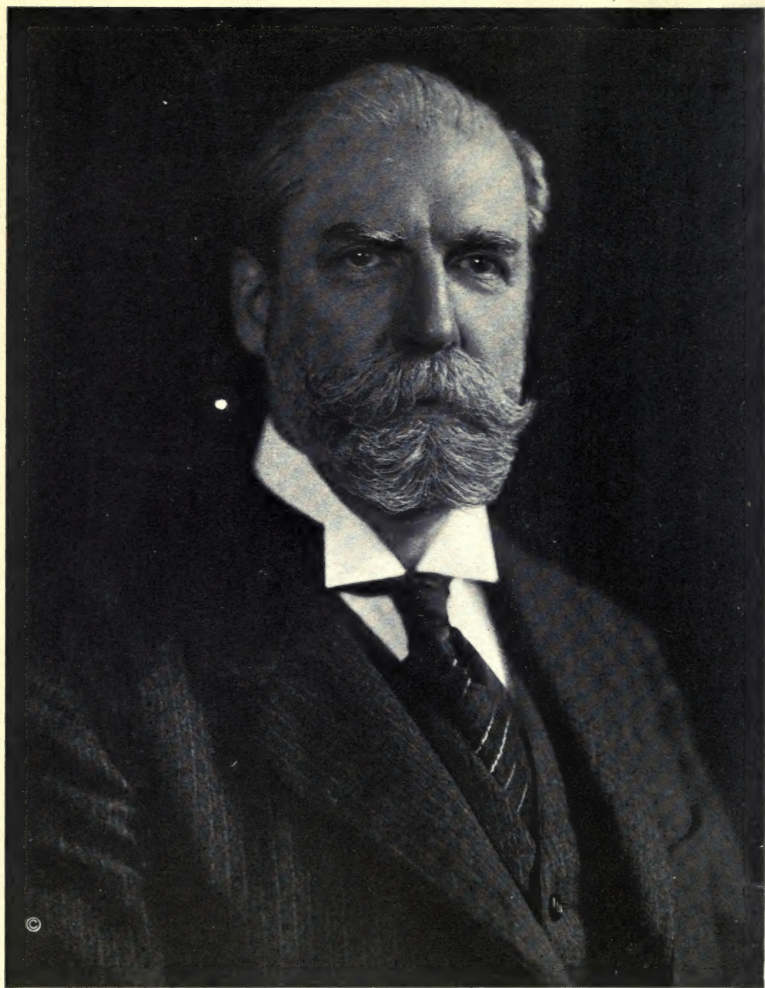
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Addresses

of

Charles Evans Hughes



1906-1916

Speeches
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With an Introduction by

Jacob Gould Schurman

President of Cornell University

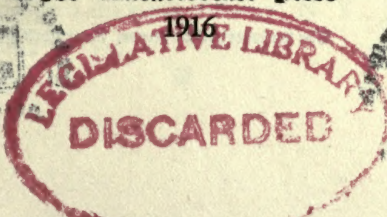
Second Edition

*Revised, with new material, including
The Address of Acceptance*

July 31, 1916

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INTRODUCTION TO THE SECOND EDITION

BY JACOB GOULD SCHURMAN

This new edition of Governor Hughes's Addresses, while omitting a few earlier speeches of local or transient interest, is enriched by the following additions:

(1) Telegram to the Republican Convention in Chicago accepting the nomination as Candidate for the Presidency, June 10, 1916;

(2) Address formally accepting the Presidential Nomination Delivered in Carnegie Hall, New York City, July 31, 1916;

(3) Address Delivered at Youngstown, Ohio, September 5, 1908, being the "Key-note" Speech in the Republican Presidential Campaign of that year; and

(4) Address before the New York State Bar Association, January 14, 1916, on Some Aspects of the Development of American Law.

This last address, unlike the other three, is the utterance of a Justice of the Supreme

Court of the United States. But while the address bears the high marks of its origin, I felt as I heard it delivered, and I feel now on reading and re-reading it that, though it could have been written only by a philosophical and learned jurist, no jurist could have produced it who was not also endowed with the qualities of a statesman and who had not enjoyed the experience of a practical administrator in one of the highest executive offices in the country.

The theme of this address is the recent development of American law. In certain fields that development has been so notable that it is said to mark a new era. Two in particular are signalized: (1) the exercise of the power of Congress in the regulation of interstate commerce, and (2) the establishment in Nation and State of administrative agencies with both legislative and quasi-judicial powers of vast importance.

The abounding activity of Congress in the field of interstate commerce is almost entirely included in the legislation of recent years, during which plans of regulation involving new exertions of Federal power have followed each other in swift succession. Those acts of Congress Mr. Justice Hughes as a member

of the Supreme Court has been called upon to interpret and apply. His judicial opinions have won for him the encomiums of the Bar and they have commanded the confidence of the general public. If he becomes President of the United States his mastery of this whole field of new and important legislation will be an invaluable qualification both for executive work and political leadership.

The other development of recent American law has had to do with the creation of administrative commissions vested with subordinate legislative and judicial functions. The

those bodies is to trans-
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 cases. An administra-
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 knowledge, flexibility,
 and sound judgment in
 relative principles to the
 created by expanding
 are the ideals that recog-
 Governor Hughes in the
 c Service Commissions
 work and in the appoint-

ment of the members. In this field of the modern development of American law he has been one of the most original and successful leaders.

These two developments of modern American legislation, it is next pointed out, increase both the difficulty and the importance of the work of the Courts. With Congress constantly expanding the implications of the commerce clause, and the States through the agency of commissions and otherwise constantly pressing their action to the constitutional limit of State power, it is plain that "our dual system of government is being subjected to a new and severe strain." Take transportation, for example. The commerce that is interstate is also intrastate; it has "no separate existence in economics and is not separately maintained by transportation companies or by those engaged in trade." Who can say again, when an employee of a railroad company, like the Pennsylvania, is engaged in interstate or intrastate commerce? The railroad has economically but one value; yet for legal purposes it must be apportioned to different jurisdictions. It is the case "of many governments, within one nation, dealing with portions of an activity which has economic unity."

But difficult though it is to carry out the will of Congress over the activities within its control without encroaching upon the State field, Mr. Hughes remains convinced of the necessity of autonomous local governments. He even says that "if we did not have States we should speedily have to create them." Fortunately we have a Union of States each autonomous in its local concerns. And "necessary local autonomy" must be as jealously safeguarded as "unity of control in national concerns."

But one of the cardinal principles of our constitutional law is that, "within its sphere as defined by the constitution, the Nation is supreme." Where the exercise of a power by the Federal Government is authorized "there is no reserved power to nullify it." This principle is obviously essential to the maintenance of national integrity, and it is, says Mr. Hughes, "continually calling for new applications." Thus regulations required in the exercise of the judgment committed to Congress for the protection of interstate commerce cannot be made nugatory by the mere commingling of interstate and intrastate transactions. The supremacy of national power, when lawfully exercised, does set limits

to the activities of the States. In the past this Federal power has been in large measure dormant; its exercise "has awaited the revelation of a national need and the presence of a gradually forming national sentiment." It is now recognized that many matters are of such a nature "that but one authority can be exercised over them, and the Federal power must be exercised or none at all."

There are, however, "a host of local necessities which may fall under the jurisdiction of the States even though interstate commerce be incidentally affected, at least "until Congress should act and by the exertion of its constitutional authority supersede State laws by its own requirements." And of course there are those matters which as being exclusively local lie outside the sphere of Federal power and come solely under the jurisdiction of the States.

Clearly this expounder of the law is a vigorous Nationalist. Yet he would not impair the just and proper local autonomy of the States. Nor indeed would he leave it to the Courts exclusively to draw the line between State and Federal jurisdiction. He makes an original and statesmanlike plea for "wise co-operation" between the State and National authorities. "I suggest," he adds, "that the resources of

accommodation have not been exhausted; indeed, they have scarcely been touched." Often the differences between State and Federal laws "are due more to accident or lack of forethought than to difference in deliberate purpose." When Congress has legislated on a subject within its province why should not variations in State statutes be examined, with a view to harmonizing the legislation? The "various administrative commissions" might be utilized for the prevention of unnecessary divergencies in legislation or for the formulation, after careful analysis and sympathetic consultation, of the outstanding and apparently irreconcilable differences in legislative policy. "I should think," says Mr. Hughes in concluding his discussion of this original and valuable suggestion for the conciliation of State and Federal interests and the unification of State and Federal law, "I should think that many of our difficulties might be solved by perfecting the machinery of administration with the direct purpose of promoting harmony of action in dealing with those activities which are conducted in the world of affairs as parts of the same enterprises."

Besides the constitutional adjustment of National and State power, modern legislation

is constantly raising questions involving the application of the historic clauses of our bills of rights securing life, liberty, and property. Here, also, says Mr. Hughes, "our system is under an increased strain as efforts to impose new obligations are brought to the constitutional test."

The obviously proper course for the Courts to pursue is to ascertain the spirit and original object of the bill of rights. There was no intention, for example, by the adoption of the Fourteenth Amendment to fossilize procedure—to confine State practice to archaic forms. That would be "to deny every quality of the law but its age and to render it incapable of progress or improvement." The object was to preserve and enforce the primary conceptions of liberty and justice with reference particularly to personal freedom, property, and other fundamental rights. The prohibition "was not intended to override legislative action by the views of Judges as to its wisdom." The Amendment was "the affirmation of individual rights deemed to be fundamental." It is a perversion of the spirit and purpose of the Amendment when it is understood as denial of "legislative authority to enact reasonable measures for the promotion of the

safety, health, morals, and welfare of the people." Some restriction upon the enactment of substantive legislation the Amendment does indeed empower the Courts to impose. But this interposition of judicial scrutiny the people desire in the interests of liberty and justice. And in the opinion of Mr. Hughes,

"it is not a function likely to be disturbed so long as Judges in the discharge of their delicate and difficult duty exhibit a profound knowledge and accurate appreciation of the facts of commercial and industrial activity, and by their intelligence and fidelity in the application of the Constitution according to its true intent commend its guarantees to the judgment of a fair-minded people jealous alike of public rights and individual opportunities."

The sentence just quoted from Mr. Hughes is one of great significance. He had already declared that the bill of rights was not to be used by the Courts as an instrument for restricting authorized legislative power or sound legislative discretion. The guarantee of individual rights deemed to be fundamental, the Fourteenth Amendment does however empower the Courts to nullify legislation which invades those fundamental rights. But

even in the exercise of this authorized judicial scrutiny the Judges, Mr. Hughes declares, must be conversant with the signs of the times, must know and appreciate the facts and conditions of contemporary business and industry, and possess a sympathetic insight into the problems—practical, economic, and ethical—which arise out of those conditions and relations. In other words Mr. Hughes declares that while the people desire the exercise of legislative power to be scrutinized by the Courts in order to conserve the essentials of liberty, they desire it on the understanding that the Judges are not only able and learned jurists but also intelligent and fair-minded men thoroughly conversant with, and sympathetically appreciative of, the economic and industrial conditions and problems of this twentieth century.

Mr. Hughes thus conceives the Courts as he conceives the Executive and Legislative powers as agencies of progress, all alike engaged in modifying and gradually adapting their inherited structure, functions, and activities to the new needs and ideals of modern life and civilization. And in this very connection he finely expresses his ideal for the Courts:

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"I like" he says "to think of the Courts as in the truest sense the expert agents of democracy,—expressing deliberate judgment under conditions essential to stability, and therefore in their proper action the necessary instrumentalities of progress."

Those who know Charles E. Hughes need no assurance that as a Justice of the Supreme Court of the United States he strove by his own work to realize this progressive ideal. And the proof of his success lawyers read in the opinions he rendered. I am sure that only a Judge's experience of the highest activities of which the human mind is capable in wrestling with obscure problems of right and justice could have suggested to Mr. Hughes this noble definition of the judicial function:

"It calls for a statesmanlike appreciation of past, present, and future, through which alone the Judge can meet his responsibilities as the interpreter of legislation in the expanding life of democracy."

In conclusion Mr. Hughes adverts to two tendencies in legislation which are a menace to the Courts. In the first place there is the tendency to assign to the Courts administrative duties which do not belong to them; and, secondly, Judges are sometimes denied appropriate authority.



This latter tendency betrays "a regrettable distrust" of Judges. It is probably a part of the democratic dislike of experts which John Stuart Mill noted long ago as a characteristic of Americans. At any rate, says Mr. Hughes, "there can be no respect for the law without competent administration, and there can be no competent administration without adequate power."

As regards the other danger to the Courts—assigning to them administrative duties—it doubtless "arises from distrust of powerful administrative agencies." Mr. Hughes characterizes it as "the wrong way to reach the right result." It is bad for the Courts and bad for the administrative boards or commissions. The transference of administrative business to the Courts would overwhelm them while undermining the administrative agencies. The Judge, who had also been Governor and who had established the Public Service Commissions of New York, had learned from reflection and experience the respective functions of Courts and administrative agencies, and knew that the one could not be substituted for the other without injury to both. Hence he declares with a somewhat heightened emphasis:

“It can not be too strongly insisted that if we are to have these important administrative instrumentalities properly perform their duty, they should stand on their own footing, and that the public should realize that their safeguard is not in injecting the Courts into the work of administration, to the confusion of both, but in maintaining an enlightened policy and in insisting upon proper standards of official conduct.”

The Address before the Bar Association was delivered while Mr. Hughes sat on the Supreme Court. The Youngstown Speech was delivered before his appointment to that Court and while he was serving his first term as Governor of New York. It was everywhere regarded as the ablest and most effective speech made in the Presidential campaign of 1908. It is reprinted here partly on account of its intrinsic excellence, but mainly because it shows Mr. Hughes's position on National questions, some of which are still vital.

Most of the issues raised by Mr. Bryan, however, were, like Mr. Bryan's own Presidential candidacy, so completely disposed of by Governor Hughes in this speech that no one but the political historian has to-day any interest in them. His plans for the reform of the rules of the House of Representatives, for

the control and dissolution of corporations, for the guarantee of bank deposits, and similar nostrums have gone the way of his "reform" of the currency by the free coinage of silver and of the railroads by government ownership. As to Mr. Bryan's own candidacy Governor Hughes scathingly observes:

"If all that Mr. Bryan has favored during the past twelve years had been enacted into law we should have been overwhelmed with disaster and would regard it as our chief business in the future to find a way of escape from the meshes of ill-considered legislation in which we would have been entangled. It is fortunate for him as well as for us that he was defeated, and whatever may be his present political potentiality may be ascribed to the fact that hitherto he has not been permitted to carry out his program."

As to the tariff Governor Hughes recognized the need of revision. But he stood as firmly for the protective principle in 1908 as he stands for it in 1916. And Governor Hughes's argument against the tariff policy of the Bryan Democracy seems equally applicable against that of the Wilson Democracy. Let the reader judge by the following extract:

"The Republican Party stands for the policy of protection. It maintains its historic position in

defense of American standards of living and of the American scale of wages. The Democratic Party seeks, as Mr. Bryan construes its platform, to overthrow protection and to establish a revenue tariff. Instead of a readjustment of protective rates and a fair arrangement of schedules consistent with the long established policy of the country under which our trade has been developed and our industrial activities have attained their notable expansion, he insists on an overthrow of the entire system of protection, thus threatening the dislocation of trade and the most serious disturbance of industry. He seeks not tariff revision, but tariff revolution."

But, as I pointed out in the Introduction to the first edition of these Addresses, Governor Hughes is unique among our public men in laying emphasis on administration as the chief function of Government. He declared that if we could secure the administration of every office in accordance with the fair intent of the statute creating it or with constitutional requirement we should find almost all our problems solved. He was not likely therefore in 1908 to overlook the fact that the campaign was a contest for the Presidency—for the office of the Chief Executive of the Nation. Mr. Bryan was an accomplished orator, a restless agitator, a fecund compounder of legislative panaceas, an artistic

constructor of party platforms. "But," said Governor Hughes, "first and chiefly we are electing a President, the Executive of the Nation." He is to be a man of deeds, not of words; his business is administration, not talking or even writing. And though in a Presidential contest the parties may also submit their "legislative proposals," who can foresee what the problems confronting the nation in the next four years may be? The man whom the voters elect to the Presidency must be wise and strong enough to deal with these unforeseen contingencies. In his hands lies the safety of the Republic, in his keeping is its honor, his is the obligation to defend and maintain the National rights. Listen to Governor Hughes's own words:

"There are a thousand exigencies in the affairs of this great Nation which cannot be foreseen or attempted to be controlled by any platform. The sagacity, steadiness of character, firmness, and sound judgment of the Chief Executive must be the security of the Nation in many a trying emergency."

And again:

"The quality of the National Administration on its executive side will depend entirely upon the man who is chosen to be President. Whatever else we may do

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or fail to do, that we can determine in our vote for Presidential electors. The character of our diplomacy, the concerns of our insular possessions, the management of our vast internal business, and the many intricate questions which lie within the range of executive discretion are in the hands of the President for the weal or woe of the Nation."

The passage just quoted from Governor Hughes's Youngstown Speech of 1908 is an appropriate and illuminating introduction to his Telegram and Address of 1916 in acceptance of the Republican nomination for the Presidency. These also emphasize the necessity of vigorous administration and firm and unflinching maintenance of all the rights of American citizens on land and sea.

"America first and America efficient," that was the key-note of the formal Address of Acceptance.

It was a memorable address. The day, July 31st, had been the hottest of the year; and the heat continued with scarcely any abatement through the evening. Mr. Hughes spoke an hour and a half, yet he showed neither in voice nor manner nor appearance the slightest indication of fatigue. Carnegie Hall was crowded to its utmost capacity and no one left till the end. I never saw a speaker

listened to with closer or more intense attention; and the enthusiasm and repeated cheering showed he had won his audience.

The great day of assize had come for the Wilson Administration. Its record of more than three years was to be passed in review and critically examined for the American people by a great expert investigator. Mr. Hughes applied a severely practical test. He paid little attention to what the President had said and written. Words are empty. What alone interested Mr. Hughes was what the Administration had done. And of the acts of the Chief Executive he characteristically placed foremost the making of appointments. Similarly, in his speech in Detroit, August 7th, Mr. Hughes, without mentioning any names said:

“Some men want to be judged by their words, but I judge them by the men they appoint to office.”

And again in his speech in Chicago, August 8th, he declared more specifically:

“One of the very serious charges which must be laid against the present Administration is the charge of putting incompetent men into important positions. I say that if I am elected President of the United States I propose that every man that I put in charge

of an important department shall be a man eminently fit to discharge the duties of that department."

Readers of Mr. Hughes's formal Speech of Acceptance of the Presidential Nomination will find it permeated with this conception of administrative responsibility. Almost at the beginning he observes that it was the first duty of the Executive "to command the respect of the world by the personnel of our State Department and our representation abroad." But this obligation was not performed. The interests of the Nation were sacrificed by the appointment of inexperienced persons "to meet partisan demands." And in Santo Domingo, where we had a special trust, the American representative was requested by the Secretary of State in Washington to let him know "what positions you have at your disposal with which to reward deserving Democrats."

But this disregard of proper standards, though peculiarly disastrous in its effects on the diplomatic service, is not limited to appointments in that field. It is equally conspicuous, says Mr. Hughes, "in appointments to important administrative positions in our domestic service." Even in the technical

bureaus scientists have been driven out and supplanted by politicians. Nor have the barriers of the civil service laws protected worthy officials, while statutes creating hosts of new offices have specifically exempted them from the operation of the merit system. And all this, it may be added, under a President who till he came into office was supposed to be a staunch friend of civil service reform!

"This paying of political debts with public office," said Mr. Hughes in his speech in Fargo, North Dakota, August 10th, "is honeycombing our administrative life. I am opposed to it. If I am elected that sort of thing will have no place in my appointments."

And the proof of the absolute trustworthiness of this promise is furnished by the administrative record and the list of appointments made by Mr. Hughes while Governor of New York.

One of the most effective things in the Speech of Acceptance is the discussion of the Mexican situation. "Decrying interference," says Mr. Hughes "we interfered most exasperatingly." The course of the Administration served only to promote the existing anarchy. And no good came of it to ourselves: our citizens were murdered, their property

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destroyed, and Mexicans turned into suspicious and resentful enemies. The Administration failed to realize the meaning of its exertions either of diplomacy or force. To attempt "to control the domestic concerns of Mexico was simply intervention"; to invade Vera Cruz "was war." Meanwhile hundreds of Americans at Tampico were left to a terrible fate, from which they were rescued only by the charitable good offices of British and German officers and ships. "We must," exclaims Mr. Hughes sarcastically, "take Vera Cruz to get Huerta out of office and trust to other nations to get our citizens out of peril." Certainly this "meddlesome interference" in Mexico reverses all sound international principle and policy. The Administration undertook to manage the domestic affairs of Mexico, and at the same time denied protection to American citizens in Mexico!

What course then should the Administration have pursued? Mr. Hughes answered that question in his Speech of Acceptance. And he expanded his answer in the Detroit Speech of August 7th, from which the following is taken:

"We had certain things that we had a right to demand of Mexico; and there was a proper way of

demanding them. We should have said that we insisted upon the protection of the lives and property of American citizens. . . .

“There is no question about recognizing Huerta. That was a matter to be determined according to proper principles, according to the understanding of the Executive as to the capacity of that Government to furnish adequate protection and discharge international obligations.

“But our Administration said to Huerta: ‘You get out. You can’t even be a candidate. We won’t allow you to run for office. We are so determined to get rid of you that you can’t put yourself up to be voted for.’ And immediately after recognition was withdrawn from Huerta it was extended to that incomparable, that ideal character Villa.

“In my judgment the Administration did a very wrong thing in abandoning its proper international attitude and taking the attitude that no international lawyer could understand—that no Mexican could understand.”

Thus Mr. Hughes is opposed to the American Government interfering in the domestic concerns of Mexico, but he demands that Mexico shall protect the lives and property of American citizens and the security of our border from depredations. He would give ungrudging support to any stable government in Mexico appropriately discharging its international obligations. And he declares that

“a short period of firm, consistent, and friendly dealing will accomplish more than years of vacillation.”

Incidentally Mr. Hughes has demonstrated that President Wilson was singularly unhappy in describing his Mexican policy as one of Watchful Waiting. It has clearly been a policy of Woeful Wobbling.

In the Speech of Acceptance Mr. Hughes passes from our Mexican relations to our European Relations. It is claimed that President Wilson kept us out of war. But what European belligerent wanted to take on as an additional enemy this rich and powerful Nation of 100,000,000 people? And the American people, peace-loving now as always, certainly did not desire war. Hence, as Mr. Hughes says, “we should not have found it difficult to maintain peace, but we should have maintained peace with honor.” So far is it from true that the Administration has kept us out of war that, on the contrary, “the only danger of war has lain in the weak course of the Administration.” Weakness, vacillation, and delay have fatefully characterized our diplomacy since the beginning of the European War. Therein lay the danger of war,—therein, and not in the objective

situation. For, as Mr. Hughes in his Fargo Speech has said: "weakness breeds insult, insults breed war; honest, firm, consistent, determined defense of rights establishes peace and respect throughout the world."

We were certainly entitled to the safeguarding of all American rights on land and sea. But this has not been secured. The lives of Americans have been ruthlessly destroyed. An Administration remiss with respect to the protection of American lives is not unnaturally remiss with respect to the protection of American property and American commerce. It has however, shown itself strong in the use of words. But "what does it avail," asks Mr. Hughes, "to use some of the strongest words known to diplomacy, if Ambassadors can receive the impression that the words are not to be taken seriously?"

American diplomacy is a peaceful method of securing the observance of American rights and the acceptance of American policies. It is not an exercise in writing notes and despatches. As Mr. Hughes observes, "the chief function of diplomacy is prevention." During the European War the business of diplomacy was first of all to have prevented any invasion of our known rights. Most people will agree

with Mr. Hughes that it is a great mistake to say that resoluteness in protecting American rights would have led to war. And he also voiced a growing public conviction in the following weighty declaration:

“Had this Government by the use of both informal and formal diplomatic opportunities left no doubt that when we said ‘strict accountability’ we meant precisely what we said, and that we should unhesitatingly vindicate the position, I am confident that there would have been no destruction of American lives by the sinking of the *Lusitania*.”

On the subject of National Defense Mr. Hughes, as in dealing with foreign affairs, mingles severe criticism of the Administration with a clear exposition of his own policy. To the pacifist he proclaims that “adequate preparedness is not militarism: it is the essential assurance of security; it is a necessary safeguard of peace.” To the public he reports that we are “shockingly unprepared.” The spectacle on the Mexican border furnishes the incontrovertible evidence of our unpreparedness. There, merely to prevent bandit incursions, we have had to send all our available regular troops and our entire National Guard. And this Guard made up of men

snatched from peaceful employments, physically unprepared, without proper equipment, without necessary supplies! The need of organization and preparation ought to have been readily foreseen during the past three years of disturbance. But foresight, preparation, and prevention have been as markedly lacking in the Administration's conduct of our military as of our foreign affairs.

The demand for "reasonable Preparedness" did not come from the Administration. On the contrary, President Wilson described the leaders of the movement as "nervous and excited," and declared that the question was not a pressing one. The pressure of public sentiment has compelled the President to reverse himself on this subject as he has reversed himself on many other important subjects. Then came a program from the Secretary of War which the President declared to be "absolutely imperative now." But this program was within two months abandoned and the able Secretary of War resigned from the Cabinet! What Mr. Hughes plainly calls the "incompetent naval administration," however, still remains.

Mr. Hughes demands adequate national defense, adequate protection on both our

Western and our Eastern coasts. The regular army is too small. "I believe," he says, "there should be not only a reasonable increase of the regular army, but that the first citizen reserve subject to call should be enlisted as a Federal army and trained under Federal authority." There is a further demand which is strikingly characteristic of the man who showed himself a good business administrator while Governor of New York. It is the demand "that our military and naval program shall be carried out in a businesslike manner under the most competent administrative heads; that we shall have an up-to-date preparation; that the moneys appropriated shall be properly expended." Nor is preparedness merely a military requirement. We should also have careful plans "for mobilizing our industrial resources, for promoting research, and utilizing the investigations of science."

The remainder of the Speech of Acceptance deals with a number of other subjects. Among these is our trusteeship of the Philippines, Woman Suffrage, Administrative Reform, and a National Budget. The interests of Labor are considered more fully, but Mr. Hughes's sympathetic attitude towards this great cause

was well known from the days of his Governorship. The farmers of New York State also remember Governor Hughes's deep interest in practical and scientific Agriculture, which is also considered along with Conservation in the Speech of Acceptance. Two topics remain which are discussed at considerable length: one the Conditions of Trade and Industry and the other the Organization of Peace.

"When we contemplate industrial and commercial conditions we see that we are living in a fool's paradise." This is the way in which Mr. Hughes describes the temporary prosperity that has come to our country as a result of the sale of munitions and war supplies and other commodities needed by the belligerents. But war is developing in the European countries national solidarity, individual energy, improved methods, thorough organization and co-operation, and incredible efficiency. In this country, "with the stoppage of the manufacture of munitions, a host of men will be turned out of employment." The competition of European workmen will be more severe than ever before. We on the other hand are "undisciplined, defective in organization, loosely knit, industrially unprepared." In view of the coming conflict with an ener-

gized Europe, what avails it to boast of our munition-made prosperity of to-day?

If ever Protection to American industries was necessary it will be necessary at the close of the European War. So much even the Democrats seem to have read in the book of destiny. For though in 1912 they declared in their national platform that it was unconstitutional "to impose or collect tariff duties except for the purpose of revenue," they now declare for a tariff commission, propose a temporary protective duty on dyestuffs, and in lieu of other protective duties draft legislation against dumping.

Nothing could show more strikingly the spirit and tendency of the times than the Democratic abandonment, or at least abatement, of the principle of a tariff for revenue only. But the concessions to the principle of protection have been extorted by fear and the force of events. And a party "without principle" is little qualified to frame any tariff. That work must be undertaken by the Republican Party which believes in the principle of protection and which, being a national and not a sectional party, will frame tariff schedules with a view to the "promotion of the prosperity of every part of the country."

It must have the aid of an expert commission which must plan "for the safeguarding of our economic independence, for the development of American industry, for the maintenance of American standards of living." The prosperity of industry and commerce is of the greatest practical and even ethical importance. For, as Mr. Hughes puts it, "there is no forward movement, and no endeavor to promote social justice, which in the last analysis does not rest upon the condition that there shall be a stable basis for honest enterprise."

But may not the advocates of a protective tariff use legislation to enrich favored interests at the public expense? That question Mr. Hughes met squarely in his speech at Billings, Montana, August 11th. Reminding his audience that he had done his share in attempting to correct public abuses, he declared that if elected President nothing would be "pulled off" in tariff legislation for private benefit if he knew it and could prevent it; and he then made the following statement regarding his attitude to the fundamental problems of the business world:

"I believe, that in this country we must be strong enough and able enough to prevent abuses, to prevent unjust discriminations, to prevent monopolistic prac-

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tices, fearlessly to prevent any action inimical to the public interests, while at the same time we encourage honest American enterprise, seek an expansion of our trade, endeavor to have our foreign commerce extended, and in every way make the American name commercially a name of the first rank throughout the world."

Other constructive policies Mr. Hughes also considered in his Speech of Acceptance. We must "build up our merchant marine," but it is "a counsel of folly," he declares, "to put the Government into competition with private owners," as President Wilson has so long and so obstinately attempted to do. Secondly, in view of the expansion of our commerce, especially foreign commerce, we require "the most efficient organization, quite as efficient as that found in any nation abroad"; and this it should be possible to devise and put into effect without permitting monopoly but "without hobbling enterprise or narrowing the scope of legitimate achievement." Thirdly, our transportation system, while always remaining subject to effective regulation with a view to the protection of the public interest, must be relieved of the incubus of conflicting jurisdictions which now hamper its activities and restrict its expansion and de-

velopment; and this reform can be accomplished "without the sacrifice of any interest that is essentially local."

Finally, we come to Mr. Hughes's plan for the Organization of Peace. Practical, sensible, hard-headed, and unsentimental in the consideration of all our national affairs, he does not lose his grip on the actualities of the world when he comes to discuss the subjects of international justice, the prevention of war, and the establishment of peace, though in his utterances one can recognize that those ideals lie very near to his heart. No man in America is less of a militarist, yet no man sees more clearly that the recurrence of war is not to be prevented by pious wishes. If war is to be prevented it can only be, he tells us, through "the development of international organization in order to provide international justice and to safeguard, so far as practicable, the peace of the world."

If Mr. Hughes should become President of the United States, his experience as a Federal Judge, valuable as it would constantly be in dealing with the administrative and legislative problems coming before him, would be of quite extraordinary service and helpfulness in his attempt to perform, or to aid in performing,

the highest duty now lying upon the civilized world—the duty of putting international relations as far as may be on a basis of justice in orderly substitution for force. For the Supreme Court of the United States interprets and applies international law as well as statute law, and Mr. Hughes for six years has been exercising that high function. Furthermore, all thoughtful students of the subject recognize that the first essential element in international reorganization is a world-court, and for this world-court there is probably no better model in existence than the Supreme Court of the United States.

This international tribunal would dispose of all controversies between the nations which are susceptible of judicial determination. And besides a world-court it would be essential to have a world-parliament—that is, “conferences of the nations to formulate international rules, to establish principles, to modify and extend international law so as to adapt it to new conditions.” For the settlement of controversies which are not of a justiciable sort instrumentalities of conciliation would need to be developed to supplement the practice of recourse to arbitration. But one condition remains—an all-important one.

“Behind this international organization,” says Mr. Hughes, “if it is to be effective, must be the co-operation of the nations to prevent resort to hostilities before the appropriate agencies of peaceful settlement have been utilized.” The most perfect international organization will break down before a single quarrelsome or even excited nation unless it has behind it “the preventive power of a common purpose.” In the last resort everything depends on effective “international co-operation.” But with such international co-operation affording a practical guarantee of international order not only might we hope for the prevention of war but also for the limitation of armaments and the reduction of the burden of taxation they impose on the inhabitants of every country.

While “we, in this country, can and should maintain our fortunate freedom from entanglements with interests and policies which do not concern us,” no American will be found to deny that “the peace of the world is our interest as well as the interest of others.” And if at the close of the present war the nations are ready to concert measures “to secure international justice,” the United States of America, recognizing her duty to

herself and to civilization, should be a sympathetic and active member of the body. And in view of his ability, training, ideals, and high judicial as well as administrative experience, Charles E. Hughes, if he is then President of the United States, could not fail to exert extraordinary influence on such a conference of the Nations.

INTRODUCTION TO THE FIRST EDITION*

BY

JACOB GOULD SCHURMAN

PRESIDENT OF CORNELL UNIVERSITY

Charles Evans Hughes, Governor of the State of New York, was born in Glens Falls on April 11, 1862. His father, the Reverend David Charles Hughes, was of Welsh descent, and his mother before her marriage was Miss Catherine Connelly. At the time of his birth, his father was pastor of the Baptist church in Glens Falls.

Mr. Hughes began his education at a public school in Oswego, where his father was preaching, and continued his studies in Newark, N. J., and in New York City. He was a pupil of Grammar School No. 35 in New York City, when in June, 1875, at the age of thirteen, he delivered the salutatory address in the Academy of Music. At the age of fourteen he entered Madison, now Colgate University, in Hamilton, N. Y. After remaining there two years he entered Brown University in the sophomore class. He was

* This Introduction is reprinted without change except that the first two and a half pages of it have been replaced by the following ten pages (*See New York Red Book, 1909*).

nominated as one of the Phi Beta Kappa men of the junior year, and he won the Dunn Premium for the highest standing in English Literature. He also became a member of the editorial staff of the "Brunonian." Mr. Hughes graduated from Brown when he was nineteen years of age, in the class of 1881, delivering the classical oration by virtue of his standing third in the class. He also took one of the two Carpenter premiums which are assigned to the two members of the senior class who "shall, in the judgment of the faculty, unite in the highest degree the three most important elements of success in life—ability, character, and attainment." The other prize went to Charles C. Mumford, now associate judge of the Superior Court of Rhode Island.

After his graduation Mr. Hughes taught Greek and Mathematics in the Delaware Academy, at Delhi, N. Y., at the same time studying law in the office of Judge Gleason. He left the Academy in 1882 to enter the Columbia Law School. While he was in the law school he devoted a portion of his time for a year to the study of law in the office of General Stewart L. Woodford, who was then United States District Attorney, and during a part of his last year in the University he

acted as clerk in the law firm of Chamberlain, Carter & Hornblower, which later became Carter, Hornblower & Byrne. He graduated from the law school in 1884, and was admitted to the bar in the same year. He held a prize Fellowship from 1884 to 1887. In the latter year he became a member of the firm with which he had connected himself before his graduation. Mr. Hornblower and Mr. Byrne had then withdrawn and the title of the firm became Carter, Hughes & Cravath. Mr. Hughes continued in practice until 1891, when his health being threatened he became a Professor of Law in Cornell University. He left Cornell in 1893 to resume the practice of law, rejoining his old firm which became Carter, Hughes & Dwight. The firm's name remained unchanged until 1903 when Mr. Dwight died and was succeeded by George W. Schurman, a brother of Jacob Gould Schurman, President of Cornell University. Mr. Carter died in 1904, and Mr. Hughes became the head of the firm, the name being again changed to Hughes, Rounds & Schurman.

The New York Legislature in 1905 appointed a special joint committee headed by Senator Frederick C. Stevens of Attica, N. Y., to investigate the gas and electric lighting

companies of New York City. The committee engaged Mr. Hughes as its counsel.

The Legislature of 1905 in special session appointed a joint committee, headed by Senator William W. Armstrong of Rochester, to investigate the business of life insurance. Mr. Hughes was then in Switzerland, but the manner in which he had conducted the lighting investigation suggested his name as counsel for the insurance investigation committee. He was asked to serve in this capacity and he accepted, cutting short his trip abroad to assume the duties of the appointment.

The disclosures brought out by the investigation attracted much attention to Mr. Hughes's work as counsel for the committee, and in the fall of 1905, although the investigation was not then more than half completed, the Republicans of New York City determined to nominate him as their candidate for mayor against Mayor George B. McClellan, Democrat, and William R. Hearst, who ran as an independent nominee. Although Mr. Hughes declined to permit the use of his name and discouraged the demand for his nomination, the Republican City Convention insisted upon making him its candidate.

The committee of notification of the Re-

publican City Convention notified Mr. Hughes of his nomination on October 9, 1905. In declining to accept he said:

"In my judgment I have no right to accept the nomination. A paramount public duty forbids it. It is not necessary to enlarge upon the importance of the insurance investigation. That is undisputed. It is dealing with questions vital to the interest of millions of our fellow citizens throughout the land. It presents an opportunity for public service second to none and involves a correlative responsibility. I have devoted myself unreservedly to this work. It commands all my energies. It is imperative that I continue in it. . . .

"I do not believe that the man lives, and certainly I am not the man, who, while a candidate for the mayoralty, could perform with proper efficiency that part of the work which has been devolved upon me in the pending inquiry. If I were to accept the nomination for the high office of mayor of this city I should be compelled to curtail this work, and this I have no right to do."

The insurance investigation entailed an immense amount of labor. The report of the committee with a series of bills embodying their recommendations was presented to the Legislature of 1906, and the legislation proposed was enacted without change.

After the close of the investigation Mr. Hughes was designated as one of the special

counsel of the United States Department of Justice to conduct an inquiry for the purpose of ascertaining whether prosecution should be taken against the coal-owning and -carrying railroads under the Anti-Trust and Anti-Rebate Laws. In the summer of 1906, a strong demand arose for his nomination as the Republican candidate for Governor. And when the Republican State Convention met in Saratoga, Mr. Hughes was nominated by acclamation. He was formally notified of his nomination in the Republican Club in New York City. In his speech of acceptance he said:

“We enter upon the campaign inspired by the example and fortified by the achievements of our great leader, Theodore Roosevelt. The national administration with its record of established reforms has strengthened its hold upon the confidence of the people. . . . Our State administration has also accomplished many genuine reforms. The gas and electric monopoly of New York City has been subjected to impartial investigation and a statute has been passed fixing the rate to private consumers at eighty cents a thousand cubic feet.

“Corporations have been prohibited from contributing to political campaign funds.

“The business of life insurance, of vital consequence to the security of our home, has been purged of its abuses and placed under restrictions conserving the interests of policy-holders.

“What then is the supreme issue of this campaign? It is not an issue of the Republican record. It is not an issue of Republican principles or of Democratic principles. It is not a partisan issue at all. It is the vital issue of decent government. It is an issue which shall array on one side all lovers of truth, of sobriety and of honest reform, be they Republicans, Democrats, or Independents.

“I promise an honest administration.

“No interest, however prominent, will receive any consideration except that to which upon the merits of the case it may be entitled, when viewed in the light of the supreme interest of the people.

“It will be my aim to make the administration of the government efficient and economical.”

The exigencies of the campaign compelled Mr. Hughes to make an exceedingly vigorous canvass of the State, extending to every large city and in fact throughout nearly all the rural counties. He was the only candidate of the Republican State ticket who was elected, receiving a plurality of 57,897 votes over William R. Hearst, the nominee of the Democratic party and of the Independence League. The total number of votes cast for Mr. Hughes was 749,002 and for Mr. Hearst, 691,105.

Mr. Hughes assumed the office of Governor on January 1, 1907. During his term of two

years he greatly commended himself to the people by his courage, his fearlessness, his independence, his single-eyed devotion to the public interests, his reformatory zeal, his firm enforcement of the laws, his high and strict standards of administration, and his marked capacity alike for popular leadership and wise constructive statesmanship. His renomination by the Republican party was a foregone conclusion and he was re-elected for a second term in November, 1907. He continued in this term the excellent record he had made during the first. But he was not destined to complete it. In May, 1910, President Taft appointed him associate Justice of the Supreme Court of the United States and on October 10, 1910, he entered upon that office, having resigned the Governorship on October 6. The judicial opinions he has written during the last half dozen years are the permanent evidence of his great legal ability and learning. Dedicated to the administration of justice he withdrew absolutely from politics, and though the people continued to talk of him for the Presidency he scrupulously refrained from saying anything on the subject except to forbid the use of his name or the election of delegates in his interest. When, in spite of him-

self, he was nominated on June 10, 1916, for the Presidency, under the most flattering circumstances, by the Republican National Convention, which merely reflected a nation-wide popular demand, his first act was to resign from the Supreme Court and, that done, he next telegraphed to Chicago his acceptance of the nomination. That telegram, as well as his speech in reply to the formal notification, which was delivered in Carnegie Hall, New York City, on July 31, have, along with his famous Youngstown speech in the campaign of 1908, been included in this new edition of his Addresses.

The wide general interest in Mr. Hughes's career as Governor of New York and the public approval of his policies and administration are very significantly indicated by the honors which during those years were heaped upon him by the colleges and universities of the country. The honorary degree of LL.D. was conferred upon him by Columbia University, Knox College, and Lafayette College in 1907, by Union University and Colgate University in 1908, by George Washington University in 1909, and by Williams College, the University of Pennsylvania, and Harvard University in 1910. Brown University had already (in 1906) bestowed upon him the

honor of an LL.D. degree, and Yale University was to follow with the same distinction in 1915.

Mr. Hughes is a member of the American Bar Association, of the State Bar Association, and of the Bar Association of the City of New York. He is a Fellow of Brown University and a Trustee of the University of Chicago. He is also a member of the following clubs: University, Union League, Lawyers, Brown, Delta Upsilon, and Nassau Country.

Mr. Hughes married on December 5, 1888, Miss Antoinette Carter, who was a daughter of the senior member of the law firm of Carter, Hughes & Dwight. He has four children, Charles E., Jr., who is a lawyer in New York, and Helen, Catherine, and Elizabeth.

So much of the main facts of Mr. Hughes's life. We now proceed to note certain characteristics of the man and to essay some estimate of his attitude towards public questions. And though all that follows was written of the Governor of 1907 it holds true of the Presidential candidate of 1916.*

Governor Hughes possesses a powerful intellect, which is at once acute in action and comprehensive in range. Analysis is the mark of the great lawyer, and Mr. Hughes has this faculty in its highest

* Reprinted from *The Independent*, December 26, 1907.

potency. Not less admirable is his ability to grasp quickly a complicated mass of facts and arrange them in logical order. I have seen him work himself into new questions, feel his way to the heart of them, then gradually marshal the facts with reference to some fundamental principle or some significant circumstance until the whole situation became luminous even to the mind of a layman; and all this time the speaker talked literally "like a book," and what he said might have been printed almost without change in a treatise on law or a commentary on cases. But this gift of intellectual divination and synthesis marks the creative mind. Mr. Hughes is not only analytic and critical but creative and constructive. His friends, his associates at the bar, and the judges of the courts have long admired this remarkable combination of gifts. And the general public have become aware of them also since Mr. Hughes followed up his wonderful gas and insurance investigations with drafting remedial legislation, and especially since as Governor he framed his Public Utilities Bill as a solution of the gravest question of public policy now before our people.

Quite as remarkable as his intellectual gifts



is his sense of justice and fair play. This was impressively recognized the other day by Mr. Ahearn when, at the close of his examination, he said that, whatever the finding of the Governor, he desired to thank him for the courtesy and fairness of the examination. Similarly, Mr. Hughes's fearlessness and independence have for many years been well understood by those who know him. And his firm attitude toward hostile politicians and legislators since he became Governor has given open proof of these characteristics to the public. Indeed, the moral attributes of the man are quite on a par with his intellect, powerful and capacious as that is, even if they do not surpass it. For Mr. Hughes has always been distinguished by absolute integrity of character and fidelity to duty. It is no accident, but the deepest instinct and conviction of his nature, that has made him the exponent and champion of the sacredness of fiduciary obligations alike in business and in politics. His own personal life is built on that foundation and his own professional practice as a lawyer has been regulated by that principle. It meant fidelity to all his clients, but subserviency to none. He never accepted general retainers involving his commitment to any and every kind of

service. Both his integrity and his sense of independence forbade truckling to any client and condoning dubious or crooked ways.

I have said that Mr. Hughes is a marvellous worker ; he also becomes absorbed in his work so that for the time being nothing outside the range of his duties can greatly interest, much less excite him. It is not merely power of voluntary concentration, but involuntary absorption in the object of his activity. His work literally takes possession of him and has at command the best that is in him. It is consequently impossible for him to do anything he undertakes in a half-hearted or slipshod manner. Whether teaching law, defending a client, or administering the affairs of the State of New York, he gives himself to the duty in hand with such whole-souled earnestness and devotion that no energy or interest is left for outside matters which do not concern him. And this circumstance, along with a large natural endowment of common sense and excellent practical judgment, will explain why his course as a public servant has been so sure-footed and unerring. Few men have entered on public office surrounded by so many dangerous pitfalls; I recall no man who has made fewer mistakes. In view of it all one might

say that he is not only safe and sane, but almost infallibly sagacious.

He has clearly defined to himself the scope and functions of his office as determined by the Constitution and the laws. So much the intellect of the man imperiously demanded. Then, having made clear to himself what ought to be done, he has dedicated all his powers to the service of the State; at the same time he has rigidly and inexorably drawn the lines which separate the office of Governor from the functions of the Legislature on the one hand and of the Judiciary on the other. And being Governor, he has felt it incompatible with the dignity of the office or the duty he owes to all the people of the State to give any attention whatever to party politics or to party organization and management. While he was nominated by a party, he holds himself since his election the servant of the people and of the people alone.

Mr. Hughes is under no illusions concerning his nomination and election to the Governorship. He knows that the party leaders in general were opposed to him. They accepted him only because it was finally recognized that no other Republican nominee could win victory at the polls. My own personal belief

is that no one contributed more effectively to the enforcement of that view than President Roosevelt. As a most sagacious party leader, the President recognized in the hero of the gas and insurance investigations a name to wrest victory in a critical contest in his own State. I believe that in the interest of the party he urged the nomination, and that this pressure was the deciding influence in the convention. But all the while Mr. Hughes stood aloof as though the matter were no concern of his. And indeed he regarded it as no concern of his. He would not say he desired the office; he would not authorize any one present to present his claims or herald his availability. It was a matter solely for the people of the State to decide.

In the Latin language *ambition* meant a candidate's going about to solicit office. Of such a quality Mr. Hughes is absolutely devoid. It is one thing to fill an office and another thing to get an office. To get an office has never been Mr. Hughes's aim or desire. His opportunities of public service have come to him unsought. It is not that he regards himself as superior to other men or that he does not value the good opinion of his fellow citizens. He does appreciate the confidence and es-

teem of his fellows. But if they want him for public service he feels that the call should come from them; and if they do not want him he does not desire the office; so that in any event there is absolutely nothing for him to do. And he is so far from cherishing any illusions as to his comparative standing with other men that he recognizes very clearly that his nomination to public office was due to a combination of circumstances which made him, in the estimation of his party, the most available man. He is the last man in the world to think himself a Moses, he knows he is not essential to the State, he does not pretend to be a leader with a mission, he claims only to be an every-day American citizen, who was selected for the Governorship (out of a number of others any one of whom might have been chosen) because of his prominence in the insurance investigation, which he had undertaken, not on his own initiative, but at the request of a legislative committee. As he would have nothing to do with getting the nomination, as the coming of the nomination to him was no concern of his, so there remained open to him only one way of showing his appreciation of the confidence which had been vouchsafed to him by the people of the State,

namely, by discharging the high duties to which they had called him with all the ability, wisdom, and virtue he could command. To thank any person or persons for the nomination would have been tantamount to the confession that these persons had done him a favor. But from Mr. Hughes's way of looking at a nomination as a call of the people to serve them, with which he had no concern, it will be obvious that such a procedure would have been a stultifying of himself. On the other hand, inclination, duty, pride, and self-respect all conspire to move him to make a record as Chief Executive which shall amply justify the wisdom of the convention and the confidence of the people.

"A disposition to preserve, and an ability to improve, taken together, would be my standard of a statesman," says Burke. Whether Mr. Hughes is in the habit of reading Burke I do not know. But his record since he became Governor admirably illustrates Burke's conception of a statesman. Recognizing that government is a marvellous contrivance of human wisdom to provide for human wants, that it embodies the collective judgment, intellectual, moral, and practical, of many generations, including individuals wiser

and juster than any now alive, and that the government of the United States, in particular, is the best and noblest system which the political genius of mankind has yet produced, a statesman of the type described by Burke would look with suspicion on all sorts of projectors of innovation that threatened the Constitution and the well-established institutions of the country. But he would also recognize with Burke that "a state without the means of some change is without the means of its conservation." The principle of correction is as essential as the principle of conservation. But changes are not to be made at random, still less for the satisfaction of some abstract theory or dogma. Every change is to be made for the remedy of some definite evil, and it should be confined to the peccant part only and not extended to unoffending members or healthy functions. And as it is circumstances which render every civil and political scheme beneficial or noxious to mankind, every proposal of reform should be considered on its own merits and especially with reference to its suitability and potency to remedy some particular evil in the existing system.

Now look at Governor Hughes's utterances

and official acts. "Human Society," he declared at Chautauqua in August last, "cannot be stable unless it is progressive." The republic, like every other living and growing organism, must by successive changes adapt itself to its environment. But these affect, as it were, the outer parts of its organization. In itself considered, the republic, the Governor went on to say, "may be likened to a man of excellent constitution and native vigor who finds there is no evidence of decay in his vital functions, and that there is every indication of fundamental soundness and of steady improvement." The analogy will be complete if we suppose this fundamentally sound man "determined by a proper system of hygiene and suitable rules of conduct to correct some disorders in his system and come as closely as possible to perfect health." And the first hygienic rule laid down by the Governor is "to avoid undue excitement of the nervous system." A most characteristic precept!

Happily we are not concerned with organic evils in the body politic. There are, indeed, functional disorders to be corrected. To diagnose them and to prescribe remedies is the business of reason and judgment. The first step is a knowledge of the facts. But this

is not to be found in "scrappy sensationalism or distorted emphasis," still less in shrieking hysteria. It is a work of quiet, careful, and painstaking analysis and reflection. And till the truth regarding both the existing evil and the proposed remedy is accurately and exhaustively known, no healthful or sensible action can be taken. Consequently, the reign of reason in government implies patience. And the need of patience "is the hardest lesson for a democracy to learn." Yet Governor Hughes has no vague fears about the outcome. He has a profound belief in the ability of the American people "to cure existing evils without disturbing their prosperity." This is because the vital parts of our political organization are not impaired and retain efficiency to regenerate any defects. Thus conservation and correction go hand in hand. And the way of salutary correction of reform is always by patience, by deliberation, by wisdom, by truth, by justice and fair play, as Governor Hughes never wearies of proclaiming.

But we may submit the Governor's theories to the test of actual practice. How has he in his official acts managed to combine reform—not merely specious, but thoroughgoing and effective—of notorious abuses with a tender

and reverent conservation of the Constitution and the existing institutions and machinery of government?

A test case is found in the Governor's policy of regulating the Public Service Corporations. It was for the State the problem which President Roosevelt had stamped upon the consciousness of the nation, and solved in a way that will give him a permanent place in American history.

"By his vigorous administration," said Governor Hughes in his speech before the Republican Club of New York City, "his virility, his broad humanity, and his determined opposition to notorious abuses, our fellow citizen, the distinguished President of the republic, has won the hearts of the people. We have not only his example, but we know that he is and has been in cordial sympathy with every effort for efficient administration, for the correction of evil and for the improvement of our laws."

But not only the interests concerned, the legislators of both parties were at first opposed to the Governor's measure of reform. The Governor, on the other hand, was deeply persuaded that it was the duty of statesmanship "to remove the causes of unrest which lie in abuses of public privilege." A fundamental purpose of his measure of reform was to vindicate the adequacy of our institutions to put an

end to abuses without tumult or disorder, without injustice or demagoguery." The measure itself provided, to the fullest extent consistent with constitutional requirements, methods of investigation and redress through which the public obligations of reasonable, impartial, and adequate service could be enforced and public safety and convenience be conserved. In a speech delivered at Utica on April 1 the Governor explained his measure to the public, and four days later he defended it against criticism in a speech at Glens Falls. The proposed bill for the regulation of the public service corporations was, I might perhaps not incorrectly say, based on the recognized principle that the tenure of their property was the performance of some duty. The Governor calmly, dispassionately, but with logical impressiveness, pointed out "that the people, without animosity toward the rights of property, but with a just insistence upon the performance of public obligations, demand that the State shall exercise its power over its creatures and compel due regard for the duties which are correlative to the privileges it has granted." Every power which a corporation has is derived from the Legislature, which creates it. A Public Service Commission is an administrative board, which

represents the Legislature in the supervision and control of these creatures of the laws, its function being to secure for the public, safety, impartiality, adequacy of service, and reasonable charges. Nor is the existence and exercise of this power inconsistent with property rights. For "the property of a public service corporation has been acquired subject to this power." And as no person can, under the Constitution, be deprived of his property without due process of law, the courts will protect the corporations against regulation which has the effect of confiscation. The Governor objected to giving the courts power to review *all* orders of the Commission, first, because this would overwhelm the courts with business of a purely administrative character, and secondly, because it would in effect make the legislative Commissions purely advisory bodies and the courts themselves the final ruling administrative authority. There were other explanations equally broad and convincing, but I have space to quote only one paragraph from the speeches, which is, however, an example of the Governor's manner of statement, argument, and logical appeal:

"Those who desire to insure the stability of honorable business enterprise; those who desire to maintain an or-

derly society, secure against the success of insincere and inflammatory appeal; those who desire to maintain our institutions, with their guaranties of equality before the law and with their blessings of opportunity, realize that the time has come when the State must assert its power firmly and justly in putting an end to existing abuses, both in the administration of government and in the management of those concerns which derive their vitality from public franchises. Those who oppose this just sentiment chant their own requiem."

With those speeches the Governor left the fate of his bill to the people and their representatives in the Legislature. There was no longer doubt of the result. And to-day the people of the State of New York have a model law providing for the just and effective regulation of their public service corporations.

The Governor's bill for the regulation of our public service corporations is, so far as I know, the most thoroughgoing and radical measure of the kind that has ever been enacted by any Legislature in America. Its justification is that it rests on sound principles of law, on justice and expediency. It is a real remedy for real evils, and in its operation it cannot but promote public tranquillity and enhance respect for law, order, and just government. I have already spoken of its affiliation to President Roosevelt's measures for the regulation of

interstate railways. It is interesting to observe that Governor Hughes's bill gives the State Commissions power to control the issue of stocks and bonds by public service corporations, power which, as the Governor explains, is necessary not merely to protect the investor, but to prevent the crippling of the public service or the demand for extortionate charges. It is a similar power which President Roosevelt desires to confer upon the Interstate Commerce Commission. In the fundamental policies of their administrations—the public regulation of railways—President Roosevelt and Governor Hughes are of identically the same mind.

But while Governor Hughes can be a thoroughgoing radical in correcting serious evils in the administration of government, nothing could be more foreign to his nature than the arts of the demagogue or the acts of passion, folly, and injustice in which those arts are so constantly exhibited. Governor Hughes is a man who would follow his own sense of truth and justice even at the peril of popular displeasure. The guardian of the interests of the people, he has courage and magnanimity enough to protect those interests by measures which, through the influence of misrepresenta-

tion or the first impulse of uninformed judgment, the people themselves might hesitate to endorse or actually condemn. But, as Alexander Hamilton said in defining in *The Federalist* the qualifications which are necessary in a national chief executive :

“The republican principle demands that the deliberate sense of the community should govern the conduct of those to whom they intrust the management of their affairs; but it does not require an unqualified complaisance to every sudden breeze of passion, or to every transient impulse which the people may receive from the arts of men who flatter their prejudices to betray their interests.”

Governor Hughes's courage was strikingly evinced in his veto of the two-cent railroad fare bill. Other States had passed such measures. In this State there was dissatisfaction with existing conditions. A wave of resentment against the railways was sweeping over the country. The two-cent passenger act had come to be regarded as a test of loyalty to the cause of the people, and no Governor anywhere, whatever his views, had been strong enough to resist the overwhelming pressure. Under these circumstances Governor Hughes sat down and wrote an able and dispassionate message in which, on grounds of justice,

public policy, and practical expediency, he vetoed the bill. Here are some of the grounds on which he based his action :

True to his character, the Governor first made the point that facts had not been ascertained before the passage of the bill. There had been no official investigations, no reports, no collecting of statistics. The Legislature had acted without information and without suitable deliberation. It is of the utmost importance indeed that "the management of our railroad corporations should be subject to strict supervision by the State, and that regulations compelling the observance of the law and proper and adequate service should be rigidly enforced." Nevertheless, the Governor was convinced that the bill under consideration represented "a policy seriously mistaken and pregnant with disaster." The railroads have indeed been guilty of treating the public unfairly,

"but injustice on the part of the railroad corporations toward the public does not justify injustice on the part of the State toward the railroad corporations. The action of government should be fair and impartial, and upon this every citizen, whatever his interest, is entitled to insist. We shall make matters not better, but worse, if to cure one wrong we establish another. . . . In

dealing with these questions democracy must demonstrate its capacity to act upon deliberation and to deal justly."

The Governor recognized that a maximum two-cent passenger rate might not be unreasonably low. It might be high enough in many cases—possibly in all. The fact was, however, that no one knew, and that the Legislature, before acting, had not secured the necessary information. And to enact legislation involving property rights in ignorance both of the conditions of the business concerned and of the effect upon it of the policy proposed was something that the just, deliberate, and law-abiding mind of the Governor could not by any possibility have approved.

"I deem it most important," the Governor went on to say, "that the policy of dealing with matters of this sort arbitrarily, by legislative rule of general application, without reference to the demands of justice in particular cases, should be condemned. Every workingman, every tradesman, and every citizen believing himself to have aught at stake in the prosperity of the country, should determinedly oppose it. For it not only threatens the stability of business enterprise, which makes our prosperity possible, but it substitutes unreason for sound judgment, the ill-considered demands of resentment for the spirit of fair play, and makes impossible patient and honorable effort to correct abuses."

The constructive mind of the Governor

could not, however, rest satisfied with the mere negative result which his veto would produce. The evils it was proposed to remedy by this hasty and ill-digested legislation could, he pointed out, be remedied in "a better way." The Legislature had provided agencies for the redress of these evils in the Public Service Commissions it had just created. These Commissions had under law the power, and it would become their duty, to investigate the subject of passenger rates charged by railways in the State of New York. What the Legislature had attempted with haste, without information, and possibly with injustice, they could undertake with deliberation, with full knowledge, and with perfect impartiality. When their inquiry is complete, "if a passenger rate of two cents a mile is just and reasonable, it can be fixed; if it is not just and reasonable, it should not be fixed." True, the work of the Commissions would require time and investigation, but democracy must learn the lessons of patience and deliberate inquiry before action. A right result is of infinitely more importance than a sham remedy. For the rest, it is most dangerous to encourage "impatience with the orderly processes of inquiry."

A courageous and honest public servant always meets with his reward. On second thought people approve of what he has done. This is notably the case when the man is sensible, open-minded, judicial, and statesmanlike, as Mr. Hughes has proved himself since he became Governor. And so even the advocates of the two-cent passenger bill not only recognized the force and justice of the Governor's arguments against that particular measure, but suddenly perceived also that the very thing they were contending for as a just and reasonable reform must, if it were actually found on investigation to be just and reasonable, come to them through the action of the State Commissions which Governor Hughes himself had induced the Legislature to establish for the handling of those very problems. The difference in procedure is an argument in favor of the Governor's method. For, unlike a Legislature, a State Commission can regulate a public service corporation intelligently, deliberately, and with scrupulous justice. And this is what the American people want. "They are," says Governor Hughes, "a thoughtful and canny people, truth-loving, and desirous of getting at the heart of things; appeals to reason are more cogent than many think."

That eminent lawyer, jurist, and leader of the American bar, the late James C. Carter, has left behind him a work on the *Origin, Growth, and Function of Law* (which has just been published), in which he deprecates the exaggerated estimate entertained by most people of the possibilities for good which may be realized through the enactment of law. Such a wealth of legislation testifies, indeed, to the "benevolent vanity" of our rulers, but also to their impotence. There is, however, another and more serious aspect of the case. "Among the evils which oppress society" says Mr. Carter, "there are few greater than that caused by legislative expedients undertaken in ignorance of what the true nature and function of law are." The analytic habit of Mr. Hughes's mind, his mastery of the science of law, and his large experience as a practical lawyer would seem to have predisposed him to the same view. At any rate, it is a fact that as Governor the number of measures of new legislation which he has advocated is very small, though it goes without saying that every one of them was well considered and carefully drafted. This moderation in the use of legislation is a characteristic of all wise constructive reformers.

In the universal demand for new legislation which Mr. Carter deprecates it is constantly overlooked that the Chief Executive, whether State or National, has, under the Constitution, nothing to do with legislation except to recommend measures to the Legislature and approve or veto the bills which the Legislature, in the plenitude of its wisdom and discretion, may enact. As Hamilton put it in *The Federalist* :

“The essence of the legislative authority is to enact laws—or, in other words, to prescribe rules—for the regulation of the society; while the execution of the laws and the employment of the common strength, either for this purpose or for the common defence, seem to comprise all the functions of the executive magistrate.”

That the execution of the laws is the principal business of the Governor of the State has been clearly apprehended by Mr. Hughes. He not only understands it, he has proclaimed it, and what is more important, he acts upon it. Nay, he goes further. He claims that a perfect administration of every office would dispel almost all the problems which now perplex us. The irrepressible and multitudinous activities of our Legislatures are, in the main, but devices to atone for defects in administration. Here is the Governor's own language, taken from his address at the opening of the

Civic Forum, in Carnegie Hall, New York City, on the 20th of November :

“Matthew Arnold tells us that conduct is three-fourths of life. Certainly the administration of office is at least three-fourths of political life. And if we could secure the administration of every office in accordance with its obligations and in adequate fulfilment of the fair intent of the Constitution and statutes creating it, we should find almost all our problems solved. That which is right in our system of government would appear revealed in the beauty of perfect adaptation, leaving no excuse for the use of legislative drugs to cure defects caused by lack of administrative exercise; and, on the other hand, such imperfections as existed would stand out in such bold relief as to leave little room for doubt as to the necessary remedy.”

The crowning aim, the supreme effort, of Governor Hughes is to be a good administrator of his office and executor of the laws of the State. The Governor is the chief servant of the people; he is not the delegate of a feudal suzerain who permits him to promote personal or directs him to promote party ends; he is his own master, dedicated to a service which is perfect freedom, because it satisfies his own conscience, fulfils the law, and advances the welfare of the people. Disinterested, devoted, and strenuous service has been rendered by Governor Hughes. Like another

Governor—I mean Mr. Roosevelt—he has faced the bosses and beaten them; like Mr. Roosevelt, he has made fitness and merit the qualifications for office; and, like Mr. Roosevelt, he has been a terror to evil-doers in office.

The greater part of administration is local. But the Constitution provides for removal by the Governor, upon charges and after a hearing, of specified local officers elected by the people. Few of us have any adequate conception of the amount of work even one of these cases makes for a conscientious and painstaking Governor. In the case of Mr. Ahearn, Governor Hughes spent weeks in going over testimony, listening to cross-examination of witnesses, studying briefs, and weighing evidence—working from early in the morning till late at night—though he might have turned the whole matter over to a commissioner, as would have been necessary had not the Governor also been an excellent lawyer. Why did the Governor undertake these herculean labors? The answer is obvious: In the interest of good administration in every office in the State. Mr. Hughes is the trustee of the people of the State of New York for the maintenance of good administration in his own

office and under certain circumstances in other offices in which the Constitution gives him jurisdiction. And as he said before the Civic Forum, "The lesson of to-day, both in business and in politics, is the lesson of fidelity to trust." As his insurance investigations were a moral tonic to the business world, so these investigations into the administration of public office cannot fail to elevate the standards and quicken the sense of responsibility of all office-holders in the State. It is fortunate that the Governor, with his usual candor and justice, is able to compliment the service with the declaration that it would be difficult to point to a time "when a larger proportion of public officers were striving honestly to do their duty." This is the reward of the people for putting in the highest office in the State a man who preaches, practises, and demands honest, disinterested, efficient, and energetic service for the benefit of the people of the State.

The Governor summed up his own position in a couple of pregnant sentences in his address before the Republican Club in New York City on the 18th of October :

"With reference to matters of administration, it has been sought to conduct the public affairs solely in the

interest of the people, and not in behalf of any special interest or for selfish purposes, and not for partisan advantage save as fidelity and efficiency may have their due reward in public confidence. . . . If there is one thing more than another for which I desire the present administration to stand, it is for disinterestedness in public service."

It was in this same speech that the Governor indulged in a personal vein of talk on other matters. "I do not seek any public office," he said, and then added these memorable words:

"To me public office means a burden of responsibility—a burden of incessant toil at times almost intolerable—which, under honorable conditions and at the command of the people, it may be a duty and even a pleasure to assume, but it is far from being an object of ambition. I have not sought nor shall I seek, directly or indirectly, to influence the selection or the vote of any delegate to any convention."

Here are one or two more intimate confessions:

"I want simply to be Governor during my term.

"I have asked no man for favors, but, on the contrary, I have constantly insisted that the work of the government shall be carried on, not with reference to the selfish advantage of any one, but exclusively in the interest of the people."

Facing an audience of Republican Club

politicians he frankly stated and squarely answered the charge that he had neglected the party politicians in appointments to office. It had been hinted in a half-serious way that he regarded political activity as a disqualification for public office. Here is the Governor's irrefragable reply :

“ I esteem those who in an honorable manner work for the party. Political activity, by virtue of the experience and knowledge of affairs gained in it, so far from being a disqualification, may be a most important qualification for office. But I want that political activity to be of such a character as to leave a man free and independent in the dignity of his manhood to perform the duties of office, if appointed, unembarrassed by improper influences and unaffected by accumulated obligations.”

Again, he tells these politicians that he does “ not aim to be a party boss.” Nay, such is his conception of the duties of the governorship that he would not think it proper to indulge even in political management. And, to crown all, he declares that “ as a party man he will serve his party best in office by adhering strictly to his duties and maintaining the highest standards of impartial administration.”

And yet this efficient servant of the State and trusted popular leader never forgets to

pay his tribute to the party to which he belongs :

“The Republican party has been a party of ideals, of masterful leaders, and of constructive power. We are proud that we are members of it.”

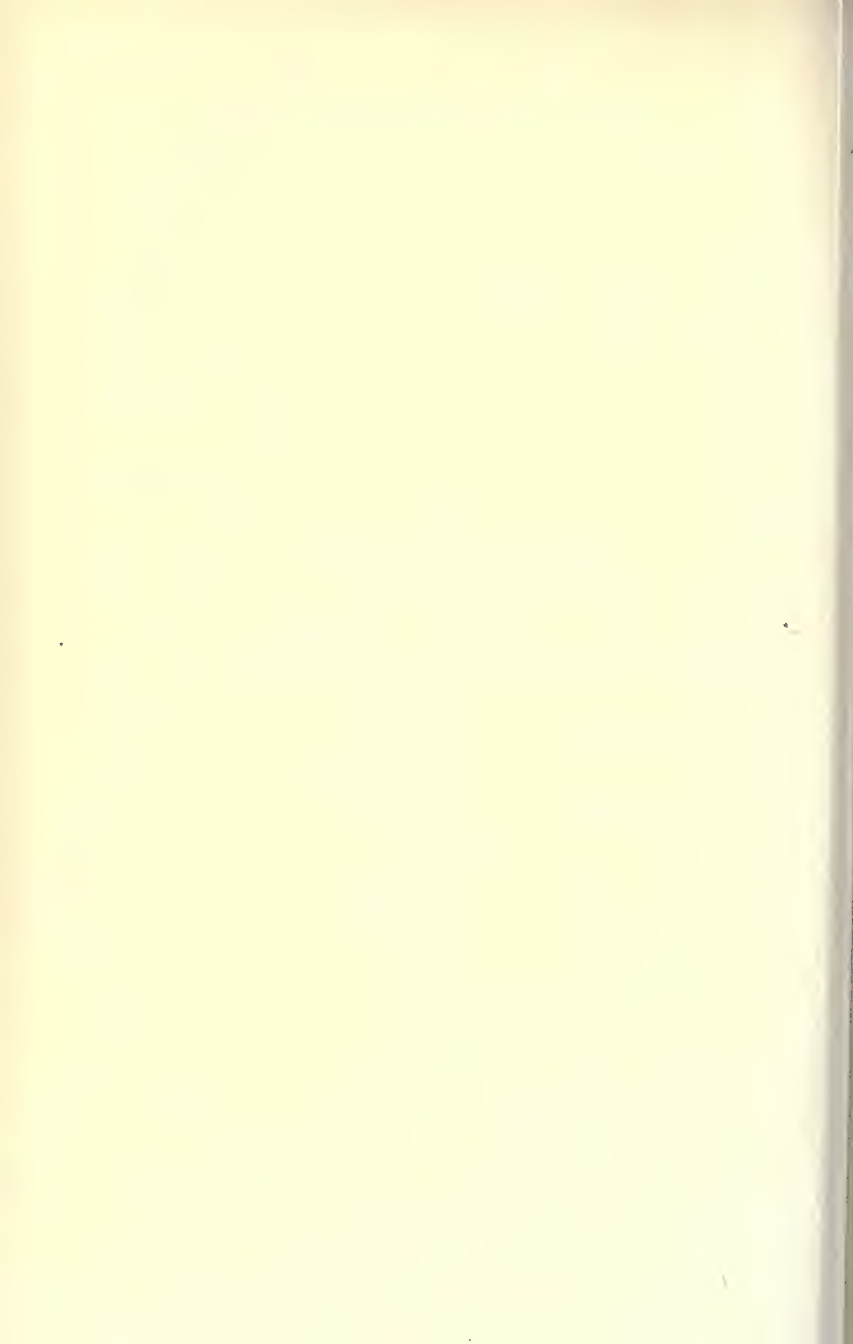
It has been said that Governor Hughes, if not too self-reliant, is too chary of receiving advice. But it must be remembered that when he was elected Governor on the Republican ticket all the other State officials elected were Democrats. Furthermore, the leaders of his own party were in the main either indifferent or hostile to him. Thus he found himself in a new, difficult, and vastly responsible position without natural advisers, and he was compelled “to play a lone hand.” The manner he had to assume for self-protection gave rise to the silly report that he was cold and unsympathetic. His friends know what a caricature this is of a naturally friendly, kind-hearted, and affable gentleman. Even the critics are now discovering their mistake. And the Governor is gradually discovering whom he can trust. Gradually, too, the old leaders have come to him, and he has listened patiently to their recommendations, though reserving to his own judgment and conscience the right

and duty of final decisions. Of course, his situation is different from that of a President of the United States, who has a Cabinet to advise him on all matters, and Senators to make recommendations on appointments that have no force without their consent and approval. Nevertheless, Governor Hughes has made excellent appointments, and as a Governor who has been at once a public servant and a public leader he has made amazingly few mistakes. Indeed, I do not hesitate to affirm that, though our State has had illustrious names in the list of its Governors, including the names of Grover Cleveland and Theodore Roosevelt, it has never had a greater Governor than Charles Evans Hughes.

ITHACA, N. Y.



Addresses of
Charles Evans Hughes



Telegram Accepting the Nomination of the Republican Convention.

WASHINGTON, D. C., June 10, 1916.

Mr. Chairman and Delegates:

I have not desired the nomination. I have wished to remain on the bench. But in this critical period in our national history, I recognize that it is your right to summon and that it is my paramount duty to respond. You speak at a time of national exigency, transcending merely partisan considerations. You voice the demand for a dominant, thoroughgoing Americanism with firm protective upbuilding policies, essential to our peace and security; and to that call, in this crisis, I cannot fail to answer with the pledge of all that is in me to the service of our country. Therefore I accept the nomination.

I stand for the firm and unflinching maintenance of all the rights of American citizens on land and sea. I neither impugn motives nor underestimate difficulties. But it is most regrettably true that in our foreign relations

we have suffered incalculably from the weak and vacillating course which has been taken with regard to Mexico—a course lamentably wrong with regard to both our rights and our duties. We interfered without consistency; and while seeking to dictate when we were not concerned, we utterly failed to appreciate and discharge our plain duty to our own citizens.

At the outset of the Administration the high responsibilities of our diplomatic intercourse with foreign nations were subordinated to a conception of partisan requirements, and we presented to the world a humiliating spectacle of ineptitude. Belated efforts have not availed to recover the influence and prestige so unfortunately sacrificed; and brave words have been stripped of their force by indecision.

I desire to see our diplomacy restored to its best standards and to have these advanced; to have no sacrifices of national interest to partisan expediencies; to have the first ability of the country always at its command here and abroad in diplomatic intercourse; to maintain firmly our rights under international law; insisting steadfastly upon all our rights as neutrals, and fully performing our inter-

national obligations; and by the clear correctness and justness of our position and our manifest ability and disposition to sustain them to dignify our place among the nations.

I stand for an Americanism that knows no ulterior purpose; for a patriotism that is single and complete. Whether native or naturalized, of whatever race, or creed, we have but one country, and we do not for an instant tolerate any division of allegiance.

I believe in making prompt provision to assure absolutely our national security. I believe in preparedness, not only entirely adequate for our defense with respect to numbers and equipment in both army and navy, but with all thoroughness to the end that in each branch of the service there may be the utmost efficiency under the most competent administrative heads. We are devoted to the ideals of honorable peace. We wish to promote all wise and practicable measures for the just settlement of the international disputes.

In view of our abiding ideals, there is no danger of militarism in this country. We have no policy of aggression; no lust for territory, no zeal for strife. It is in this spirit that we demand adequate provision for national de-

fense, and we condemn the inexcusable neglect that has been shown in this matter of first national importance. We must have the strength which self-respect demands, the strength of an efficient nation ready for every emergency.

Our preparation must be industrial and economic as well as military. Our severest tests will come after the war is over. We must make a fair and wise readjustment of the tariff, in accordance with sound protective principle, to insure our economic independence and to maintain American standards of living. We must conserve the just interests of labor, realizing that in democracy patriotism and national strength must be rooted in even-handed justice. In preventing, as we must, unjust discriminations and monopolistic practices, we must still be zealous to assure the foundations of honest business. Particularly should we seek the expansion of foreign trade. We must not throttle American enterprise here or abroad, but rather promote it and take pride in honorable achievements.

We must take up the serious problems of transportation, of interstate and foreign commerce, in a sensible and candid manner, and provide an enduring basis for prosperity by

the intelligent use of the constitutional powers of Congress, so as adequately to protect the public on the one hand, and, on the other, to conserve the essential instrumentalities of progress.

I stand for the principles of our civil service laws. In every department of government the highest efficiency must be insisted upon. For all laws and programs are vain without efficient and impartial administration.

I cannot within the limits of this statement speak upon all the subjects that will require attention. I can only say that I fully indorse the platform you have adopted.

I deeply appreciate the responsibility you impose. I should have been glad to have that responsibility placed upon another. But I shall undertake to meet it, grateful for the confidence you express. I sincerely trust that all former differences may be forgotten and that we may have united effort in a patriotic realization of our national need and opportunity.

I have resigned my judicial office and I am ready to devote myself unreservedly to the campaign.

CHARLES EVANS HUGHES.

**Address in Accepting the Republican
Nomination for President. At
Carnegie Hall, July 31, 1916.**

*Senator Harding, Members of the Notification
Committee, and Fellow Citizens:*

This occasion is more than a mere ceremony of notification. We are not here to indulge in formal expressions. We come to state in a plain and direct manner our faith, our purpose, and our pledge. This representative gathering is a happy augury. It means the strength of reunion. It means that the party of Lincoln is restored, alert, effective. It means the unity of a common perception of paramount national needs. It means that we are neither deceived nor benumbed by abnormal conditions. We know that we are in a critical period, perhaps more critical than any period since the Civil War. We need a dominant sense of national unity; the exercise of our best constructive powers; the vigor and resourcefulness of a quickened America. We desire that the Republican Party as a great

liberal party shall be the agency of national achievement, the organ of the effective expression of dominant Americanism. What do I mean by that? I mean America conscious of power, awake to obligation, erect in self-respect, prepared for every emergency, devoted to the ideals of peace, instinct with the spirit of human brotherhood, safeguarding both individual opportunity and the public interest, maintaining a well-ordered constitutional system adapted to local self-government without the sacrifice of essential national authority, appreciating the necessity of stability, expert knowledge, and thorough organization as the indispensable conditions of security and progress; a country loved by its citizens with a patriotic fervor permitting no division in their allegiance and no rivals in their affection—I mean America first and America efficient. It is in this spirit that I respond to your summons.

FOREIGN RELATIONS.—APPOINTMENTS.

Our foreign relations have assumed grave importance in the past three years. The conduct of diplomatic intercourse is in the keeping of the Executive. It rests chiefly

with him whether we shall show competence or incompetence; whether the national honor shall be maintained; whether our prestige and influence shall be lowered or advanced. What is the record of the Administration? The first duty of the Executive was to command the respect of the world by the personnel of our State Department and our representation abroad. No party exigency could excuse the non-performance of this obvious obligation. Still, after making every allowance for certain commendable appointments, it is apparent that this obligation was not performed. At the very beginning of the present Administration, where in the direction of diplomatic intercourse there should have been conspicuous strength and expertness we had weakness and inexpertness. Instead of assuring respect, we invited distrust of our competence and speculation as to our capacity for firmness and decision, thus entailing many difficulties which otherwise easily could have been escaped. Then, in numerous instances, notably in Latin-America where such a course was particularly reprehensible, and where we desire to encourage the most friendly relations, men of long diplomatic experience whose knowledge and training were of especial value to the

country were retired from the service apparently for no other reason than to meet partisan demands in the appointment of inexperienced persons. Where, as in Santo Domingo, we had assumed an important special trust in the interest of its people, that trust was shockingly betrayed in order to satisfy "deserving Democrats." The record showing the Administration's disregard of its responsibilities with respect to our representation in diplomacy is an open book and the specifications may easily be had. It is a record revealing professions belied. It is a dismal record to those who believe in Americanism. Take, for example, the withdrawal of Ambassador Herrick from France. There he stood, in the midst of alarms, the very embodiment of courage, of poise, of executive capacity, universally trusted and beloved. No diplomat ever won more completely the affections of a foreign people; and there was no better fortune for this country than to have at the capital of any one of the belligerent nations a representative thus esteemed. Yet the Administration permitted itself to supersede him. The point is not that the man was Ambassador Herrick, or that the nation was France, but that we invited the attention of the world to the in-

excusable yielding of national interest to partisan expediency. It was a lamentable sacrifice of international repute. If we would have the esteem of foreign nations we must deserve it. We must show our regard for special knowledge and experience. I propose that we shall make the agencies of our diplomatic intercourse, in every nation, worthy of the American name.

MEXICO.

The dealings of the Administration with Mexico constitute a confused chapter of blunders. We have not helped Mexico. She lies prostrate, impoverished, famine-stricken, overwhelmed with the woes and outrages of internecine strife, the helpless victim of a condition of anarchy which the course of the Administration only served to promote. For ourselves, we have witnessed the murder of our citizens and the destruction of their property. We have made enemies, not friends. Instead of commanding respect and deserving good will by sincerity, firmness, and consistency, we provoked misapprehension and deep resentment. In the light of the conduct of the Administration no one could understand

its professions. Decrying interference, we interfered most exasperatingly. We have not even kept out of actual conflict, and the soil of Mexico is stained with the blood of our soldiers. We have resorted to physical invasion, only to retire without gaining the professed object. It is a record which cannot be examined without a profound sense of humiliation.

When the Administration came into power Huerta was exercising authority as Provisional President of Mexico. He was certainly in fact the head of the Government of Mexico. Whether or not he should be recognized was a question to be determined in the exercise of a sound discretion, but according to correct principles. The President was entitled to be assured that there was at least a *de facto* government; that international obligations would be performed; that the lives and property of American citizens would have proper protection. To attempt, however, to control the domestic concerns of Mexico was simply intervention, not less so because disclaimed. The height of folly was to have a vacillating and ineffective intervention, which could only evoke bitterness and contempt, which would fail to pacify the country and to assure peace

and prosperity under a stable government. If crimes were committed, we do not palliate them. We make no defense of Huerta. But the Administration had nothing to do with the moral character of Huerta, if in fact he represented the Government of Mexico. We shall never worthily prosecute our unselfish aims, or serve humanity, by wrongheadedness. So far as the character of Huerta is concerned, the hollowness of the pretensions on this score is revealed by the Administration's subsequent patronage of Villa (whose qualifications as an assassin are indisputable) whom apparently the Administration was ready to recognize had he achieved his end and fulfilled what then seemed to be its hope.

The question is not as to the non-recognition of Huerta. The Administration did not content itself with refusing to recognize Huerta who was recognized by Great Britain, Germany, France, Russia, Spain, and Japan. The Administration undertook to destroy Huerta, to control Mexican politics, even to deny Huerta the right to be a candidate for the office of President at the election the Administration demanded. With what bewilderment must the Mexicans have regarded our assertion of their right to manage their own affairs! In

the summer of 1913, John Lind was despatched to the City of Mexico as the President's "personal spokesman and representative" to the unrecognized Huerta in order to demand that the latter eliminate himself. It was an unjustifiable mission, most offensive to a sensitive people. John Lind lingered irritatingly. The Administration continued to direct its efforts at the destruction of the only government Mexico had.

In the spring of 1914, occurred the capture of Vera Cruz. Men from one of our ships had been arrested at Tampico and had been discharged with an apology. But our Admiral demanded a salute, which was refused. Thereupon the President went to Congress, asking authority to use the armed forces of the United States. Without waiting for the passage of the resolution, Vera Cruz was seized. It appeared that a shipload of ammunition for Huerta was about to enter that port. There was a natural opposition to this invasion and a battle occurred in which nineteen Americans and over a hundred Mexicans were killed. This, of course, was war. Our dead soldiers were praised for dying like heroes in a war of service. Later, we retired from Vera Cruz, giving up this noble warfare. We had not

obtained the salute which was demanded. We had not obtained reparation for affronts. The ship with ammunition which could not land at Vera Cruz had soon landed at another port, and its cargo was delivered to Huerta without interference. Recently the naked truth was admitted by a Cabinet officer. We are now informed that "we did not go to Vera Cruz to force Huerta to salute the flag." We are told that we went there "to show Mexico that we were in earnest in our demand that Huerta must go." That is, we seized Vera Cruz to depose Huerta. The question of the salute was a mere pretext.

Meanwhile, the Administration utterly failed to perform its obvious duty to secure protection for the lives and property of our citizens. It is most unworthy to slur those who have investments in Mexico in order to escape a condemnation for the non-performance of this duty. There can be no such escape, for we have no debate, and there can be no debate, as to the existence of this duty on the part of our Government. Let me quote the words of the Democratic Platform of 1912:

"The constitutional rights of American citizens should protect them on our borders, and go with them

throughout the world, and every American citizen residing or having property in any foreign country is entitled to and must be given the full protection of the United States Government, both for himself and his property."

The bitter hatred aroused by the course of the Administration multiplied outrages, while our failure to afford protection to our citizens evoked the scorn and contempt of Mexicans. Consider the ignominious incident at Tampico in connection with the capture of Vera Cruz. In the midst of the greatest danger to the hundreds of Americans congregated at Tampico, our ships which were in the harbor were withdrawn and our citizens were saved only by the intervention of German officers and were taken away by British and German ships. The official excuse of the Secretary of the Navy is an extraordinary commentary. Our ships, it seems, had been ordered to Vera Cruz; but, as it appeared that they were not needed, the order was rescinded. Then, we are told, our Admiral was faced with this remarkable dilemma. If he attempted to go up the river at Tampico and take our citizens on board, the word of "aggressive action," as the Secretary called it, "would have spread to the surrounding country" and it was "almost

certain that reprisals on American citizens would have followed and lives would have been lost." We had so incensed the Mexicans that we could not rescue our own citizens at Tampico, save at the risk of the murder of others. We must take Vera Cruz to get Huerta out of office and trust to other Nations to get our own citizens out of peril. What a travesty of international policy!

Destroying the government of Huerta, we left Mexico to the ravages of revolution. I shall not attempt to narrate the sickening story of the barbarities committed, of the carnival of murder and lust. We were then told that Mexico was entitled to spill as much blood as she pleased to settle her affairs. The Administration vacillated with respect to the embargo on the export of arms and munitions to Mexico. Under the resolution of 1912, President Taft had laid such an embargo. In August, 1913, President Wilson stated that he deemed it his duty to see that neither side to the struggle in Mexico should receive any assistance from this side of the border, and that the export of all arms and munitions to Mexico would be forbidden. But in February, 1914, the embargo was lifted. In April, 1914, the embargo was restored. In May, 1914, it

was explained that the embargo did not apply to American shipments through Mexican ports, and ammunition for Carranza was subsequently landed at Tampico. In September, 1914, the embargo was lifted on exports across the border; thereupon military supplies reached both Villa and Carranza. In October, 1915, an embargo was declared on all exports of arms except to the adherents of Carranza. There was an utter absence of consistent policy.

For a time we bestowed friendship on Villa. Ultimately we recognized Carranza, not on the ground that he had a constitutional government, but that it was a *de facto* government. The complete failure to secure protection to American citizens is shown conclusively in the note of the Secretary of State of June 20, 1916, in which he thus described the conditions that have obtained during the past three years:

“For three years the Mexican republic has been torn with civil strife; the lives of Americans and other aliens have been sacrificed; vast properties developed by American capital and enterprise have been destroyed or rendered non-productive; bandits have been permitted to roam at will through the territory contiguous to the United States and to seize, without punishment or without effective attempt at punishment, the property of Americans, while the lives of

citizens of the United States who ventured to remain in Mexican territory or to return there to protect their interests have been taken, in some cases barbarously taken, and the murderers have neither been apprehended nor brought to justice. . . . It would be tedious to recount instance after instance, outrage after outrage, atrocity after atrocity, to illustrate the true nature and extent of the widespread conditions of lawlessness and violence which have prevailed."

The Santa Ysabel massacre, the raid at Columbus, the bloodshed at Carrizal, are fresh in your minds. After the Columbus raid we started a "punitive expedition." We sent a thin line of troops hundreds of miles into Mexico, between two lines of railway neither of which we were allowed to use and which we did not feel at liberty to seize. We were refused permission to enter the towns. Though thus restricted, the enterprise was still regarded by the Mexicans as a menace. Our troops faced hostile forces and it is not remarkable that our men fell at Carrizal. What other result could be expected? We were virtually ordered to withdraw, and without accomplishing our purpose we have been withdrawing and we are now endeavoring to safeguard our own territory. The entire National Guard has been ordered out, and many thousands of our citizens have been taken

from their peaceful employment and hurried to the Mexican border. The Administration was to seize and punish Villa for his outrage on our soil. It has not punished any one; we went in only to retire, and future movements are apparently to be determined by a joint commission.

The Nation has no policy of aggression toward Mexico. We have no desire for any part of her territory. We wish her to have peace, stability, and prosperity. We should be ready to aid her in binding up her wounds, in relieving her from starvation and distress, and in giving her in every practicable way the benefits of our disinterested friendship. The conduct of this Administration has created difficulties which we shall have to surmount. We shall have to overcome the antipathy needlessly created by that conduct and to develop genuine respect and confidence. We shall have to adopt a new policy, a policy of firmness and consistency through which alone we can promote an enduring friendship. We demand from Mexico the protection of the lives and the property of our citizens and the security of our border from depredations. Much will be gained if Mexico is convinced that we contemplate no meddlesome inter-



ference with what does not concern us, but that we propose to insist in a firm and candid manner upon the performance of international obligations. To a stable government, appropriately discharging its international duties, we should give ungrudging support. A short period of firm, consistent, and friendly dealing will accomplish more than many years of vacillation.

EUROPEAN WAR.—MAINTENANCE OF AMERICAN RIGHTS.

In this land of composite population, drawing its strength from every race, the national security demands that there shall be no paltering with American rights. The greater the danger of divisive influences, the greater is the necessity for the unifying force of a just, strong, and patriotic position. We countenance no covert policies, no intrigues, no secret schemes. We are unreservedly, devotedly, whole-heartedly, for the United States. That is the rallying point for all Americans. That is my position. I stand for the unflinching maintenance of all American rights on land and sea.

We have had a clear and definite mission as

a great neutral nation. It was for us to maintain the integrity of international law; to vindicate our rights as neutrals; to protect the lives of our citizens, their property and trade from wrongful acts. Putting aside any question as to the highest possibilities of moral leadership in the maintenance and vindication of the law of nations in connection with the European War, at least we were entitled to the safeguarding of American rights. But this has not been secured. We have had brave words in a series of notes, but despite our protests the lives of Americans have been destroyed. What does it avail to use some of the strongest words known to diplomacy if Ambassadors can receive the impression that the words are not to be taken seriously? It is not words, but the strength and resolution behind the words, that count. The chief function of diplomacy is prevention; but in this our diplomacy failed, doubtless because of its impaired credit and the manifest lack of disposition to back words with action. Had this Government by the use of both informal and formal diplomatic opportunities left no doubt that when we said "strict accountability" we meant precisely what we said, and that we should unhesitatingly vindicate that position,

I am confident that there would have been no destruction of American lives by the sinking of the *Lusitania*. There, we had ample notice; in fact, published notice. Furthermore we knew the situation and we did not require specific notice. Instead of whittling away our formal statements by equivocal conversations, we needed the straight, direct, and decisive representations which every diplomat and foreign office would understand. I believe that in this way we should have been spared the repeated assaults on American lives. Moreover, a firm American policy would have been strongly supported by our people and the opportunities for the development of bitter feeling would have been vastly reduced.

It is a great mistake to say that resoluteness in protecting American rights would have led to war. Rather, in that course lay the best assurance of peace. Weakness and indecision in the maintenance of known rights are always sources of grave danger; they forfeit respect and invite serious wrongs, which in turn create an uncontrollable popular resentment. That is not the path of national security. Not only have we a host of resources short of war by which to enforce our just demands, but we shall never promote our peace by being

stronger in words than in deeds. We should not have found it difficult to maintain peace, but we should have maintained peace with honor. During this critical period, the only danger of war has lain in the weak course of the Administration.

I do not put life and property on the same footing, but the Administration has not only been remiss with respect to the protection of American lives; it has been remiss with respect to the protection of American property and American commerce. It has been too much disposed to be content with leisurely discussion. I cannot now undertake to review the course of events, but it is entirely clear that we failed to use the resources at our command to prevent injurious action, and that we suffered in consequence. We have no ulterior purposes, and the Administration should have known how to secure the entire protection of every legitimate American interest and the prompt recognition of our just demands as a neutral nation.

We denounce all plots and conspiracies in the interest of any foreign nation. Utterly intolerable is the use of our soil for alien intrigues. Every American must unreservedly condemn them, and support every

effort for their suppression. But here, also, prompt, vigorous, and adequate measures on the part of the Administration were needed. There should have been no hesitation; no notion that it was wise and politic to delay. Such an abuse of our territory demanded immediate and thorough-going action. As soon as the Administration had notice of plots and conspiracies, it was its duty to stop them. It was not lacking in resources. Its responsibility for their continuance cannot be escaped by the condemnation of others.

PREPAREDNESS.

We are a peace-loving people, but we live in a world of arms. We have no thought of aggression, and we desire to pursue our democratic ideals without the wastes of strife. So devoted are we to these ideals, so intent upon our normal development, that I do not believe that there is the slightest danger of militarism in this country. Adequate preparedness is not militarism. It is the essential assurance of security; it is a necessary safeguard of peace.

It is apparent that we are shockingly unprepared. There is no room for controversy

on this point since the object lesson on the Mexican border. All our available regular troops (less, I believe, than 40,000) are there or in Mexico, and as these have been deemed insufficient the entire National Guard has been ordered out; that is, we are summoning practically all our movable military forces in order to prevent bandit incursions. In view of the warnings of the past three years, it is inexcusable that we should find ourselves in this plight. For our faithful guardsmen, who with a fine patriotism responded to this call and are bearing this burden, I have nothing but praise. But I think it little short of absurd that we should be compelled to call men from their shops, their factories, their offices, and their professions for such a purpose. This, however, is not all. The units of the National Guard were at peace strength, which was only about one-half the required strength. It was necessary to bring in recruits, for the most part raw and untrained. Only a small percentage of the regiments recruited up to war strength will have had even a year's training in the National Guard, which at the maximum means one hundred hours of military drill, and, on the average, means much less. Take the Eastern Department as an illustration.

The States in this Department contain about 72 per cent. of the entire organized militia of the country. I am informed, by competent authority, that the quota of militia from this Department, recently summoned with the units raised to war strength as required would amount to about 131,000 men; that in response to this call there are now *en route* to or on the border about 54,000 men, and in camp in their respective States about 28,000 men; and thus, after what has already been accomplished, there still remain to be supplied in recruits about 48,000 men. Men fresh from their peaceful employments and physically unprepared have been hurried to the border for actual service. They were without proper equipment; without necessary supplies; suitable conditions of transportation were not provided. Men with dependent families were sent; and conditions which should have been well known were discovered after the event. And yet the exigency, comparatively speaking, was not a very grave one. It involved nothing that could not readily have been foreseen during the past three years of disturbance, and required only a modest talent for organization. That this Administration while pursuing its course in Mexico should have

permitted such conditions to exist is almost incredible.

In the demand for reasonable preparedness the Administration has followed, not led. Those who demanded more adequate forces were first described as "nervous and excited." Only about a year and a half ago we were told that the question of preparedness was not a pressing one; that the country had been misinformed. Later, under the pressure of other leadership, this attitude was changed. The Administration, it was said, had "learned something," and it made a belated demand for an increased army. Even then, the demand was not prosecuted consistently and the pressure exerted on Congress with respect to other Administrative measures was notably absent. The President addressed Congress but little over six months ago, presenting the plans of the War Department, and Congress was formally urged to sanction these plans as "the essential first steps." They contemplated an increase of the standing force of the regular army from its then strength of 5023 officers and 102,985 enlisted men, to a strength of 7136 officers and 134,707 enlisted men, or 141,843 all told. It was said that these additions were "necessary to render the army ade-

quate for its present duties." Further, it was proposed that the army should be supplemented by a force of 400,000 disciplined citizens raised in increments of 133,000 a year, through a period of three years. At least so much "by way of preparation for defense" seemed to the President to be "absolutely imperative now." He said: "We cannot do less." But within two months this program was abandoned and the able Secretary of War who had devoted himself persistently to this important question felt so keenly the change in policy that he resigned from the Cabinet. Now, the Army Organization Bill provides for an army on paper of 178,000, but in fact it provides for only 105,000 enlisted men for the line of the regular army for the fiscal year ending June 30, 1917, and I am informed that for the next fiscal year there will be an increase of only 15,000. The plan for the supplemental Federal army completely under Federal control was given up.

We are told that the defects revealed by the present mobilization are due to the "system." But it was precisely such plain defects that under the constant warnings of recent years, with the whole world intent on military concerns, should have been studied and recti-

fied. The Administration has failed to discharge its responsibilities. Apparently, it is now seeking to meet political exigencies by its naval program. But it has imposed upon the country an incompetent naval administration.

We demand adequate national defense; adequate protection on both our Western and Eastern coasts. We demand thoroughness and efficiency in both arms of the service. It seems to be plain that our regular army is too small. We are too great a country to require of our citizens who are engaged in peaceful vocations the sort of military service to which they are now called. As well insist that our citizens in this metropolis be summoned to put out fires and police the streets. We do not count it inconsistent with our liberties, or with our democratic ideals, to have an adequate police force. With a population of nearly one hundred million we need to be surer of ourselves than to become alarmed at the prospect of having a regular army which can reasonably protect our border, and perform such other military service as may be required, in the absence of a grave emergency. I believe, further, that there should be not only a reasonable increase in the regular army, but that the first citizen reserve subject to

call should be enlisted as a Federal army and trained under Federal authority.

The country demands that our military and naval programs shall be carried out in a businesslike manner under the most competent administrative heads; that we shall have an up-to-date preparation; that the moneys appropriated shall be properly expended. We should also have careful plans for mobilizing our industrial resources; for promoting research and utilizing the investigations of science. And a policy of adequate preparedness must constantly have in view the necessity of conserving our fundamental human interests; of promoting the physical well-being of our population, as well as education and training; of developing to the utmost our economic strength and independence. It must be based upon a profound sense of our unity, and democratic obligation. It must not mean the abandonment of other essential governmental work, but that we shall have, in both, efficiency, and, in neither, waste or extravagance. We should also be solicitous, by wise prevision and conference, to remove so far as possible the causes of irritation which may in any degree threaten friendly relations. In our proposals there is, I repeat, no mili-

tarism. There is simple insistence upon common sense in providing reasonable measures of security and avoiding the perils of neglect. We must have the strength of self-respect; a strength which contains no threat, but assures our defense, safeguards our rights, and conserves our peace.

THE ORGANIZATION OF PEACE.

We are deeply interested in what I may term the organization of peace. We cherish no illusions. We know that the recurrence of war is not to be prevented by pious wishes. If the conflict of national interests is not to be brought to the final test of force, there must be the development of international organization in order to provide international justice and to safeguard so far as practicable the peace of the world.

Arbitration treaties are useful within their proper sphere, but it is worse than folly to ignore the limitations of this remedy or to regard such treaties as an adequate means of preventing war. There should be an international tribunal to decide controversies susceptible of judicial determination, thus affording the advantage of judicial standards in

the settlement of particular disputes and of the gradual growth of a body of judicial precedents. In emphasizing the desirability of such a tribunal for the disposition of controversies of a justiciable sort, it must not be overlooked that there are also legislative needs. We need conferences of the Nations to formulate international rules, to establish principles, to modify and extend international law so as to adapt it to new conditions, to remove causes of international differences. We need to develop the instrumentalities of conciliation. And behind this international organization, if it is to be effective, must be the co-operation of the nations to prevent resort to hostilities before the appropriate agencies of peaceful settlement have been utilized. If the peace of the world is to be maintained, it must be through the preventive power of a common purpose. Without this, it will still remain not only possible, but practicable, to disregard international obligations, to override the rights of States, particularly of small States, to ignore principles, to violate rules. And it is only through international co-operation giving a reasonable assurance of peace that we may hope for the limitation of armaments. It is to be expected that nations

will continue to arm in defense of their respective interests, as they are conceived, and nothing will avail to diminish this burden save some practical guaranty of international order. We, in this country can, and should, maintain our fortunate freedom from entanglements with interests and policies which do not concern us. But there is no national isolation in the world of the Twentieth Century. If at the close of the present war the nations are ready to undertake practicable measures in the common interest in order to secure international justice, we cannot fail to recognize our international duty. The peace of the world is our interest, as well as the interest of others, and in developing the necessary agencies for the prevention of war we shall be glad to have an appropriate share. And our preparedness will have proper relation to this end as well as to our own immediate security.

INDUSTRY AND TRADE.—A FOOL'S PARADISE.

When we contemplate industrial and commercial conditions, we see that we are living in a fool's paradise. The temporary prosperity to which our opponents point has been

created by the abnormal conditions incident to the war. With the end of the war there will be the new conditions determined by a new Europe. Millions of men in the trenches will then return to work. The energies of each of the now belligerent nations, highly trained, will then be turned to production. These are days of terrible discipline for the nations at war, but it must not be forgotten that each is developing a national solidarity, a knowledge of method, a realization of capacity, hitherto unapproached. In each, the lessons of co-operation now being learned will never be forgotten. Friction and waste have been reduced to a minimum; labor and capital have a better understanding, business organization is more highly developed and more intelligently directed than ever before. We see in each of these nations a marvellous national efficiency. Let it not be supposed that this efficiency will not count when Europe once more at peace pushes its productive powers to the utmost limit.

On the other hand, in this country, with the stoppage of the manufacture of munitions, a host of men will be turned out of employment. We must meet the most severe competition in industry. We are undisciplined,

defective in organization, loosely knit, industrially unprepared.

Our opponents promised to reduce the cost of living. This they have failed to do; but they did reduce the opportunities of making a living. Let us not forget the conditions that existed in this country under the new tariff prior to the outbreak of the war. Production had decreased, business was languishing, new enterprises were not undertaken, instead of expansion there was curtailment, and our streets were filled with the unemployed. It was estimated that in the City of New York over 300,000 were out of work. Throughout the country the jobless demanded relief. The labor commissioners of many States, and our municipal administrations, devoted themselves to the problem of unemployment, while the resources of our voluntary charitable organizations were most severely taxed. What ground is there for expecting better conditions when the unhealthy stimulus of the war has spent its force and our industries and workingmen are exposed to the competition of an energized Europe?

It is plain that we must have protective, upbuilding policies. It is idle to look for relief to the Democratic Party which as late as 1912

declared in its platform that it was "a fundamental principle of the Democratic Party that the Federal Government, under the Constitution, had no right or power to impose or collect tariff duties except for the purpose of revenue." We are told in its present platform that there have been "momentous changes" in the past two years, and hence, repudiating its former attitude, the Democratic Party now declares for a "non-partisan tariff commission." But have the "momentous changes" incident to the European War changed the Constitution of the United States? Is it proposed to use a tariff commission to frame a tariff for revenue only? Is the opposing party ready to confess that for generations it has misread the Constitution? Is that party now prepared to accept the protective principle? Rather, so far as the tariff is concerned, it would appear to be without principle. Witness its action in connection with the sugar duties, its reaffirmation of the doctrine of a revenue tariff, its dyestuffs proposal, and its formulation in lieu of protective duties of an "anti-dumping" provision, the terms of which are sufficient to show its ineffective character!

The Republican Party stands for the principle of protection. We must apply that

principle fairly, without abuses, in as scientific a manner as possible; and Congress should be aided by the investigations of an expert body. We stand for the safeguarding of our economic independence, for the development of American industry, for the maintenance of American standards of living. We propose that in the competitive struggle that is about to come the American working-man shall not suffer.

The Republican Party is not a sectional party. It thinks and plans nationally. Its policies are for the promotion of the prosperity of every part of the country, South, East, North, and West. It is not simply a question of a wise adjustment of the tariff in accordance with sound principle, but there is also the need in other respects for stable conditions for commercial and industrial progress. If we are to meet effectively the conditions which will arise after the war is over, we must put our house in order. Let it be understood that the public right is to be maintained without fear or favor. But let us show that we can do this without impairing the essential agencies of progress. There is no forward movement, no endeavor to promote social justice, which in the last analysis does not rest upon the condition that there shall

be a stable basis for honest enterprise. This subject has several important phases to which at this time I can allude only briefly. We should place our transportation system on a sure footing. We should be able wisely to adjust our regulative powers so that the fundamental object of protecting the public interest can be fully secured without uncertainties or conflicts and without hampering the development and expansion of transportation facilities. This national end may be accomplished without the sacrifice of any interest that is essentially local, or without weakening public control. Our present system is crude and inadequate. Moreover, in the severe economic struggle that is before us, and in seeking, as we should, to promote our productive industries and to expand our commerce—notably our foreign commerce—we shall require the most efficient organization, quite as efficient as that found in any nation abroad. There must be no unnecessary wastes and no arbitrary obstructions. We have determined to cut out, root and branch, monopolistic practices, but we can do this without hobbling enterprise or narrowing the scope of legitimate achievement. Again, we must build up our merchant marine. It will

not aid to put the Government into competition with private owners. That, it seems to me, is a counsel of folly. A surer way of destroying the promise of our foreign trade could hardly be devised. It has well been asked—Does the Government intend to operate at a profit or at a loss? We need the encouragement and protection of Government for our shipping industry, but it cannot afford to have the Government as a competitor.

LABOR.

We stand for the conservation of the just interests of labor. We do not desire production, or trade, or efficiency in either, for its own sake, but for the betterment of the lives of human beings. We shall not have any lasting industrial prosperity, unless we buttress our industrial endeavors by adequate means for the protection of health; for the elimination of unnecessary perils to life and limb; for the safeguarding of our future through proper laws for protection of women and children in industry; for increasing opportunities for education and training. We should be solicitous to inquire carefully into every grievance, remembering that there are few

disputes which cannot easily be adjusted if there be an impartial examination of the facts. We make common cause in this country, not for a few, but for all; and our watchword must be co-operation, not exploitation. No plans will be adequate save as they are instinct with genuine democratic sympathy.

I stand for adequate Federal Workmen's Compensation laws, dealing not only with the employees of Government, but with those employees who are engaged in interstate commerce, and are subject to the hazard of injury, so that those activities which are within the sphere of the constitutional authority of Congress may be dealt with under a suitable law.

AGRICULTURE.—CONSERVATION.

We propose to promote by every practicable means our agricultural interests, and we include in this program an effective system of rural credits. We favor the wise conservation of our natural resources. We desire not only that they shall be safeguarded, but that they shall be adequately developed and used to the utmost public advantage.

NATIONAL TRUSTEESHIP.—THE PHILIPPINES.

We turn to other considerations of important policy. One of these is our attitude toward the Philippines. That, I may say, is not a question of self-interest. We have assumed international obligations which we should not permit ourselves to evade. A breach of trust is not an admissible American policy, though our opponents have seemed to consider it such. We should administer government in the Philippines with a full recognition of our international duty, without partisanship, with the aim of maintaining the highest standards of expert administration, and in the interest of the Filipinos. This is a matter of National honor.

WOMAN SUFFRAGE.

I endorse the declaration in the platform in favor of woman suffrage. I do not consider it necessary to review the arguments usually advanced on the one side or the other, as my own convictions proceed from a somewhat different point of view. Some time ago, a consideration of our economic conditions and tendencies, of the position of women in gainful occupations, of the nature and course of the

demand, led me to the conclusion that the granting of suffrage to women is inevitable. Opposition may delay, but in my judgment cannot defeat this movement. Nor can I see any advantages in the delay which can possibly offset the disadvantages which are necessarily incident to the continued agitation. Facts should be squarely met. We shall have a constantly intensified effort and a distinctly feminist movement constantly perfecting its organization to the subversion of normal political issues. We shall have a struggle increasing in bitterness, which I believe to be inimical to our welfare. If women are to have the vote, as I believe they are, it seems to me entirely clear that in the interest of the public life of this country, the contest should be ended promptly. I favor the vote for women.

ADMINISTRATIVE EFFICIENCY.—CIVIL SERVICE
LAWS.—BUDGET.

Confronting every effort to improve conditions, is the menace of incompetent administration. It is an extraordinary notion that democracy can be faithfully served by inexpertness. Democracy needs exact knowledge, special skill, and thorough training in its

servants. I have already spoken of the disregard of proper standards, in numerous instances, in appointments to the diplomatic service. Unfortunately there has been a similar disregard of executive responsibility in appointments to important administrative positions in our domestic service. Even with respect to technical bureaus the demands of science have been compelled to yield to the demands of politics.

We have erected against importunities of spoilsmen the barriers of the civil service laws, but under the present Administration enactments providing for the creation of large numbers of places have deliberately removed them from the merit system. The principles of our civil service laws have been shamelessly violated. We stand for fidelity to these principles and their consistent application. And, further, it is our purpose that administrative chiefs shall be men of special competence eminently qualified for their important work.

Our opponents promised economy, but they have shown a reckless extravagance. They have been wasteful and profligate. It is time that we had fiscal reform. We demand a simple businesslike budget. I believe it is

only through a responsible budget, proposed by the Executive, that we shall avoid financial waste and secure proper administrative efficiency, and a well-balanced consideration of new administrative proposals.

We live in a fateful hour. In a true sense, the contest for the preservation of the Nation is never ended. We must still be imbued with the spirit of heroic sacrifice which gave us our country and brought us safely through the days of civil war. We renew our pledge to the ancient ideals of individual liberty, of opportunity denied to none because of race or creed, of unswerving loyalty. We have a vision of America prepared and secure; strong and just; equal to her tasks; an exemplar of the capacity and efficiency of a free people. I endorse the platform adopted by the Convention and accept its nomination.

Public Office and Party Principles

“We make our appeal to the common-sense of the American people which has never failed to express itself decisively in a great crisis. We are pledged to just reforms in the American manner, in accordance with the genius of our institutions, and with love of truth and even-handed justice.”—From Governor Hughes’s speech accepting his nomination for Governor, October 3, 1906.



I.

Reply to Committee Appointed to Notify him of his Nomination for Mayor of New York City, October 9, 1905.

*Mr. Chairman and Gentlemen of the Notifica-
tion Committee:*

You summon me to what you believe to be a public duty, and I shall not answer that summons by referring to considerations merely personal, however important they might be if the question were one of personal preference.

You and the many others who have urged me to accept the nomination have not rested the request upon the basis of partisan obligation, but upon the more secure foundation of duty to the community. It has been impressed upon me that the Republican party is seeking to raise a standard to which, regardless of party, all men may resort who desire to see our city free from the pervasive influence of an organization whose motive is gain and not service.

I am not insensible to this appeal, and I fully appreciate the responsibility of the position in which, against my will, I have been placed. The letters which I have received and the personal appeals which have been made have shown very clearly that there is a division of sentiment as to the course I shall pursue, and that either action I might take would be viewed with extreme disfavor by men whose judgment I respect and of whose sincerity there can be no question.

In this dilemma I have simply to do my duty as I see it. In my judgment I have no right to accept the nomination. A paramount public duty forbids it. It is not necessary to enlarge upon the importance of the insurance investigation. That is undisputed. It is dealing with questions vital to the interests of millions of our fellow citizens throughout the land. It presents an opportunity for public service second to none, and involves a correlative responsibility. I have devoted myself unreservedly to this work. It commands all my energies. It is imperative that I continue in it. You have frankly recognized that it must continue unembarrassed and with unimpaired efficiency. But it is entirely clear

to me that this cannot be if I accept the nomination.

You know how desirous I have been that the investigation should not be colored by any suggestion of political motive. Whatever confidence it has inspired has been due to absolute independence of political considerations. It is not sufficient to say that an acceptance of this nomination, coming to me unsought and despite an unequivocal statement of my position, would not deflect my course by a hairbreadth, and that I should remain, and that you intend that I should remain, entirely untrammelled. The non-political character of the investigation and its freedom from bias, either of fear or favor, not only must exist, but must be recognized. I cannot permit them by any action of mine to become matters of debate.

There are abundant opportunities for misconstruction. Doubtless many abuses will remain undisclosed, many grievous wrongs to which the evidence points from time to time may be found unsusceptible of proof; many promising clues will be taken up in vain. Were I with the best of intentions to accept the nomination, it is my conviction that the work of the investigation would be largely discredited; its motives would be impugned

and its integrity assailed. To many it would appear that its course would be shaped and its lines of inquiry would be chosen, developed, or abandoned as political ambition might prompt or political exigency demand.

Such a situation would be intolerable. There is only one course open. The legislative inquiry must proceed with convincing disinterestedness. Its great opportunities must not be imperilled by alienating the support to which it is entitled or by giving the slightest occasion for questioning the sincerity and single-mindedness with which it is conducted.

There is, however, another consideration which is to me conclusive. The work of the investigation is laborious and exacting. It taxes the strength of the counsel of the committee to its limit. It is performed under great strain. Whatever success is gained is the result of unremitting toil and undivided attention. There is no wizardry in it.

It is idle to suppose that, if I accepted your nomination, I could do my part of the work of the investigation efficiently. I may be pardoned for saying that I am a better judge of what that work requires than any one apart from my associates. It requires every

moment of available time. It requires endeavor secure from interruption and a mind free from distraction. It has been suggested that it would not be necessary for me to make an active canvass, that I should not be obliged to make a speech, to attend a meeting, or even write a letter. In effect, you ask me to enter upon a campaign in which important questions should be discussed and brought home to the conscience of the people with my mouth closed and my hands tied. Apart from a natural disinclination to place myself in such a situation, I believe the plan to be wholly impracticable. But, assuming it to be carried out as fully as is contemplated, it would still leave a large demand upon time and nervous energy which would be inexorable and would introduce an element of distraction most injurious to the investigation. I do not believe that the man lives, and certainly I am not the man, who, while a candidate for the mayoralty, could perform with proper efficiency that part of the work which has been devolved upon me in the pending inquiry. If I were to accept the nomination for the high office of Mayor of this city, I should be obliged to curtail this work, and this I have no right to do.

For your expression of confidence I thank

you. The honor you would confer upon me I most highly esteem. Your generous approval and the unanimity and enthusiasm with which the nomination was made I warmly appreciate. But I have assumed obligations of the first importance which make it impossible for me to meet your wishes. I must therefore respectfully decline the nomination.

II.

Speech in Response to Formal Notification of His Nomination as the Republican Candidate for Governor, at the Republican Club, New York City, October 3, 1906.

Mr. Chairman and Gentlemen of the Notification Committee :

Highly appreciating the honor you have conferred and realizing keenly the responsibility to be assumed, I accept the nomination. As a life-long Republican, as one loyal to the principles and best traditions of the party, I respond to the unanimous call of the Convention. I especially claim to represent true Republicanism when I promise to administer the affairs of the State in the interest of all its citizens. I recognize the exigency which has made us the trustees of the conscience and sober sentiment of the people of the State and has charged us with the duty of leadership in a contest for decent government.

To this contest, humbly conscious of my own limitations but strong in the strength of the cause, I commit myself heart and soul without doubt as to the result.

We enter upon the campaign inspired by the example and fortified by the achievements of our great leader, Theodore Roosevelt. The National Administration, with its record of established reforms, has strengthened its hold upon the confidence of the people. Governmental powers for investigation and prosecution have been freely used to end the abuses and discriminations which have afflicted interstate commerce, to break up unlawful combinations, and to enforce the provisions of the Anti-Trust Act. The activities of Congress in the interest of all the people have been attested by the passage of the Railroad Rate Act, the Meat Inspection Act, the Pure Food Act, and the Employers' Liability Act.

In referring to this record of the Federal Administration, I should not be understood to imply that this is a campaign of National issues. The paramount issues in this campaign are State issues. But in the matters which I have mentioned we find a notable record of achievement which presents a striking contrast to the noisy pretensions of the hour.

Our State Administration has also accomplished many genuine reforms.

The gas and electric monopoly of New York City has been subjected to impartial investigation, and a statute has been passed fixing the rate to private consumers at eighty cents per one thousand cubic feet. While this Act has been attacked and the claim of the companies that the rate is so low as to amount to confiscation is before the Federal Courts for determination, the State has done all that it can do constitutionally to give the residents of this city cheaper gas.

Corporations have been prohibited from contributing to political campaign funds.

The law as to perjury has been made more stringent.

Corrupt lobbying has been made more difficult, and the honorable presentation of argument relating to legislative measures has been promoted by a statute compelling the registration of persons and the filing of statements of compensation paid.

Good roads have been provided for.

An Act has been passed extending the liability of railroads for personal injuries suffered by employees.

The Liquor License Law has been amended

so as to abolish the iniquities which had grown up in connection with the so-called Raines Law hotels.

The business of life insurance, of vital consequence to the security of our homes, has been purged of its abuses and placed under restrictions conserving the interests of policyholders.

Our great life insurance companies which were mutual in theory have been made so in fact and the policyholders have been given free opportunity to elect their representatives.

And in connection with the proceedings which led to these legislative measures the attention of the country has been directed to correct standards of business morality and the conscience of the people has been aroused to a more insistent demand for the strict discharge of fiduciary obligation and for honesty in public and private life.

It is proper that we should rejoice, and we do frankly rejoice, that while these reforms had the support of the sentiment of the State, they were accomplished under the Republican administration. And apart from his official relation to the legislation to which I have referred, it is with special pleasure that I refer to the cordial support of which I was

constantly made aware during the gas and insurance investigations on the part of Governor Frank W. Higgins.

What do we find in opposition to us?

A masquerade. An Independence League, whose independence has been betrayed, and a so-called but spurious Democratic party which has violated every principle of Democratic government.

No one can deny us the right to pay just tribute to "Jeffersonian Democrats" or to "Lincoln Republicans." Our contest is not with them and the candidates opposed to us are not of them. Vain is it for our opponents to parade in the livery of virtue. Empty are their professions and hollow their declarations and promises.

If you would know the sort of administration we should have in the event of their success, look at the Buffalo Convention, for there you will find their methods mirrored—their motive, selfishness, and their method, intrigue.

We test the sincerity of their assertion of independence by their efforts to procure the Democratic nomination.

We test the sincerity of their denunciation of bosses by their deals with bosses.

We test the sincerity of their appeals to American ideals by their despotic proceedings.

We test the sincerity of their attacks upon the use of money in politics by their use of money in politics.

We test the sincerity of their devotion to the interests of the people by their efforts to foment disorder and exploit ignorance in the interest of selfish ambition.

What, then, is the supreme issue of this campaign? It is not an issue of the Republican record. It is not an issue of Republican principles or of Democratic principles. It is not a partisan issue at all. It is the vital issue of decent government. It is an issue which shall array on one side all lovers of truth, of sobriety, and of honest reform, be they Republicans, Democrats, or Independents.

The question is whether the unholy alliance that succeeded at Buffalo shall capture the State of New York.

Loyal, then, as we are to the Republican party, we stand to-night upon a broader platform, claiming as a right the support of all good citizens. For while we are Republicans, we are citizens first, and in this campaign we stand for the honor of the State.

In my message to the Convention I stated

that if elected it would be my ambition to give the State a "sane, efficient, and honorable administration free from taint of bossism or of servitude to any private interest."

This is my position in a nut-shell.

It will be an unbossed administration. I believe in party organization—in clean, efficient organization. I promise all members of the party fair treatment and just consideration. No individual, or group of individuals, and no private interest will be permitted to dictate my policy. I shall decide and act according to my conscience and as I believe the public interest requires.

I promise an honest administration.

It will not be necessary for anyone to pay one cent to defeat what is called "strike" legislation. There will be no excuse for the improper expenditure of money upon that ground.

On the other hand, so far as in me lies every effort to obstruct just and impartial administration, or to procure legislation or departmental action for the benefit of any individual or corporation in opposition to the public welfare, or to prevent action or legislation which the people should have, will be exposed and frustrated.

No interest, however prominent, will receive any consideration except that to which upon the merits of the case it may be entitled, when viewed in the light of the supreme interest of the people.

It will be my aim to make the administration of the government efficient and economical. I am not committed to specific measures. I promise an examination, careful and impartial, of all matters within the scope of my authority and such action as my honest judgment shall approve.

I am deeply interested in all efforts to better the condition of our working men. Every practical measure for the real benefit of labor will have my cordial support. It would be difficult to point to a more important field of legislation than that illustrated by the Acts relating to tenement-houses, to sweat-shops, to child labor, and to hours of labor. These are important contributions to the cause and their provisions should be effectively administered. I believe in the thorough enforcement of the Labor Laws, and shall favor such appropriations and such equipment as will admit of their proper execution.

I shall spare no effort to make effective the reforms in the business of life insurance so essential to the interests of policyholders.

I promise the enforcement of the law with equal severity and equal justice to all, rich and poor, corporations and individuals.

We are all members of one body politic. We could not separate our interests if we tried. We desire to preserve the opportunities for individual initiative and the rewards of ability, industry, and integrity. We desire to protect the government, with its guaranties of life, liberty, and the pursuit of happiness, from being used by any person or combination of persons to promote a selfish interest at the expense of the other members of the community. We desire to enforce the laws we have and to enact such additional laws as may be required to secure equal privileges and opportunities and to prevent any one person or class of persons from being made the victim of oppression. We believe in open discussion and responsible criticism. But efforts to make discontent serve self-interest, to create class hatred, to distort the good and to exaggerate the evil, are subversive of free institutions and tend to anarchy.

We make our appeal to the common sense of the American people, which has never failed to express itself decisively in a great crisis. We are pledged to achieve reforms in the

American manner, in accordance with the genius of our institutions, and with love of truth and even-handed justice.

It is in this spirit and with these pledges alone that I accept the nomination.

III.

Inaugural Address, Albany, N. Y., January 1, 1907.

Fellow Citizens:—I assume the office of Governor without other ambition than to serve the people of the State. I have not coveted its powers nor do I permit myself to shrink from its responsibilities. Sensible of its magnitude and of my own limitations, I undertake the task of administration without illusion. But you do not require the impossible. You have bound me to earnest and honest endeavor in the interest of all the people according to the best of my ability and that obligation, with the help of God, I shall discharge.

We have reason to congratulate ourselves that, coincident with our prosperity, there is an emphatic assertion of popular rights and a keen resentment of public wrongs. There is no panacea in executive or legislative action for all the ills of society which spring from the

frailties and defects of the human nature of its members. But this furnishes no excuse for complaisant inactivity and no reason for the toleration of wrongs made possible by defective or inadequate legislation or by administrative partiality or inefficiency.

It is sometimes said that we have laws enough, and that the need is not of more law but of better enforcement of the law. There is abundant occasion for caution against hasty legislation. Whether or not we have laws enough, we certainly have enough of ill-considered legislation, and the question is not as to the quantity but as to the quality of our present and of our proposed enactments.

The proper confines of legislative action are not to be determined by generalities. Slowly but surely the people have narrowed the opportunities for selfish aggression, and the demand of this hour, and of all hours, is not allegiance to phrases, but sympathy with every aspiration for the betterment of conditions and a sincere and patient effort to understand every need and to ascertain in the light of experience the means best adapted to meet it. Each measure proposed must ultimately be tested by critical analysis of the particular problem,—the precise mischief alleged and the

adequacy of the proffered remedy. It is the capacity for such close examination without heat or disqualifying prejudice which distinguishes the constructive effort from vain endeavors to change human nature by changing the forms of government.

It must freely be recognized that many of the evils of which we complain have their source in the law itself, in privileges carelessly granted, in opportunities for private aggrandizement at the expense of the people recklessly created, in failure to safeguard our public interests by providing means for just regulation of those enterprises which depend upon the use of public franchises. Wherever the law gives unjust advantage, wherever it fails by suitable prohibition or regulation to protect the interests of the people, wherever the power derived from the State is turned against the State, there is not only room but urgent necessity for the assertion of the authority of the State to enforce the common right.

The growth of our population and the necessary increase in our charitable and correctional work, the great enterprises under State control,—our canals, our highways, our forest preserves,—the protection of the public

health, the problems created by the congestion of population in our great cities, lead to a constant extension of governmental activity from which we cannot have, and we would not seek, escape.

This extension compels the strictest insistence upon the highest administrative standards. We are a government of laws and not of men. We subordinate individual caprice to defined duty. The essentials of our liberties are expressed in constitutional enactments removed from the risk of temporary agitation. But the security of our government, despite its constitutional guaranties, is found in the intelligence and public spirit of its citizens and in its ability to call to the work of administration men of single-minded devotion to the public interests, who make unselfish service to the State a point of knightly honor.

If in administration we make the standard efficiency and not partisan advantage, if in executing the laws we deal impartially, if in making the laws there is fair and intelligent action with reference to each exigency, we shall disarm reckless and selfish agitators and take from the enemies of our peace their vantage ground of attack.

It is my intention to employ my constitu-

tional powers to this end. I believe in the sincerity and good sense of the people. I believe that they are intent on having government which recognizes no favored interests and which is not conducted in any part for selfish ends. They will not be, and they should not be, content with less.

Relying upon your support and hoping to deserve your continued confidence, with the single desire to safeguard your interests and to secure the honorable administration of the office to which you have called me, I now enter upon the discharge of its duties.

IV.

Speech at the Dinner of the Republican Club of the City of New York, October 18, 1907.

Nearly twenty years ago I joined this club. It was the first political organization with which I became identified. Many of you have been my personal friends. It was in this building that I accepted the nomination for Governor and stated the issues which were regarded as paramount in the last campaign. It was under your auspices that, after the election, on an occasion which for the warmth of its greeting and the cordiality of its good wishes will never be forgotten, I attempted to set forth the principles which should govern my administration. Related as I am to this club by such intimate and sentimental associations, it is especially gratifying to have this opportunity of meeting with you. And I may be pardoned if I speak in a somewhat personal vein.

I shall not attempt to recount in any detailed

or comprehensive manner what was accomplished at the last session of the Legislature. It was a long session, but one remarkable for the importance of the general legislation enacted, and it reflected great credit upon the Legislature.

One of the fundamental purposes of the administration is to vindicate the adequacy of our institutions, to put an end to abuses without tumult or disorder, without injustice or demagoguery, and in a patient, deliberate, but none the less vigorous manner to insist upon the recognition and enforcement of public rights by availing ourselves to the utmost of the existing machinery of government and by making such new provision as the interests of the people may require. A difficult problem of first importance was presented in connection with our public service corporations. It was our object to remove this from the field of reckless agitation and to provide, to the fullest extent consistent with constitutional requirements, methods of investigation and redress through which the public obligations of reasonable, impartial, and adequate service could be enforced, and public safety and convenience be conserved. Our Public Service Commissions Law provides the necessary machinery and powers,

to the use of which have been called men owing no allegiance to any special interest, unembarrassed by either financial or political obligation, who are devoting themselves with a single purpose to the protection of the rights of the people. Means have been provided to prevent the repetition of the wrongs which have been committed in the past, and through the use of the powers governing the issue of bonds and stocks, through insistence upon proper methods of bookkeeping, through the prescribed supervision of the transactions of these corporations, it is believed that necessary publicity will be secured, that the rights of investors will be safeguarded, and that the public will be protected from the reckless exploits of the unscrupulous who hitherto have had their way without effective restraint.

I believe most thoroughly in the efficient regulation of these public service corporations in the interest of the public. I believe that their transactions should be conducted in the light of day and under the public eye, that they should be compelled to furnish the service which they are bound by their charters to render, and that all their public obligations should rigorously be enforced.

I also believe in the reign of justice and in

the patient consideration of every question to the end that it may be settled in a spirit of fairness. I have no more confidence in vengeful methods and arbitrary legislation—in those political grafters who endeavor to make selfish profit out of public wrongs—than I have in the sycophants of corporate power. Nothing is permanent but truth and justice. And to attain it, in view of our human imperfections and inherent limitations, we must address ourselves unceasingly to this end, content only with the award of our best judgment after a thorough understanding of the matter with which we attempt to deal. Accordingly I advocated a measure containing a full grant of power to secure the right determination of each matter and to compel obedience to the requirements of the law. And at the same time I opposed arbitrary measures framed without consideration and reckless of consequences.

It is also important that those who obtain privileges from the State should make due return to the State. In connection with our water powers a precedent has been established and consideration is now being given to the whole question of the development of the water powers of the State, so that what

belongs to the people may be wisely used for their benefit upon just terms.

The legislation of the last session had regard not only to metropolitan problems, to evils afflicting commerce, but also to the needs of our great rural communities. The highway legislation enacted in accordance with the recommendations of the State Grange, and the consideration by the legislative committee now sitting of questions affecting the maintenance and construction of roads, promise to put these important matters upon a better basis than ever before. The Labor Department has been strengthened, and legislation in relation to hours of labor, child labor, and conditions of labor has been enacted. Our Corrupt Practices Act has been improved, and we are looking forward to needed changes in our methods of nomination and election.

I cannot dwell upon these matters at this time, but I wish to express my appreciation of the labor and the support, in and out of the Legislature, which have had their result in the important enactments to some of which I have briefly referred.

Now, with reference to matters of administration, it has been sought to conduct the public affairs solely in the interest of the

people and not in behalf of any special interest or for selfish purposes, and not for partisan advantage save as fidelity and efficiency may have their due reward in public confidence. This may seem a counsel of perfection, and of course human nature is not changed by official relations. But the welfare of the State depends upon the maintenance of this standard, and if there is one thing more than another for which I desire the present administration to stand, it is for disinterestedness in public service.

To avoid any possibility of misapprehension regarding my own course, I may say this further word: I do not seek any public office. The majority of people doubtless think that the distinction and power of office are an irresistible attraction. If you had been constantly in my company during the past nine months you would see that another point of view is quite possible. To me public office means a burden of responsibility—a burden of incessant toil at times almost intolerable—which under honorable conditions and at the command of the people it may be a duty and even a pleasure to assume, but is far from being an object of ambition. I have not sought, nor shall I seek, directly or indirectly, to

influence the selection or the vote of any delegate to any convention, and with reference to the action of any delegate to any convention there will be no suggestion or thought of influence, protest, or reprisal in the Executive Chamber.

Those whom I have appointed to office have been counselled to have sole regard to the efficiency of the work of their departments. I have asked no man for favors, but on the contrary I have constantly insisted that the work of government shall be carried on not with reference to the selfish advantage of any one but exclusively in the interest of the people.

It has been stated that I have not paid sufficient attention to those who are politically active and who bear the burden and heat of the day in political campaigns. It has been said that I regard political activity as a disqualification for public office. Now no cause can be advanced without hard work and it must be the object of zealous devotion. I esteem those who in an honorable manner work for the party. Political activity by virtue of the experience and knowledge of affairs gained in it, so far from being a disqualification, may be a most important qualification for office.

But I want that political activity to be of such a character as to leave a man free and independent in the dignity of his manhood to perform the duties of office, if appointed, unembarrassed by improper influences and unaffected by accumulated obligations. We want in office men adapted to the office, with the character and the capacity which will enable them to discharge its duties, and if they can call political experience to their aid so much the better, so long as in that experience they have maintained their individuality and self-respect and have remained worthy of the public confidence. This is a question of character and not of environment; a question of one's conception of and fidelity to duty.

Talking in this personal vein I may say that I have steadfastly refrained from becoming associated in any manner with factional controversies. I have no connection with or interest in the ambitions or efforts of rivals for political preferment or political leadership in any locality or in the State at large. I desire to see party activities conducted honorably, the freest expression of popular choice, and to have party organization represent the untrammelled wish of the members of the party without any interference on the part of the

Executive. To this end I have favored the adoption of a plan for direct nominations and have favored a permissive bill so that the plan could have a fair trial in the communities where it has the support of public sentiment.

It is of great importance in my judgment that the discharge of the duties of the governorship should not be embarrassed by attempts at political management. Such is the power of the office that it lends itself easily to efforts at political control, and such a use of the office is, I believe, fraught with danger to the interests of the people of the State. It is far better that the Governor should exercise his office in the interest of the people without being embarrassed by the exigency of maintaining control of party machinery. And as a party man he will serve his party best in office by adhering strictly to his duties and maintaining the highest standards of impartial administration. It may be well that he should become the exponent of the principles and policies in furtherance of which he may have been elected. But his strength for their advancement in popular approval and in the adoption which should rest upon that approval will soon be lost if he permits himself to

take part in contests for office or for party representation.

I am frequently asked to express approval or disapproval of party action or of particular candidacies. Should I do so, it would fairly be incumbent upon me to pronounce upon such action or candidacies in advance and thus to attempt to determine the course to be pursued. If this were done in one case, it would be inevitable that it should be done in many cases, with consequent responsibility. If such responsibility be assumed, it must be accompanied by action—by such attention to matters of management as would be commensurate with the responsibility and would justify its assumption. The result is certain. Experience shows you cannot stop short of it. If such a course be taken, either the Governor—and he cannot separate himself from his office—will be in undisputed control of party management and become a party boss, or he will be involved in continual contests for the maintenance of his political influence and prestige.

Now I do not aim to be a party boss. I want simply to be Governor during my term. The only alternative to the course that I have criticised is to divorce the governorship from political entanglements, to keep its influence

free from controversies that do not concern the office. And my conception of the duties, the responsibilities, and the power for good of that office forbids me from throwing its weight or attempting to exercise its power except for the purpose of performing its constitutional functions.

I have also frequently commented upon the importance of constant practical recognition of the limits assigned under our system of government to the exercise of legislative, judicial, and executive powers. I have no desire to usurp the function of the Legislature in any degree. It is my privilege and duty to recommend to the Legislature such matters as I deem expedient. And when a matter is deemed to be expedient it is my duty to urge it as vigorously as I may. It is also my duty to pass upon the bills that come before me, and, when I believe that a measure is contrary to the interests of the State, to express my disapproval in the constitutional manner. But it is not my province to attempt to curtail the privileges of the Legislature or to seek to control its action, except as it may be influenced by the expression of sound opinion and by recommendations supported by the people of the State.

I desire to see our legislative halls filled with men of strength and independence,—men yielding to no influence and subject to no control but that of reason and conscience and an honest conception of public duty. Undoubtedly opposition sometimes takes the name of independence when it only expresses servility to interests which cannot be openly espoused. Of such counterfeit independence which attempts in the interest of special privilege to balk efforts at honest government, I do not speak. There are important measures to be considered by the next Legislature. I do not ask any blind or servile following. I ask simply for honest consideration in the light of reason and for that support which men of rectitude, faithful to their oaths as legislators, true to their duty as representatives of the people, can give with a clear conscience.

Fellow Republicans: the future is bright with hope. By his vigorous administration, his virility, his broad humanity, and his determined opposition to notorious abuses, our fellow citizen, the distinguished President of the Republic, has won the hearts of the people. We have not only his example, but we know that he is and has been in cordial sympathy with every effort for efficient adminis-

tration, for the correction of evil, and for the improvement of our laws. The Republican party has been a party of ideals, of masterful leaders, and of constructive power. We are proud that we are members of it. It is a national party, but its potency in national affairs inevitably depends in large degree upon its zealous pursuit in State affairs of those ideals of disinterested and capable administration which are treasured by the people irrespective of party. In this State our highest duty to the party is to bring to public service men who are resolute, efficient, and single-minded, and to insure the exercise of governmental powers in the interest of all the people. Discharging this duty, the party cannot fail to enlarge the area of its support, and the successes of the future will far transcend the distinction of its past accomplishments.

V.

Correspondence with James S. Lehmaier
of New York City.

THE REPUBLICAN CLUB OF THE CITY OF NEW YORK
54 and 56 West 40th Street

NEW YORK, January 18, 1908.

HON. CHARLES E. HUGHES,
ALBANY, N. Y.

My Dear Governor:

At a recent meeting of the Republican Club of the City of New York, very largely attended, a resolution was adopted with practical unanimity strongly urging the next Republican National Convention to nominate you for the office of President of the United States, and to that end inviting the co-operation of Republicans generally.

The president of the Club has appointed a Committee of twenty-five to carry out the purpose of the resolution.

The Committee has entered upon the duties assigned to it and its efforts have met with a most gratifying public response.

Under the circumstances, it has seemed to us that some expression from you would be timely.

As Chairman of this Committee and in the hope that



this suggestion may meet with your approval, I write to inquire whether you will meet your fellow members of the Republican Club at its Club-house at such time as may suit your convenience.

Very sincerely yours,

JAMES S. LEHMAIER.

STATE OF NEW YORK
EXECUTIVE CHAMBER

ALBANY, January 21, 1908.

MR. JAMES S. LEHMAIER,
Chairman of Committee, Republican Club,
54 West 40th Street, New York City.

My Dear Mr. Lehmaier:

Your letter of the 18th has been received. I am deeply sensible of the honor conferred upon me by my fellow members of the Republican Club in the passage of the resolution to which you refer, and it will give me pleasure to accept the invitation. In accepting it, it is proper for me to re-state my position:

It is my desire that the sentiment of the party shall have the freest expression, and that such action shall be taken as will be for its best interests.

I do not seek office nor shall I attempt to influence the selection or vote of any delegate. The State administration must continue to be impartial and must not be tributary to any candidacy.

I have no interest in any fractional controversy, and desire above all things that there shall be deliberation, honest expression of the party will, and harmony of effort.

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I cannot fail to recognize the great honor which the nomination would confer or the obligation of service which it would impose. Nor should I care to be thought lacking in appreciation of the confidence and esteem which prompt the efforts of those who sincerely desire to bring it about. The matter is one for the party to decide, and whatever its decision I shall be content.

I shall be glad to meet with the members of the Club as you suggest, and to make such further statement as may be appropriate. In view of the engagements already made I do not see how it will be possible to have such a meeting before the evening of January 31st. And if that date suits your convenience, arrangements for the meeting may be made accordingly.

Very truly yours,

CHARLES E. HUGHES.

VI.

Address before the Republican Club of the City of New York, January 31, 1908.

Fellow Members of the Republican Club:

In the adoption of the resolutions which preceded the call of this meeting, you have conferred upon me an honor of which I cannot express adequately my appreciation. It is enhanced by the fact that it comes from old friends and associates—the fellow members of an organization with which it has been my privilege to be identified for twenty years, and from a body of loyal and earnest Republicans whose zeal for the welfare of the Republican party and unselfish devotion to its interests are known throughout the country. I cherish your friendship. I esteem your confidence. And in recognition of both, and of the obligation imposed upon me by your action, I shall define my position.

Since I took office I have sought to make it clear that I would not become involved in

factional strife or use the powers of office to further any personal interest. I am, and have been constantly, solicitous that the administration of the affairs of this State shall not be embarrassed by collateral considerations, and that every question shall be presented and decided upon its merits, unaffected by suggestion of ulterior motives. For this reason I have avoided gratuitous discussion of questions foreign to my official duty. But when, in justice to those who have honored me with their confidence, and to the party which, as we all desire, should act freely and with full information, it becomes a duty to speak, I have no desire to remain silent. Nor should I in any event care to preserve availability at the expense of candor.

The Republican party is the party of stability, and the party of progress. Its fundamental policies have determined the course of the Nation's history. Largely, they are now without serious challenge and are removed from any controversy the issue of which might be regarded as doubtful. They include the policy of Union in opposition to every divisive sentiment or disrupting force. They include the policy of establishing the national credit upon a sure foundation, in opposition to those

financial vagaries which, paraded at one time with solemn argument and fervid appeal as the hope of the people, are now by common consent relegated to our museum of political absurdities, wholly amusing save for our keen appreciation of the peril we narrowly escaped. And they also include the policy of protection to American industry in the interest of the wage-earners of our country and in order to safeguard those higher American standards of living which our people will never permit to be reduced. The Republican party has maintained the national honor, and under its direction American diplomacy has attained the highest levels of honorable purpose and distinguished achievement. The great names of the party are the priceless possession of the American people, who, irrespective of partisan affiliations, are grateful that the violence of opposition did not deprive the Nation of their leadership.

The Republican party to-day is charged with weighty responsibility. By reason of its ascendancy in Congress nothing can be accomplished save through its instrumentality. It has been the party of constructive statesmanship, and with its present opportunities its destiny is in its own keeping.

We are contemplating a new administration at the close of one which to a degree almost unparalleled has impressed the popular imagination and won the confidence of the people. The country is under lasting obligation to President Roosevelt for his vigorous opposition to abuses and for the strong impulse he has given to movements for their correction. Differences of opinion now as always exist with regard to the best means of solving some of the extremely difficult problems that are presented. But those who earnestly desire progress and the establishment of our security on its necessary foundations of fair dealing and recognition of equal rights, appreciate the great service he has rendered and the fundamental importance of the purposes he has had in view. We shall have in the next campaign a notable vantage ground, gained through the general admiration of his strong personality and the popular appreciation of the intensity of his desire to promote the righteous conduct of affairs and the welfare of his fellow men.

The most impressive revelation of modern history is the picture it affords of the widespread struggle against every form of oppression and exploitation, and the onward march of the people toward the realization of the

ideals of self-government. This movement, sometimes checked by arbitrary power, sometimes impeded by ignorance, sometimes suffering from the perversions of selfish ambition, sometimes under the urgings of passion running into wanton excesses with their inevitable reactions, nevertheless broadly viewed is an irresistible movement against which in the long run the opposition of class or of privilege will be powerless to prevail. There is no rest in human affairs. The watchword of humanity is progress. And the administration of government, in proportion to the enlightenment of the people, will reflect in ever-increasing degree their insistence upon the enjoyment of equal civil rights and upon the elimination of all evils which threaten equality of opportunity.

In this country of extraordinary resources there are presented to an unprecedented degree the advantages of a free society. We are blessed with a system of government admirably adapted to maintain the rights and to safeguard the opportunities of all. It has not been designed for the benefit of a few, but for the many. It is not a government for any class; it is not a government for the holders of privilege; it is not a government for the talented or for the rich; it is

a government for the people, and it derives its strength and its assurance of permanence from the fundamental conception of equality before the law, and from the appreciation of the common rights of manhood.

Our government is based upon the principles of individualism and not upon those of socialism. It was not established to substitute one form of despotism for another. It was founded to attain the aims of liberty, of liberty under law, but wherein each individual for the development and the exercise of his individual powers might have the freest opportunity consistent with the equal rights of all others, and wherein the rewards of industry and thrift,—the gains of honest effort,—might be secure.

We do not seek to multiply the activities of government so as to bring about vexatious interference with liberty or to restrict legitimate enterprise. We deprecate all unnecessary governmental action. But our individualism does not justify unbridled license. Its aims may demand, and frequently do demand, the intervention of government with necessary restrictions and regulations not to curtail the liberty of the people, but to protect it. Wherever, in order to maintain civil rights, to secure the

public from aggression, or to compel the performance of public obligation, the action of the government as the organ of the popular will is necessary, there its power should be firmly, adequately, and impartially exercised.

Now I do not profess to be able to speak the last word with regard to the questions which confront us. Many of them are difficult, and in the effort to reach true conclusions mistakes may be inevitable. But before these are dealt with specifically we may properly make closer inquiry as to the principles which should be the guide of our action and to which we should render unquestioned allegiance.

What are the conditions, so far as government is concerned, of progress in the United States?

There must be the freest opportunity for the honest expression of the popular will. To this end every practicable means should be employed to preserve the purity of the ballot. Political contributions from corporations have wisely been prohibited and publicity of campaign expenses should be enforced. The most stringent measures should be adopted to prevent corrupt practices.

This is a representative government and not a pure democracy. The latter would be

unworkable in a country of this magnitude. Except with regard to fundamental questions or matters comparatively simple, it is impracticable for the electorate directly to express its views. Our system presupposes the fidelity of the chosen representatives of the people. I believe in party government to enforce and apply party principles; I believe in the responsibility of party administration in accordance with the policies announced in the party platform. These policies are but the described methods of public service and the defined means believed to be conducive to the public welfare. In short, I believe in fidelity to principle, publicly professed, and in honorable obedience to the oath of office. Upon the fulfilment of these paramount fiduciary obligations, and upon the public intolerance of the perversion of the authority conferred by the people to the service of any private interest, the safety of our institutions depends.

I also believe in securing the highest possible degree of administrative efficiency. Our first object should be to derive from existing laws the maximum of benefit according to their intention. The firmness and the impartiality of justice in the execution of the laws insure that respect for law and order and that

stability of government which conditions every honorable enterprise and underlies the prosperity of every man, whatever his work.

The battle for free institutions has been a struggle against special privilege. It is not won merely by the creation of new forms of government. Against every attempt to make government the instrument of selfish purposes a free people must constantly be on the alert. Every franchise granted by the people is a privilege justified only by considerations of the public welfare, and the conditions of its exercise should be such as to insure the performance of public obligation. There must be no encroachment on the common right for the purpose of serving the interests of the few at the expense of the many.

Of fundamental importance also is respect for the rights of property. This is the security of thrift. It is of even greater importance to the poor than to the rich. The unlawful acquisition of property should be prevented or punished. The conditions underlying grants of public franchises should be enforced. But property lawfully acquired must be safeguarded.

We are a nation of workers. Idlers are comparatively few. Our people are employed

in a vast network of activities. We must respect the demands of industry and be solicitous to promote the welfare of those who in agriculture, in manufacture, and in the various enterprises incident to the exchanges of commerce are contributing to the sum of national effort. The prosperity of the nation means the prosperity of its millions of toilers. We are so interdependent that any disturbance or dislocation has a far-reaching effect, and their most injurious consequences are borne by those least able to endure disaster—the wage-earners and the men of limited resources. We desire to see the opportunities for labor protected and enlarged; the conditions of labor improved; the reasonable adjustment of controversies; and above all we should seek to maintain stability and confidence, in order that the talent of our people for productive industry may have the widest scope for honorable employment, and that we may enjoy to the greatest possible extent that widely diffused prosperity and happiness to which we are entitled by virtue of our resources and our energy.

In this country progress cannot be made save in harmony with our constitutional system. The Constitution in its entirety must

be observed. The power derived from the people must be exercised upon the conditions which they have laid down. The functions of each department of government—executive, legislative, and judicial—are defined, and the responsibilities of each department are fixed. The people have not only thus marked out the spheres and limited the powers of their representatives, but the provisions of our Constitutions are also checks upon the hasty and inconsiderate action of the people themselves. According to our system, the controlling will of the people is found in constitutional provisions, as interpreted and applied by the courts, and these must remain effective until the people change them by amending the Constitution in the prescribed manner.

We must also recognize the division of powers between the Federal and the State governments. Through the latter, necessary local autonomy is secured. It is essential to the permanence of free institutions that each community should attend to its particular affairs; and through the powers and responsibilities of local administration, independence, public spirit, and capacity for self-government are developed, which not only secure the enforcement of local rights, but make possible

the just exercise of the powers of the central authority over those matters lying outside the proper limits of local jurisdiction.

These considerations are more and not less important because of the development of interstate commerce and the powerful forces in the world of business which in their practical operation ignore State lines. And the necessary extension of the activities of the Federal Government as to matters inevitably committed to its control should make us the more solicitous that the administration of State governments should show the highest degree of efficiency.

There are two dangers. The one is that serious evils of national scope may go unchecked because Federal power is not exercised. The other lies in an unnecessary exercise of Federal power, burdening the central authority with an attempted control which would result in the impairment of proper local autonomy, and extending it so widely as to defeat its purpose. It must be remembered that an evil is not the proper subject of Federal cognizance merely because it may exist in many States. All sorts of evils exist in many States which should be corrected by the exercise of local power, and they are not evils

of Federal concern although they may be widespread.

On the other hand, it cannot be regarded as a policy of unwise centralization that, wherever there is a serious evil demanding governmental correction which afflicts interstate commerce and hence is beyond the control of the States, the power of Congress should unhesitatingly be exercised.

But we are not left to the consideration of general principles of governmental action. Congress has the power given to it by the Constitution. It cannot, if it would, invade the rights of the States. It has express authority to regulate commerce among the several States. The scope of the interstate commerce clause and the boundaries of the Federal powers which it authorizes are the subject of determination by the Supreme Court. Congress can act only within the limits so fixed, and in acting within those limits, the question is not one of power but of the nature of the evil and of the appropriate remedy for its cure.

Having stated these principles I shall define briefly my position with regard to certain particular questions.

There is no matter of greater importance

than the conservation and development of our natural resources. It is of the most urgent necessity that our forests should be protected, and that these priceless treasures should be preserved from ruthless destruction. All the property of the people should be safeguarded from spoliation. I am also deeply interested in the development of inland waterways, to provide increased and adequate facilities for our growing commerce. We should further do all in our power to extend the area of productive activity through irrigation and suitable plans of reclamation. The common right in our public lands should be protected from encroachment, and wherever governmental power may properly be exercised the sole object should be the promotion of the general welfare, and all schemes of rapacity should be frustrated.

I do not believe in governmental ownership of railroads. But regulation of interstate transportation is essential to protect the people from unjust discriminations and to secure safe, adequate, and impartial service upon reasonable terms in accordance with the obligations of common carriers. In order to have supervision which is both thorough and just an administrative board is necessary. I may

assume that my attitude with regard to this matter is so well understood through my recommendations in relation to the enactment of the Public Service Commissions Law in this State that an extended statement is unnecessary.

I approve the recent extension of the authority of the Interstate Commerce Commission by what is known as the rate bill, and I believe that the Commission should have the most ample powers for purposes of investigation and supervision, and for making rules and orders, which will enable it to deal to the fullest extent possible, within constitutional limits, with interstate transportation in all its phases.

This is a just policy. The power of Congress to fix rates for interstate transportation so as to prevent improper discriminations and to compel carriage upon reasonable terms is undoubted. The sole question is how, and under what circumstances, it shall be exercised. But it is manifestly impossible for the legislative body, on account of the conditions under which it works, to make that thorough examination of specific cases which in justice must precede action. It may establish general standards of conduct, but the exigencies of particular cases can be met only by the pains-

taking consideration of an administrative board. The alternative to this policy is either the abandonment of regulation or sporadic legislative intervention under the influence of agitation and almost necessarily without proper examination of the facts or recognition of the different requirements of varied situations. No one can properly complain because legal machinery is provided for the rectification of abuses. And the aim should be to make the machinery adequate to the purpose of providing redress for every grievance and to insist upon standards of administration which will secure intelligent and patient inquiry and impartial enforcement of the law.

The Sherman Anti-trust Act should be clarified and made more explicit. The law may be made stronger and more effective by being made more definite. Sweeping condemnations, of uncertain meaning, do not aid but rather embarrass the prosecution of those who are guilty of pernicious practices. Combinations and practices in unreasonable restraint of trade and which menace the freedom of interstate commerce should be condemned in precise terms. At the same time provision may well be made for joint agreements, under proper circumstances, as to railroad rates, which should

be subject to the approval of the Interstate Commerce Commission.

Various means have been suggested—of doubtful validity and still more doubtful utility—to prevent oppression through the conduct of large enterprises, and to secure the enforcement of the law against illegal attempts to monopolize and the various devices resorted to in unlawful restraint of trade. In my judgment, the most effective course is explicit definition of what is wrong and adequate punishment of the guilty. Such laws, like laws in general which are definite and supported by public sentiment, are to a very large extent self-executing. That is, they are generally obeyed.

I am not in favor of punishment in the shape of fines upon corporations, except for minor offences. The burden of fines imposed upon such corporations is either transferred to the public or is borne by stockholders, the innocent as well as the guilty. Nor am I impressed by the argument that American juries will generally be indisposed to convict where the evidence is clear, because the crime is punished by imprisonment of the offenders. But if the law be definite and the evidence warrants the presentation of the case to the jury, it is better,

in my judgment, that the responsibility for failure to convict should lie with the jury than that conviction should be followed by penalties which are either inadequate or bear unjustly upon those who have had no complicity in the offence.

I believe in a protective tariff. It is an established policy. Our opponents would not undertake to present to the voters of the country the issue of free trade.

A protective tariff is essential to the interests of our wage-earners, in that it makes possible the payment of wages on the scale to which we are accustomed in this country and thus maintains our American standards of living. Hence the difference in the cost of production here and abroad is the fundamental consideration.

But I do not believe in making this policy a cover for exorbitant rates or for obtaining special privileges from the government which are not based upon consideration of the general welfare. I believe that the tariff should be revised. And in order to effect whatever readjustment may be necessary to make the tariff schedules consistent with the principles underlying the protective policy, I favor the appointment of an expert commission, so that

the facts may be ascertained without delay and that Congress may dispose of the matter in the fairest possible manner.

So far as the matter is within the power of Congress, the interests of labor should be safeguarded and the conditions of labor improved. I am in favor of the enactment of a law aptly expressed, to apply exclusively to interstate commerce, which would embody the principles of the employers' liability bill recently declared unconstitutional because too broad. I also approve the laws which have been enacted with regard to safety appliances and hours of labor in railroad service. The matter of railroad accidents deserves special investigation, and every effort should be made to obtain adequate information which will lead to appropriate measures for the protection of life and limb.

Wherever the government comes into direct relation to labor, proper conditions with regard to hours, wages, safety, and compensation for accidents should be provided.

With regard to the Filipinos, we are placed under the most sacred obligations. In justice to them and in justice to ourselves, we must omit no effort to prepare them for self-government. When they are able to govern them-

selves and are in a position to maintain their independence, the American people will not deny them the boon which we ourselves have so highly prized. In the meantime, the work of education and training must proceed, and everything that can be done consistently with the interests of our own people must be done to promote their prosperity.

We are devoted to the interests of peace and we cherish no policy of aggression. The maintenance of our ideals is our surest protection. It is our constant aim to live in friendship with all nations and to realize the aims of a free government secure from the interruptions of strife and the wastes of war. It is entirely consistent with these aims, and it is our duty, to make adequate provision for our defence and to maintain the efficiency of our Army and Navy. And this I favor.

Within the limits of this address, it has been possible to touch on only a few subjects which from a National standpoint are worthy of consideration. But I have endeavored to say enough to give suitable information of my attitude.

We have no problems that cannot be solved. Our citizens are intelligent and alert. There are fresh evidences daily of quickened public

spirit. The conscience of the people has been aroused and their common sense is not impaired. Through the lavish provision for education and technical training, the unexampled opportunities for cultivation and enjoyment, and the varied efforts of philanthropy, we are making steady progress in the improvement of the conditions of our life.

I do not believe in arbitrary action. We desire prosperity. We are anxious that there should be fair opportunities for all the workers of the land, for the extension of industry and commerce, and that there should be the widest diffusion of blessings among a contented people.

To attain these ends, the rule of the people must be the rule of reason and every effort must be dominated by the sense of justice. We must be patient, impartial, and thorough; investigation must precede action; good-will must displace passion; and the sole motive must be to seek the truth and to do the right.

Fellow Republicans: I do not come before you in any spirit of rivalry or self-seeking. There are many Republicans who by virtue of their character and distinguished services are worthy of the highest honor the party can bestow. I ask no favor and I make no claim. I

desire that the party shall act for its best interest.

We must not underestimate the labors of the next campaign. It will be a hard-fought battle. We cannot expect victory unless we are united, and nothing should be done to imperil success in this State. I appeal to you, in the name of the party to which you are all loyal, to forget every personal difference and to make the work which precedes the convention a fitting preparation for the united effort which later will be essential.

And let us not forget that the Republican party does not exist for itself. Our efforts on its behalf are justified by our conviction that through the party we may render patriotic service to the nation. Let this thought dominate our activities and love of country be the inspiration and the motive of every partisan effort.

VII.

Address at the Union League Club Meeting in the Auditorium at Chicago, Saturday, February 22, 1908.

This day has summoned us to render grateful tribute to supreme patriotic service. With the progress of the years and the development of our National life swells the obligation to him through whose military genius independence was won and through whose statesmanship the foundations of the National structure were securely laid.

But we do not simply commemorate victories, even though they advanced a noble cause. We do not gather merely to praise tactics of strategy or daring, however brilliant the exploit or notable the result. Nor is it the skill of statecraft only which commands our homage. These may have their appropriate recognition. But this day has a deeper import. The victories of war and the leadership of peace were alike glorified by the character of the victor and leader.

We venerate Washington because in supreme test he vindicated manhood. The standards of liberty were unsullied in his hands. Whether amid the hardships of long and discouraging campaigns or in the hours of triumph, whether as burden-bearer or idol of the people, he invariably exhibited the same purity of motive, the same patriotic devotion. Against all that is sordid and mean, against all that is petty and unworthy, against the ignoble contrivances and manipulations of the cunning and the artful, against the graspings of avarice and the schemings of selfishness, against every effort to make power and office contribute to personal gain, against all that is or has been hateful and harmful in our political life, stands in majestic contrast the character of Washington,—an example and a benediction, a treasury of memory and a security of hope,—a character, the revelation of which ennobled humanity and enriched the world.

The lesson of this life may be wholly missed by those who call with pride the battle-roll of the Revolution or who recount his distinctions and offices. It may make but slight impression upon those who in the conventional manner exult in his deeds. It is a lesson we must

all take to heart if we are to realize American ideals. It is the lesson of the supremacy of duty. It is the lesson of honor,—of fidelity to trust. It must be enforced in executive chambers, in legislative halls, in courts of justice, in newspaper offices, in banks, in trust and insurance companies, in professional and commercial life, in the marts of trade, in the counting-room, and in the shop, by employer and employed.

There is no legislative road to character. If the spirit of Washington could permeate our public and private life, we should neither need nor seek governmental panacea. And it is only in so far as in fact this spirit imbues administration that the government of a free people can perform its function. We shall largely lose the value of the celebrations of this day if we give our thought exclusively to questions of governmental policy and omit to emphasize the moral sources from which a just government must derive its strength.

Washington did not seek power or preferment. The sense of responsibility outweighed the appreciation of distinction. When he was appointed to the command of the Continental forces he wrote to the President of Congress :

“ Though I am truly sensible of the high honor done

me in this appointment, yet I feel great distress from the consciousness that my abilities and military experience may not be equal to the extensive and important trust. However, as the Congress desire it, I will enter upon the momentous duty and exert every power I possess in the service for the support of the glorious cause. . . . As to pay, Sir, I beg leave to assure the Congress that as no pecuniary consideration could have tempted me to accept this arduous employment at the expense of my domestic ease and happiness, I do not wish to make any profit from it. I will keep an exact account of my expenses. Those I doubt not they will discharge, and that is all I desire."

With tenacity of purpose that has never been excelled, and an unconquerable spirit, he addressed himself to his task; and when, after years of struggle, victory was won, he scorned the temptations of power and yearned for peaceful retirement. Perils could not terrify him; defeat could not dishearten him; exertion did not exhaust him. Nor could success undermine him or victory disturb his poise. Duty never made her imperious demands upon him in vain. But that he should turn an opportunity for service or the advantages of performance to his personal gain, was to him unthinkable.

When prompted by the discontent of an army which despite its victories Congress neglected, the suggestion that his successes and

prestige might enable him by the exercise of monarchical power to establish a firm and just government, he replied : " Let me conjure you, if you have any regard for your country, concern for yourself or posterity, or respect for me, to banish these thoughts from your mind and never communicate as from yourself or any one else, a sentiment of the like nature."

Ending his military labors, he expected, as he told his friends, to " move gently down the stream of life until he slept with his fathers." And when, after the adoption of the Constitution, he was called as the head of the new government to the constructive labors of peace, he manifested the same modest dignity and the same patriotic devotion which characterized him when he had taken command of the army. As he said : " When I had judged, upon the best appreciation I was able to form of the circumstances which related to myself, that it was my duty to embark again on the tempestuous and uncertain ocean of public life, I gave up all expectations of private happiness in this world." And through the two terms of service that followed, but one purpose ran ; and that was firmly to establish the government and to leave nothing undone upon his part which could promote the welfare of his

fellow citizens. He bequeathed to his countrymen the priceless memory of service of extraordinary beneficence which had in it no alloy of self-seeking or base motive.

Intelligent comparison of the conditions of this day with those in times past cannot fail to cause gratification and to beget confidence. The evils which we lament should not blind us to the progress which has been made and is being made.

In the throes of the revolutionary struggle, when it would be supposed that the supreme cause of liberty and the valor and sacrifices of great leaders would inflame all hearts with patriotic ardor, Washington in an outburst of indignation at the indifference and venality which in fact were exhibited, thus described the times in a letter to Benjamin Harrison in December, 1778 :

“ If I was to be called upon to draw a picture of the times and of Men, from what I have seen, and heard, and in part know, I should in one word say that idleness, dissipation & extravagance seems to have laid fast hold of most of them. That speculation—peculation—and an insatiable thirst for riches seems to have got the better of every other consideration and almost of every order of Men.”

And about a year later he exclaimed :

“But alas, virtue and patriotism are almost kicked out! Stock jobbing, speculation, engrossing, etc., etc., seems to be the great business of the day & of the multitude, whilst a virtuous few struggle, lament & suffer in silence, though I hope not in vain.”

They did not suffer in vain; and through their labors and under the beneficent working of the institutions which they founded each generation has attained higher levels in character and achievement. The “cordial, habitual, and immovable attachment” for the Union has come to be cherished as Washington desired. The name of “American,” as he ardently wished, does “exalt the just pride of patriotism more than any appellation derived from local discriminations.” A vast development, an interweaving of interests, and a facility of communication of which he could not even dream, have given rise to a National sentiment which is intense and dominating in every part of the Union.

The country is morally sound. Its standards of business were never higher. In this land of industry with unexampled opportunities for production and exchange, with an area and a population enjoying advantages of distribution free from artificial barriers of intercourse such as the world has never seen, the

men of business inevitably represent the intelligence and moral sentiment of the people. They do not constitute a caste. They come from every walk in life: from the farm, the college, the counting-room, and the shop. They represent every element in the population, native and foreign born, of every degree of advantage and disadvantage in origin and environment. Every stimulus to ambition, every precept of morality, every counsel of experience, every success and every disaster, every lesson of the past, and the multiform warnings of a world where truth and justice alone win lasting victories, have helped to shape their standards and to determine their aims. And making all allowance for the extremes of avarice and artifice, for the unwholesome spectacles of exploitation and infidelity to trust, without blinking any evil or glossing over any wrong, the fact remains that the business men of the country are for the most part honest men, representing fairly the moral standards of the people. And never more than to-day have they, taken as a whole, earnestly desired that abuses shall be stopped, that an end be put to corrupt dealings and unfair practices, that gambling shall not parade in business livery, and that American industry

and trade shall have free scope for development and extension along the lines of honorable rivalry and with justice to stockholders, to employees, and to the people at large.

There is a temporary slowing down of the wheels of industry. Amid uncertainty and hesitation, enterprise waits impatient. Men in large numbers are unemployed who should be employed, and new undertakings and extensions of existing plants, which would provide further opportunities for labor, are not going forward as they should go forward. The interests of industry are not the interests of a class, but of all of the people. What the rich man feels in the reduction of the value of his securities, what those dependent upon the returns from investments feel in the impairment of their income, the wage-earner feels still more acutely as business contracts and the loss of employment confronts him with starvation save as charity, hateful to his self-respect, may interpose. It is well to trace the economic causes which have produced this condition, and needed readjustments must be made.

But it is absolutely essential that we should have the tonic of a wholesome confidence. Not the confidence of ignorance or indifference, blind to wrong and deaf to appeals

against injustice, but the confidence which is inspired by the vision of the forces of right and a just appreciation of our material and moral strength. Pessimists and cynics cannot develop this country. We must have confidence in the stability of our institutions, in the sanity of the people, and in their realization of what underlies our prosperity. We must take account of progress in education ; the dissemination of information ; the increased capacity for discriminating judgments ; the uplifting power of the myriad efforts which in every community make for better living and higher standards of conduct. We are far from perfect, and it is well that we should be stirred by the daily revelations of weakness and of vice. But there is no occasion for misgiving. To distrust the future in this land of opportunity, of educational privileges so eagerly seized, of moral influences so widespread and effective, is to despair of humanity itself. Here, progress is the child of aspiration wedded to common sense. Let us dismiss vague alarms and go forward with calm confidence in the integrity and destiny of the American people.

We have only begun to develop the commerce of this country. The realization of its possibilities awaits improvements which

we must undertake in a systematic manner. Washington with his usual farsightedness was deeply interested in the development of facilities of communication for the purpose of promoting commercial intercourse and creating community of interest. Repeatedly he outlined schemes of internal improvements and connection of waterways, and the Chesapeake and Ohio Canal had its origin in these projects which were never absent from his thought. My own State has ever appreciated the importance of work of this description, to which the Erie Canal bears witness. And it is now engaged in a stupendous undertaking of canal improvement, the intelligent and efficient prosecution of which is of serious consequence to our commercial interests. But while here and there much has been done, there has been wanting a realization of the need of a comprehensive plan for the improvement of inland waterways from the standpoint of National interest. President Roosevelt, with his keen desire to advance the National interests and his usual force, has emphasized this, and we may be said to be entering upon a new era of commercial development. We take just pride in our present enterprise and achievements, but we may believe that the commerce of the

future will as far exceed that of the present as the varied production, the vast extent of commercial exchanges, and the means of communication of to-day transcend the hopes and even the dreams of Washington.

This is no time for discouragement or halting, but for appreciation of American opportunity, and for that intelligent and united effort by which alone we can avail of it and deserve the blessings of posterity.

To support this confidence and to gain these ends we must have a settled governmental policy. And it must be a right policy.

It must be a policy consistent with the genius of our institutions. The people of this country do not desire Socialism even as an experiment. They do not propose to pass through a dreadful "quarter of an hour" of revolutionary changes to satisfy themselves of those imperfections of human nature of which they are already well apprised, and which make impossible the permanent constitution of society in accordance with socialistic theory. We must make progress and it must be steady and consistent, conserving what is good and safeguarding the opportunities for honest effort. Otherwise gains will be offset by unnecessary losses and expert accountants may

search in vain for a credit balance. We may accomplish needed reforms by making our institutions work as they were intended to work, and by effecting, in the light of the benefits thus secured, such changes as experience may commend and deliberate judgment may approve.

It must be a policy consistent with our constitutional limitations and distribution of powers. These are the words of Washington in his Farewell Address :

“This government, the offspring of our own choice uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to alter their constitutions of government. But the Constitution which at any time exists 'till changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all.”

There are, of course, borderlands where the line of demarcation between Federal and State authority has not been clearly defined by judicial decision. The content of grants of power

has been better appreciated as the course of experience has revealed the importance of the grants and their application to National exigencies. Differences of opinion undoubtedly exist, as they will continue to exist,—influenced by differences of viewpoint and of political and economic theory,—with regard to the extent of Federal powers under the great clauses of the Constitution. These differences must be resolved, and for that purpose we have a final arbiter in the Supreme Court. Let such matters be frankly debated with a clear understanding on the part of the people as to the manner in which they must be decided. We secure our peace and confidence by loyal acceptance of the decisions of our umpires. Wherever constitutional provision is clear in its application or has been construed authoritatively we must avoid confusion by recognizing the fact and direct our plans accordingly, unless and until a change be effected in the manner which the Constitution provides. We should not expect from the Nation what the States alone can give; nor because a National remedy is denied for want of Federal power should we fail to insist upon the exercise of the power which resides in our State governments.

By making our institutions work in the way in which they were intended to work, I mean that we should secure the *maximum* efficiency in both State and Federal administration to the end that every matter of National concern and every matter of local concern shall receive, by the appropriate exercise of the powers of each jurisdiction, that full consideration and necessary remedial action by which wrongs, both National and local, may be completely redressed.

What then, under these conditions, are some of the important features of the policy which will support our confidence and insure our stability?

Special interests must keep their hands off the government in city, State and Nation. The common welfare must be the supreme law. The lobbies which have been maintained in legislative halls, the efforts to pervert administration by securing the service for particular interests of those who pose as the servants of the people, the corruption of the sole means by which the people can express their will, have been the effective causes of distrust in government and furnish the most serious pretext for assaults upon our institutions. Every attempt of this sort which has

proved successful has sown the seeds of discontent which argument finds it difficult to allay. The people do not discriminate with ease between the word and the speaker. They will not listen to the voice of reason if it proceeds from the mouth of the briber or the bribed. They who would have sanity of judgment and reasonable solution of difficult questions should see to it that they do not stir the people to indignation by the corruption of representative government. They must trust the people and rely upon their good faith and sense of justice. In the long run they will not be disappointed if they themselves keep faith and respect the institutions whose protection they invoke.

But while we insist upon pure administration and the unselfish fidelity of public officers, we must visit deserved contempt upon those who profit by indiscriminate detraction of men in public life. If the people would be served faithfully they must show their esteem of faithful service. Otherwise the holding of public office becomes a school of cynicism. I am glad to testify to the many whom I have met in public life whose motives and whose actions conform to the best standards. Our public service is far more wholesome than many

people think. If they are intent upon it and just in criticism, the people can have the representation and the administration that they desire.

Wherever there are public rights in forests, in lands, in mines, in water powers, they must be safeguarded and protected from spoliation. Wherever the public grants a privilege, it must be upon consideration of the common benefit and under conditions which insure to the public a proper return for the grant. We must guard our ranges, our coal deposits, our public lands, our forest treasures, by suitable restrictions. No selfish interest must be permitted to seize with covetous hand the public domain.

It must also be taken to be a settled policy that there shall be complete, effective, and just supervision of our railroads. I do not believe in arbitrary action with regard to these important concerns either by Congress or by State legislatures or by commissions. The railroads are not the enemies but the servants of the people. To secure proper service they must be subject to regulation. It must be taken as firmly established that the evils of rebating and of unjust discrimination will not be tolerated, and that adequate and impartial service upon reasonable terms will be insisted

upon. There must be machinery through which public obligations as defined by law may be enforced. This can best be obtained through an administrative board such as the Interstate Commerce Commission. The question of rates must be determined after full consideration of all pertinent facts, to the end that the requirements of impartiality and reasonableness may be complied with, while at the same time a fair return to the owners of the property may be assured. Nothing should be lacking in administrative powers for the attainment of these objects.

It is most mischievous to permit known abuses to remain the subject of general agitation without providing proper methods for the consideration and redress of specific grievances. And there is no more beneficial exercise of power than to allay distrust by providing administrative means for investigation, for necessary publicity, and the even, constant, and just enforcement of the law.

It is now recognized that this policy is important to the railroads as well as to the public. In promoting fair dealing it must prove the security of honorable enterprise

It is also essential that there should be efficient supervision of the issue of securities to

avoid the evils of inflation and of over-capitalization. The interests of the public and of stockholders must be guarded against the imposition of unjust burdens and corrupt manipulations. There should be every facility for the provision of betterments, for desirable extensions and improvements. The action of government should never be an obstacle in the way of increasing and perfecting service. But careful investigation and deliberate action under laws aimed to secure impartiality and open dealing provide a guaranty with which neither the railroads nor the public can afford to dispense.

Other problems are presented with reference to industrial corporations. There are in existence plants which make useful articles of commerce. They employ thousands of workmen. We need the commodities. The workmen need the employment. We wish to see American industry expand. We desire every advantage of economic organization; every just opportunity for the display of talent and inventive skill; every possible improvement in the processes of manufacture; everything—in short—which enhances the opportunities of labor and its fruitful employment at good wages and which develops and encourages trade.

At the same time we desire to put an end to unfair practices, unjustifiable preferences, and oppressive proceedings by which, apart from proper economic advantages or superior skill in industry, rivals are barred from equal opportunities and thrust out of the way or destroyed. This country is full of men with a talent for industry. They are entitled to a fair show. No one can complain if his rival has a larger factory, greater skill in management, more economical processes, or turns out better wares. But in a free country it is intolerable that one should be denied equal access to markets by discriminating rates or allowances, or that he should be the victim of a conspiracy to deprive him of his business, or that he should be crushed by the misuse of large aggregations of capital in unfair competition. Nor should a premium be placed upon such practices, or an incentive be given to extortion, by permitting the piling up of securities which do not fairly represent value and upon which returns cannot be earned by fair means.

To meet these objects, and to prevent oppression and extortion, it is not necessary that business should be involved in uncertainty or that legitimate effort should be handicapped.

The enforcement of just laws has no terrors for legitimate business.

But laws, State and Federal, should be as definite as possible, and should apply with becoming precision to the practices sought to be reached. It was seven years after the Sherman Act was passed before it was determined that it applied to railroads. It was nine years before it received illuminating construction in the *Addyston* case. The courts have been put to unnecessary labor in endeavoring to ascertain what Congress meant. It has long been found inadvisable to attempt a precise definition of fraud, and it is impossible in any statute to describe to the last degree of certitude the cases which should fall within the purview of its clear intent. But it is possible and advisable in dealing with this subject that there should be a more explicit and appropriate statement than we now have in the Sherman Act; that fair agreements as to railroad rates which may receive the approval of the Interstate Commerce Commission, and that associations and agreements for reasonable and obviously proper purposes should not be included in a sweeping condemnation; that it should point with a more definite aim at the evils which afflict interstate commerce and for

which it is in the power of Congress to provide a remedy.

The evils in question will not be eradicated by mere changes in forms of organizations. It does not make very great difference whether those engaged in improper enterprise keep its proceeds in one pocket or in three, or whether their transactions are detailed in one or more sets of accounts. The way to get rid of abuses is to attack them directly. And I believe the most efficacious means is definition and proscription, and adequate punishment of offenders.

The justification of a penalty must be found in either its punitive or its deterrent effect. In their punitive aspect penalties cannot be justified unless their incidence is just. In their deterrent aspect they cannot be justified unless they make unlikely a repetition of the offence. Fines upon corporations, particularly upon large corporations with monopolistic powers, are just from neither point of view. They are easily transferred to the public, and to the extent that they may not be, they are borne by stockholders who in large numbers are without knowledge of the wrong or power to prevent its commission. They do not satisfactorily act as a deterrent, because they involve

merely the payment of money, the loss of which is widely shared or may readily be repaired.

The punishment is most salutary when visited upon the guilty individuals. Few men can be hired to go to jail. And if offences which public sentiment recognizes to be of a grave character are punished by imprisonment, the law is more likely to be obeyed and the punishment to have its intended effect.

The security of business depends upon just and definite laws and their impartial enforcement. It depends upon the possibility of prevision and of a reasonable degree of certainty in the operations of trade. The business men of the country in large majority desire fair dealing and the maintenance of the standards of honorable business conduct. And in every just endeavor to obtain these ends we may be assured that we shall have their co-operation.

We cannot on this day afford to ignore the sentiments which must be the mainspring of every effort of democracy.

We do not exist for the sake of National power or to confer upon a favored few the blessings of fortune. Paltry would be our success if we could simply rival in National greatness the despotisms of the past or could prove

only by the prosperity of a few the benefits of a free government. We exist that there may be the widest possible diffusion of opportunity and prosperity. In our legislation and administration we must favor no class, but protect the interests of all our citizens. While the Nation may devote its powers to this end so far as matters are within Federal control, our State governments and local communities must not miss their great opportunities. In the use of all these powers, according to the constitutional distribution, for the development of our resources, the encouragement of agriculture, the improvement of the conditions of labor, and the safeguarding of the freedom of commerce, we shall progress toward the attainment of the aims of liberty.

Let us realize our mutual dependence and rejoice with Washington, not in power, but in service; not in distinction, but in duty well performed; not in what we have gained, but in what we have given. And as with him may "the benign influence of good laws under a free government" be the "ever favorite object of our hearts and the public reward of our mutual cares, labors, and dangers."



II.

Regulation of Public Service Corporations

“ I am here retained by the people of the State of New York to see that justice is done and with no disposition to injure any investment, but with every desire to give the fullest opportunity to enterprise and with every purpose to shield and protect every just property interest. I stand for the people of the State of New York against extortion, against favoritism, against financial scandal, and against everything that goes to corrupt our politics, by interference with the freedom of our Legislature and administration. I stand for honest government and effective regulation by the State of public-service corporations.”—From Governor Hughes’s Speech before the Elmira Chamber of Commerce, May 3, 1907.



I.

Message to the Legislature, January 2, 1907, Recommending the Passage of a Public-Service Commissions Law.

Proper means for the regulation of the operations of railroad corporations should be supplied. For want of it, pernicious favoritism has been practised. Secret rebates have been allowed, and there have been unjust discriminations in rates and in furnishing facilities for transportation. Those who have sought to monopolize trade have thus been enabled to crush competition and to grow in wealth and power by crowding out their rivals who have been deprived of access to markets upon equal terms. These abuses are not to be tolerated. Congress has legislated upon the subject with reference to interstate commerce, where naturally the evil has been most prominent. But domestic commerce must be regulated by the State, and the State should exercise its power to secure impartial treatment to shippers and the maintenance of reasonable rates. There

is also need of regulation and strict supervision to ensure adequate service and due regard for the convenience and safety of the public. The most practicable way of attaining these ends is for the Legislature to confer proper power upon a subordinate administrative body.

We have now a Board of Railroad Commissioners of five members. It is charged specifically with important duties. The execution of mortgages and the increase or reduction of capital stock are subject to its approval, its certificate that public convenience and necessity require the construction of a projected railroad is required before construction can be begun, and it deals with changes in highway grade crossings, and various other matters in a definitive way.

The law also provides that the board "shall have general supervision of all railroads and shall examine the same and keep informed as to their condition and the manner in which they are operated for the security and accommodation of the public and their compliance with the provisions of their charters and of law." If in the judgment of the board it appears "that any change of the rates of fare for transporting freight or passengers or in the mode of operating the road or conducting

its business is reasonable and expedient in order to promote the security, convenience, and accommodation of the public," it may after notice and hearing fix a time within which the changes shall be made.

But the action of the board in the exercise of this general power of supervision amounts to a recommendation. If its direction is not complied with, the law provides that the matter shall be presented to the Attorney-General for his consideration and action, and shall be reported to the Legislature. So, if it appears that any railroad corporation has violated the law or unjustly discriminates in its charges, and the wrongful conduct is continued after notice, the matter is to be brought to the attention of the Attorney-General, "who shall take such proceedings thereon as may be necessary for the protection of the public interests."

The present scheme of regulation is inadequate. There is a lack of precision in the definition of the powers of the board and an absence of suitable means to compel compliance with its decisions. No penalties are provided for disobedience to orders of the board made within its proper authority. Nor is the board authorized to institute and

conduct legal proceedings for the purpose of enforcing its requirements.

It is also provided that the expenses of the commission shall be borne by the railroad corporations upon the apportionment of the Comptroller. This plan of reimbursing the State is wholly indefensible. The supervision of railroads is in the interest of all the people and should be borne by the people as any other expense of administration. Such a board should be established in public confidence as an independent governmental body receiving no support from the railroads save as they are duly taxed for the general support of the government.

We have also a Commission of Gas and Electricity with broad powers with reference to corporations engaged in supplying gas and electric current.

It is my judgment that there is no need of two separate commissions to deal with these subjects. There are now corporations which are subject to the jurisdiction of both commissions and in some cases the same questions are presented for the decision of both. Similar principles are applicable to the decision in many cases within the jurisdiction of each and harmony of administration would be

promoted by having a single body. It is plainly in the interest of economic administration, in order to avoid the unnecessary multiplication of officers and clerical force, that there should be but one commission. In the two boards we have now eight commissioners. A board of less than this number would answer both purposes.

I therefore recommend that the present Board of Railroad Commissioners and the Commission of Gas and Electricity be abolished and that a new commission be constituted, with powers of regulation and supervision, within constitutional limits, of the corporations now subject to the existing commissions. The commission should have all the powers possessed by the present commissions and such additional powers as may be needed to insure proper management and operation. Its powers should be clearly defined and should embrace the power to act upon its own initiative as well as upon complaint; to pass upon the issue of stocks and bonds; to examine properties, books, and accounts; to require detailed reports in prescribed form; to prescribe reasonable rates; to require adequate and impartial service; to provide for the safety of employees and for

the protection of the public ; and generally to direct whatever may be necessary or proper to safeguard the public interests and to secure the fulfilment of the public obligations of the corporations under its supervision. Provision should be made for suitable inspection so that the commission may be advised as to all matters within its purview and be in a position to take action on behalf of the people without the formal institution of proceedings by complainants. A prescribed quorum should be entitled to decide all questions, and any one commissioner should be empowered to make examinations and investigations, and the proceedings and decisions of one, when approved by the board, should stand as its proceedings and decisions.

The corporation guilty of disobedience to its orders, and all officers and other persons responsible for such disobedience, should be visited with appropriate penalties. The commission should also be entitled to institute legal proceedings for the enforcement of its orders, and all such proceedings should be expedited by suitable preference in all the courts of the State. The Legislature should thus provide, within its constitutional power, adequate means for the entirely just and

impartial regulation of these important public enterprises.

The problem of transportation in the territory of Greater New York demands special, prompt, and comprehensive treatment. The configuration of Manhattan Island and the concentration of business at its lower end, together with the rapid growth of population, have produced an extraordinary congestion. All the existing lines, surface, elevated, and subway, are overburdened and the people suffer in mind, body, and estate. The worst congestion is at the Brooklyn Bridge, due to the convergence at that point of the Brooklyn traffic. The people of Brooklyn who do business in Manhattan are subjected morning and night, not only to exasperating inconvenience, but to such maltreatment and indignities incident to their disgraceful herding that relief in the most practicable manner should be afforded them at the earliest possible moment.

Not only are new facilities needed, which should be planned with reference both to immediate and future needs, but there is urgent necessity for more strict supervision to secure better service on existing lines. In some portions of the city antiquated horse-cars may still be seen, giving picturesque emphasis to

the disregard of the public convenience. Overcapitalization and the improvident creation of guaranties and fixed charges to suit the exigencies of successive combinations entered into for the purpose of monopolizing the traffic have produced their natural results. There are such unjust burdens upon earnings and the tendency constantly to effect economies at the expense of proper service is so strong that it is imperative that the people shall have vigilant representatives clothed with ample authority to compel the corporations to perform their public duty.

In 1891, the Legislature, for the purpose of providing for the development of additional transit facilities, passed the so-called Rapid Transit Act. It constituted a Board of Rapid Transit Commissioners, who were named in the statute. Numerous amendments have been made and additional powers conferred. The statute contains important provisions with reference to construction by the city. Through the accretions of years it has become cumbersome and extremely complicated. It needs revision. Pursuant to the provisions of this act the present subways have been constructed and plans have been made for further construction. By a recent amendment the

board is authorized, with the consent of the Board of Estimate and Apportionment of the city, to grant rights and franchises and to make contracts with reference to the construction and operation of the parts within the city of interstate trunk lines.

We have thus in the city of New York an anomalous condition. Two boards created by the Legislature are exercising powers of the greatest importance with reference to transportation. The Board of Rapid Transit Commissioners is dealing with the question of new facilities and is empowered to make contracts for construction and operation. It is also dealing with the question of the construction of trunk lines into or across the city. The State Board of Railroad Commissioners has general jurisdiction over the railroads of the State and has supervisory powers over the surface lines and the elevated roads in the city. It does not exercise jurisdiction over the subways, as these were constructed under the Rapid Transit Act. But while the powers of supervision are divided, the interests in control of the surface, elevated, and subway lines are now united in a single corporation.

This situation should be met by a comprehensive plan. All the operations of railroad

companies in the territory of Greater New York should be under the supervision of one board. And the board that is to have the power to supervise generally these operations should have the power of initiating plans and of making contracts for the construction and operation of new lines. Instead of two boards dealing with different phases of the same problem, there should be one board empowered to deal with it in its entirety. As such a board would exercise important State powers of control and regulation, it should be a State board, and should be composed of men familiar with conditions in the territory affected. In my judgment it would not be advisable to put all these matters under the control either of the present Board of Railroad Commissioners or of the new commission which I have proposed to take its place. The urgent need of an increase in transportation facilities, and the unique conditions existing in Greater New York, justify the creation of a separate board to deal with the entire matter of transportation in that part of the State.

I recommend that the Board of Rapid Transit Commissioners be abolished and that a new board be created, to have all the powers

now exercised by the Rapid Transit Board, and also to have powers with reference to operations within the territory of Greater New York,—or if deemed advisable, within a wider district embracing the adjoining counties into which certain lines of the surface railroads extend,—similar to the powers which I have suggested should be conferred upon the new commission for the rest of the State. There would thus be included the regulation of gas and electric corporations. Provision should be made for the retention, by the Board of Estimate and Apportionment of the city, of all the powers, including powers of approval, which it now enjoys. The commission proposed for the State generally should have jurisdiction over all traffic between points within the city of New York (or within the district as created) and points elsewhere in the State. It is believed that in this manner the whole question of transportation, and of gas and electric service, in the territory of Greater New York can be dealt with in an intelligent and efficient manner, and that to the fullest extent possible the just requirements of that great community may be satisfied.

II.

Speech at the Banquet of the Utica Chamber of Commerce, April 1, 1907.

The importance of providing effective State supervision of public-service corporations seems to be generally conceded. I shall not recount the grievances which have made the subject one of paramount public interest. It is sufficient to say that the people, without animosity toward rights of property, but with a just insistence upon the performance of public obligations, demand that the State shall exercise its power over its creatures and compel due regard for the duties which are correlative to the privileges it has granted.

Federal regulation is not a substitute for State regulation. Federal powers and State powers are exercised in different spheres. Congress has complete authority over interstate commerce and the State cannot interfere with the exercise of its prerogatives; and it is desirable that the Federal authority shall be fully exercised until every abuse incident to

interstate commerce is ended. But however broadly interstate commerce may be defined, there will remain the problem of transportation wholly within the State and of other local public service. Over local or domestic commerce as distinguished from interstate commerce, Congress has no power to exert control, and if the citizens of the State are to be protected against abuses of corporate privileges, in connection with such local or domestic commerce, they must look for their remedy to the State and to the State alone.

It has been suggested that it is a grievous thing that a railroad corporation, for example, should be subjected to the laws of many different jurisdictions. Undoubtedly annoyances may be caused by a variety of laws and regulations. But so far as interstate commerce is concerned the Federal authority is supreme, and as to all matters of through transportation there is no room for conflict. We may be sure that if the act of any State Legislature, or the order of any State commission operates as a regulation of interstate commerce, it will instantly be challenged by the watchful and astute representatives of the corporations affected, the Federal courts will take jurisdiction, and the supremacy of the Federal authority

under the Constitution will be vindicated. It is proper of course that the State in the exercise of its authority should take account of wise legislation of Congress. Useful efforts may also be made to promote harmony in State legislation. And any State that sets a high standard in its legislative scheme of State supervision, and in its efficient administration of the law, will contribute powerfully toward similar action in other jurisdictions and to the establishment throughout the country of proper administrative standards. But there is no reason why the State of New York should fail to enact a just law in the interest of its citizens because of the action or inaction of other States.

The first question presented is : Why should there be a Railroad or Public-Service Commission? Every power that a corporation has is derived from the Legislature which created it. The Legislature defines what powers it shall exercise and the conditions upon which it shall conduct its operations. As a public service corporation it is constantly subject to legislative control to the end that it may be required to perform in a proper manner the service it was chartered to render. So that every question of rate or fare, of safety appliance, or of suitable equipment and facilities is

a question primarily for the Legislature, which, within constitutional limits, has a right to define the obligations of the corporation. But the questions which thus arise are of extraordinary number and variety; they call for investigation and for the consideration of a multitude of details. Special conditions must be examined and suitable flexibility of action must be provided. To-day the Legislatures of our States are flooded with special bills aimed at this or that grievance in management. But the Legislatures sit only a portion of the year and cannot deal with these matters satisfactorily. Experience has shown the advisability of creating a subordinate body or commission with appropriate powers for this purpose.

Now what is the function of such a commission? It is an administrative board. The object of its creation is to secure the performance of public obligation. The Legislature may, within its constitutional powers, establish standards of service. A railroad corporation, for example, is bound to give safe, impartial, and adequate service for a reasonable charge. It is the function of the commission to secure safety, impartiality, adequacy of service, and reasonable charges—that is, compliance with the requirements of the law.

For this purpose it should have full power to conduct investigations and to make whatever orders in relation to operation that may be necessary to secure proper service upon fair terms and without unlawful discriminations. Undoubtedly very broad powers are required, reaching the various departments of management. But it should be remembered they are designed to secure the safety and convenience of the public. It is no answer to say that these powers may be abused. Every officer of government who has power adequate for any purpose may abuse his power. The safeguard is found in official responsibility and accountability. But the possibility of abuse is no reason why powers which, in their proper exercise are needed for the protection of the public, should not be conferred.

It has been urged that the granting of such broad powers is incompatible with the maintenance of the freedom of management said to be incident to the property rights of the corporations. Such an objection has a certain plausibility, but will not stand critical examination. The Legislature in safeguarding the public interest has the power to require such equipment and facilities, and such manner of operation, as will secure good service. It will

hardly be claimed that the existence of this power is inconsistent with property rights. The property of a public-service corporation has been acquired subject to this power. And the power conferred upon the commission is conferred for the purpose of securing the performance of obligations to which the right of property is subordinate.

Another question is: What is the relation of the courts to such a commission? As has been said, the commission is an administrative body. It would not be proper for the Legislature to confer these powers upon the Appellate Division of the Supreme Court. It is not in accordance with the theory of our government that an attempt should be made to convert the court into an administrative board. It is not the proper function of the courts to fix rates or to make orders as to the facilities which should be supplied, or the safety appliances which should be used. This is the function of the Legislature or of the administrative board which it may create to aid in securing the performance of the duties it has imposed. It would be most unfortunate if, with the necessary extension of State supervision of public service, our courts should have cast upon them such burdens of administration.

The power of the Legislature and of the commission it creates is not, however, without limits. And where the Legislature goes beyond its constitutional powers, or where the administrative board exceeds its authority or passes its constitutional limits, the matter falls within the jurisdiction of the courts, who will declare such action null and void and prevent any attempt to enforce the provisions of the obnoxious statute or order.

Both the State and Federal Constitutions prohibit the depriving of any person of property without due process of law, and the taking of private property for public use without just compensation. Nor can a State deny to any person within its jurisdiction the equal protection of the laws. Neither the Legislature nor the commission can escape these salutary checks upon their authority. So that if it be claimed that the action of the Legislature or of a commission in fixing a rate operates as such a deprivation of property, a judicial question is presented, and the courts will take jurisdiction and determine that question. They will determine it in the light of all the circumstances, seeking to ascertain whether the Legislature or the commission has exceeded that power which the Legislature may properly

exercise in its discretion, or which it may properly confer upon an administrative board, or whether under the guise of regulation there has been confiscation. So, if the claim is made that the action of the Legislature or the commission in professing to provide for safe and adequate service lies outside the field of legislation in defence of the public interest, or of administrative power under legislative authority, the claim presents a matter for judicial consideration, and if the courts find it to be sustained they will invalidate the statute or order assailed.

It thus appears that there is of necessity a court review where such questions are presented. And the distinction between the function of the courts and the function of the Legislature or of the commission it creates is clearly indicated by the fact that the question for the courts is whether under the Constitution the matter under consideration is one that falls within the scope of the authority of the Legislature or of the administrative board. If the courts decide that it falls within the limits of that authority they decline to interfere; if they decide that it does not, they declare the statute or order void.

This court review the Legislature cannot

curtail. The courts proceed by virtue of their inherent powers under the Constitution. It is idle to attempt, and no good citizen desires to attempt, to fetter their action. Frequently the courts have set aside rates established by Legislatures and commissions, and they do not hesitate to grant an injunction prohibiting the enforcement of the rate pending the suit.

Property rights are thus abundantly safeguarded, and it is futile to claim that either through the establishment of the commission or through the exercise of its broad powers the invasion of any property right will be threatened without adequate redress.

A different question is presented when it is urged that *all* orders of the commission should be reviewable by the courts regardless of the question whether the commission has exceeded its authority or any constitutional privilege has been ignored. There is no occasion for such a broad provision for court review unless it is desired to commit to the courts those matters which do not involve the question of deprivation of property without due process of law or without just compensation, but are matters which might appropriately be decided by the Legislature or by an administrative commission. To provide a right of appeal to the

courts from every order of the commission not only invites delay and an unnecessary multiplicity of proceedings, but has for its object the substitution of the judgment of the court for the action of the commission. To give the court power to hear such appeals, to take evidence, and to reverse or to modify the orders of the commission comes simply to this : that the court becomes in effect the ruling commission, and the commission created by the Legislature is simply a board to take evidence and make what are, in effect, recommendations. It may be said that the corporations would not necessarily avail themselves of the right of review in all cases. But it is not sound public policy for the Legislature to create a board whose effectiveness will depend on the option of the corporations.

The delays that are incident to proceedings attacking the action of the commission as unconstitutional are inevitable. But there is no good reason why delays should be multiplied by allowing court review in all cases. There is a broad field of supervision which admittedly lies within constitutional authority, and in this field it is of the greatest public importance that the commission within its own proper province should act with reasonable despatch,

that its orders should be promptly obeyed, and that the public patience should not be vexed by dilatory proceedings.

It is vital to the interests of the community that in dealing with these matters we should deal both justly and effectively. Merely because there are questions which, as we have seen, must inevitably be passed upon by the courts, we should not run the risk of making the scheme of State supervision abortive by committing to the courts the decision of other matters with which properly they have no concern. Proper regulation of corporations is a matter so important and the attitude of the public toward our public-service operations presents so serious a question that we should provide the most efficient means of regulation that is consistent with the constitutional powers of the Legislature.

Let us understand that no fundamental right of the corporations can be taken away; that the corporations commanding the best talent of the country, well advised as to their legal rights and equipped with the most perfect machinery for the presentation of their claims, will not suffer any deprivation of their just rights of property. These will be protected by the Constitution and the courts.

If they entertain any serious fear of effective regulation, it is not that they will be deprived of what rightfully belongs to them.

What is needed is a commission of dignity, of force, of ability; representing the best intelligence of the State available for the purpose and proceeding in a responsible manner. It should have such an equipment and such technical assistance as will enable it to deal with the matters before it thoroughly and expertly. With the highest respect for the courts, I believe that such a commission can best deal with the matters which properly fall within its province, and we may be sure, as has already been stated, that in cases where any doubt can exist as to whether there is an invasion of property rights or whether the matter does not lie within the province of the commission, the courts will be called upon to exercise their admitted jurisdiction.

There are many other phases of the subject to which I should be glad to call attention. The power to issue stock and bonds and to invest in the securities of other corporations is a power derived from the Legislature and subject to such conditions as it may impose. No consolidation or merger of interests can take place except pursuant to legislative authority.

Evils that have resulted from an abuse of the freedom which has been enjoyed under our corporate laws are patent to all. It is not simply or primarily the question of protection to the investor. The paramount demand is that through the improper issue of securities there shall not be provided a motive for crippling the public service or a basis for demanding extortionate returns. The power of the State should be exercised to compel respect for the public interest.

I cannot at this time discuss these questions or other matters, such as the selection and removal of commissioners, which are involved in the proposed scheme of regulation. As I have said, these questions are of grave public consequence. There is no greater mistake than to suppose that the will of the people can be permanently disregarded, and it is the duty of patriotism to provide for the just expression of that will and to remove the causes of unrest which lie in abuses of public privilege. And in attempting to provide remedies for the correction of known evils, let them be real remedies, not mere makeshifts which will bring the law and its administrators into contempt, but effective measures which in their just operation will promote our tranquillity and enhance respect for law and order.

III.

Speech at the Glens Falls Club, April 5, 1907.

As citizens you are all interested in having the government well administered. On this question there is no division along party lines. The people appreciate the importance of insisting upon efficiency and of improving the standards of administration. They are willing to give generous support to those who stand for their interests, and they will not fail to call strictly to account those who seek, on one pretext or another, to block efforts to accomplish this result. They are also—aside from the relatively few whose personal interests and ambitions are involved—practically united in the demand that the powers of government shall not be prostituted to selfish ends, and that public privilege, under public control, shall be exercised for public benefit.

Those who desire to insure the stability of honorable business enterprise, those who desire to maintain an orderly society, secure

against the success of insincere and inflammatory appeal, those who desire to maintain our institutions with their guaranties of equality before the law and with their blessings of opportunity, realize that the time has come when the State must assert its power firmly and justly in putting an end to existing abuses both in the administration of government and in the management of those concerns which derive their vitality from public franchises. Those who oppose this just sentiment chant their own requiem.

The paramount need in the administration of the government of this State is to make it a more largely responsible government. The effort should be to fix responsibility so that accountability to the people cannot be escaped. Some assert that for this purpose all administrative heads of departments and members of administrative commissions should be elected. I do not assent to this proposition. I believe that on the one hand it is destructive of necessary unity in administration, and on the other increases the opportunities for manipulation and intrigue. Experience shows that in a political campaign it is difficult to concentrate the attention of the people upon a large number of offices. The election of all administrative

heads and members of commissions would tend, in my judgment, greatly to increase the difficulty of securing responsible government.

On the other hand, the people take a deep interest in the selection of the Chief Executive. In connection with this office, public opinion to the largest degree asserts itself with reference to the selection of candidates. A system which fixes upon the Governor responsibility for the administration of the government and clothes him with corresponding power, is the system which in the long run will insure to the people the best administration.

The Constitution provides that the executive power shall be vested in the Governor, who "shall take care that the laws are faithfully executed." In the popular imagination the office is invested with those powers which the people instinctively associate with the first office in the State. But in reality, while the administrative powers and responsibilities of the Federal Executive have increased, those of the State Executive have diminished. This is a mistaken State policy. As Governor Hoffman said:

"To bestow on the Governor of this State the power necessary to enforce the laws of the State and on the

Mayor of the city all necessary executive power in the administration of the affairs in the city, that is concentration of power in the proper hands ; power adequate to the duties and responsibilities imposed. Without this concentration there is no real responsibility ; without it we cannot justly hold the Chief Executive accountable for his due administration of the government ; we fail to enjoy what the English-speaking race prides itself upon—responsible government.”

We have now an anomalous condition. In the Constitution the people in regard to several important offices, have given to the Governor appropriate power. Thus it is provided that the Superintendent of Public Works shall be appointed by the Governor by and with the advice and consent of the Senate. But he “may be suspended and removed from office by the Governor whenever in his judgment the public interest shall so require.” The Superintendent of State Prisons is to be similarly appointed ; but the Governor “may remove the superintendent for cause at any time, giving to him a copy of the charges against him and an opportunity to be heard in his defence.” The members of the State Board of Charities, and of the State Commission in Lunacy are similarly appointed by the Governor with the advice and consent of the Senate ; but any member “may be removed

from office by the Governor for cause, an opportunity having been given him to be heard in his defence."

The Constitution also gives the Governor power to remove important elective officers. Thus sheriffs, clerks of counties, district attorneys, and registers of counties are removable by the Governor, subject to the provision that the officer shall receive a copy of the charges against him and an opportunity of being heard. Statutes have also conferred upon the Governor the power to remove other important elective officers. Thus by the Greater New York charter the Governor may remove the Mayor of New York upon charges, and he may remove the Police Commissioner of that city whenever, in his judgment, "the public interest shall so require."

But in connection with the important administrative offices created by the Legislature, the Governor's power of removal has been fettered. So that, while in public opinion he is chargeable with the administration of the government, he has not the power of removal, through the right to exercise which correct administration may be secured. For example, the Superintendent of Banks, the Superintendent of Insurance, and members of the Railroad

Commission are removable only by the Senate upon the recommendation of the Governor. Now it is not sound policy to create administrative positions which are "under cover" so as to speak, without appropriate means for enforcing accountability. If these offices are not to be elective then those that hold them should be directly responsible to the Executive, who must account to the people. There should be no distribution of responsibility between the Executive and the Senate. As a recent writer has said:

"It frequently happens that the law organizing the commission is so expressed as to give the Governor, after making the appointment of its members, no further control over the actions of that body. The power of removal either is denied him, or is hedged about in such a way as to make its exercise practically impossible except for the grossest malfeasance. . . . After appointment by the Governor, they are launched in their orbit with practically no one to restrain or limit their action within the law. The Governor's reputation may suffer by their action, yet, as he has practically no power of removal, he is helpless except so far as he may direct public attention to the wrongdoing."

In effect, as has been said, "the commission system establishes a fourth department of government" without suitable responsibility.

This matter has particular importance in

connection with the proposal to reorganize the system of State supervision of public-service corporations. In the bill now pending before the Legislature, the power of removal of the members of these commissions is lodged with the Governor. This has been strongly attacked upon the ground that it gives the Governor too much power. It is insisted that the power of removal should be lodged with the Senate.

Now, so far as I am personally concerned, the matter is not of grave consequence. It is very unlikely that I should have occasion to remove an officer whom I had nominated, and whose qualifications I had had an opportunity carefully to examine before the nomination was made. I may therefore refer to the matter in an impersonal way, and simply for the purpose of stating my view as to correct political principle.

The vesting of the power of removal in the Governor is objected to on several grounds. First it is said that men of self-respect would not take the office on such terms. This is absurd. No one yet has declined the office of Mayor of New York or of Police Commissioner, or of Sheriff, District Attorney, or Superintendent of Public Works because the Governor has the power of removal. The

President has a broad power to remove administrative officers and this has not interfered in his calling to his aid the best talent in the land. Any Interstate Commerce Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

It is also said that if the Senate confirms the appointment its concurrence in the removal should be required. Neither in logic nor in precedent is there a satisfactory basis for such a claim. Where the people have spoken through the Constitution they have made the Superintendent of Public Works, the Superintendent of Prisons, the members of the State Board of Charities and of the Lunacy Commission removable by the Governor alone, although the appointment is with the advice and consent of the Senate.

But the objection that is most seriously urged is, that it increases the political power of the Governor, and that this may be used for political purposes. I believe that to fix the responsibility with the Governor, thus making him directly accountable to the people for the administration of important departments, will do much to free administrative offices from improper political control, and

will create a powerful incentive toward efficient administration.

The point is that the Governor cannot escape accounting to the people for the misuse of his power. His term of office is only two years. The broader his powers, the more careful the people will be in his selection. To the public mind he is, or should be, responsible for administration, and it is not wholesome that he should be induced to attempt to accomplish results by indirection. Undoubtedly an unscrupulous Governor may abuse his powers. As the case stands at present an unscrupulous Governor may use unscrupulous means to attain the object of his ambition. The statutes intended to restrain, operate but slightly to the disadvantage of those who are impelled by bad motives. The situation now is, that an unscrupulous Governor may attain his end by a misuse of power, while a scrupulous Governor is blocked in his efforts to achieve results. It is a great mistake to be so intent on preventing bad administration as to make difficult a good one. It is also a mistake to distrust the people.

The true remedy, as I have said, is to unify administration, to concentrate administrative power, and thus sharply define administrative

responsibility. Those who have studied the problems of municipal administration are practically unanimous with reference to the importance of this policy. It is equally important in connection with State administration. In this way only can proper correctives be supplied for administrative abuses.

This is the more important as the activities of the State increase. If we are to protect our administrative wards and departments from improper influences, if we are to secure administration for the benefit of the people without favoritism, we must see to it that administrative offices are not created which are practically immune from accountability, and that the people, through officers of their choice, are able to express their will.

In this country, with its constitutional safeguards, the interests of property will not be endangered. This is the people's country; they have established constitutional limits within which administrative powers must be exercised. They are entitled to have these powers exercised in a responsible manner. And they will run no serious risk if the powers essential to secure faithful performance of administrative duty are centred in the Chief Executive of their choice.

I may say a word in regard to another matter affecting the pending legislation. It has been pretended by some that it interferes with the freedom of employees to work or not to work as they choose. Such a contention is absurd. No commission, under this law or any other law, would have the right to compel men to work against their will. This is a free country, and, under our Constitution, slavery and involuntary servitude are impossible. A law which undertook to compel men to work for a corporation who did not wish to work for that corporation would not be worth the paper that it was written on, and no one can find any such intention within the four corners of the proposed law.

It has also been said that the bill legalizes mergers which have already taken place. It does nothing of the sort. Past transactions are either lawful or unlawful. If they were lawful, it is important that the new legislation should not be construed as intended to affect any right which is safeguarded by the Constitution. If they were unlawful, the proposed bill does not legalize them. The provision of the bill simply is that it shall not affect what has been lawfully done, and every right which exists, with every reference to any illegal

transaction in the past, will continue to exist without impairment by anything in the proposed law.

Something has also been said regarding the penalties provided for by the law, but it will be noticed that the penalties stated are merely maximum penalties. There is no provision in the bill, for example, that a corporation violating the act shall be mulcted in a penalty of \$5000 for every day that the violation continues. The penalty is a sum *not to exceed* \$5000 for each offence or for each day's continuance. The penalty is not required to be a particular sum, but within the limit stated will be fixed at such sum as the court may find just in view of all the circumstances of the case. If the company ought to pay \$5000 a day, it will have to pay that sum. If this would be unjust and result in the extreme penalties described by the opponents of the bill, a sum will be fixed that is both adequate and just. The court has the necessary latitude so that proper punishment may be meted out. Nor is any one in danger of a penalty unless he violates the law. And of course there will be no penalty at all unless the order is valid and should be obeyed.

As I have said before, the law in its operation

should not be unfair or oppressive, but it should be effectual.

Property rights are not threatened, freedom of management consistent with just recognition of public obligations is not interfered with. I need not repeat what I have recently said in regard to the proper function of the courts and the importance of avoiding dilatory proceedings to secure a court review of matters which are purely administrative.

Let me say in conclusion that I believe there is general recognition of the importance of providing for suitable State supervision of public-service corporations as is now proposed; that I believe the people of this State indorse the effort to place an adequate measure of relief upon the statute books; and I believe that a majority of the members of the Legislature are alive to the importance of the question presented and will be found to be in accord with the public sentiment upon this question.

IV.

Speech at the Banquet of the Buffalo Chamber of Commerce, April 18, 1907.

We have met to-night to commemorate commercial enterprise and industrial achievement. You unroll the record of the successes of fifty years to find inspiration and promise for the future. And in the building you have set apart to-day for your Chamber of Commerce you have at once a monument and a prophecy. The half century that has passed since your organization has witnessed the development, of the national consciousness which has rendered the Union secure against dismemberment, and has prepared the way for the realization, upon the largest scale the world has ever known, of the ideals of democracy and of the blessings which through equality of opportunity under a free government may come to a united and industrious people.

For government—and free government—is not an end but a means. And its object is to

secure the broadest diffusion of prosperity and the widest scope of individual opportunity consistent with the welfare of all.

We sometimes hear voiced a feeling of resentment against the assertion of public rights upon the ground that it is an attack upon the business interests of the country. A sullen and defiant attitude toward public opinion ill becomes an American citizen. Both unprincipled attempts to corrupt it and despotic efforts to defy it must, in this land of sound common-sense, inevitably fail.

One of the dangers of the rapidity of our development is overstrain. Brain and nerve have never been subjected to such tests as are now imposed upon those who are charged with the responsibilities of success, either in commercial, industrial, or professional life. A railroad man told me the other day that for the purpose of securing necessary assistants in the enlargement of his railroad facilities he had sent to one of the largest railroad corporations in the country for a list of available men. He had received the names of a considerable number between thirty-five and forty-five years of age, among whom he recognized many who had won distinction for their abilities, and against all was the note "broken down." That

I suppose was the reason why they were "available."

Now in a situation like this, where executive ability is crowded to the utmost, and the demands of the day are multiplied, while the hours of the day remain inexorably fixed, there is danger of an undue tenseness and of a tendency to disorganization. If I were to put in a phrase the special demand of the hour upon all those engaged in the discussion of public and economic questions affecting the business interests of the country, I should say: Let these questions be upon your conscience and upon your heart, but not upon your "nerves."

The prevailing sentiment in this country is wholesome and just; it is idealistic; it rejoices in the extension of commerce and the development of industry; it takes pride in the ability that invents, in the talent that can organize effort and make co-operation productive; it honors honest toil of hand or brain; it prizes sagacity and thrift; it extols prudence; it reverences achievement. But it also demands honesty. It also exacts fidelity, both to private and to public obligation. It believes in freedom of opportunity, not that a few may exploit the many, but that each, working according to

his talent, may receive a just return, and that the rights of all in their community relations shall be paramount to the selfish interest of any one.

The people draw a clear distinction between the builders and the destroyers of our Commonwealth. Work is honorable and no true American begrudges the workman his well-earned reward. For the rank and file who are toiling to develop the resources of our country and to facilitate the exchanges of commerce; for the great army of workers in their varied fields of effort who are giving their lives to industry and making possible our commercial development, the people have naught but praise. They are not against business, but against abuses; and to preserve the interests of the former the latter must be stopped.

Who are the enemies of the Republic? They are not those who are doing an honest day's work and who seek to do their work under fair and decent conditions.

They are not those who manage industry and commerce with just regard for those who are under their direction and with proper recognition of public rights.

They are not those who, husbanding the resources they have lawfully acquired, seek to

enlarge the field of enterprise and to afford opportunity for new and useful employments.

They are not those who, taking account of the evils that afflict society, attempt to provide adequate remedies.

There are two classes of enemies to the prosperity of this country.

The first consists of the unscrupulous who have no sympathy with democratic ideals, and who, by their abuse of the privileges obtained from the State and their cynical indifference to public obligations, bring law and government into contempt.

The second class consists of those who seek profit in unprincipled agitation.

The second thrives upon the evils created by the first.

Now the great progress of the country, so strikingly exemplified in this favored city, must give us pause. Business and commerce must have stability, but they cannot find it unless the public confidence is maintained. This means efficient government and adequate public regulation of public service. There is no measure more truly conservative than that which commands the public respect, as conserving the public interest. Favoritism in public service is an iniquity that the people

will not and should not tolerate ; it is an evil which the business men of the country are determined to end. The public are entitled to be assured that the business which is conducted by virtue of the franchises they grant, is conducted as the public interest requires. They desire extensions of facilities ; they wish to encourage betterments ; they have no inclination to hamper industry ; but they are tired of financial jugglery, and they demand proper service. There is no reason why those who are endeavoring to meet fairly public obligations should suffer by the improper practices of others engaged in the same business. The remedy is to provide such regulation of public service as will assure the people that provision has been made for the investigation of every question and that each matter will be decided according to its merits in the light of day.

But equally important is it to insist upon the maintenance of the highest standards of administration in government and not to tolerate any prostitution of public office to selfish purposes. Now I have confidence in the people. And I have no confidence in those makeshifts which result from distrust of the people. But whether you have confidence or not in

popular judgment, let me assure you that in this country it is idle to inveigh against it. You must abide by it. And the security of business is in the provision of adequate means for responsible government, in holding officials strictly to account for their performance of duty, and in a compliance on the part of those in charge of our great business enterprises with the obvious demands of justice.

V.

Speech before the Elmira Chamber of Commerce, May 3, 1907.*

I did not come here to-night to join in a debate. It is entirely true that I had purposed to say some things in regard to the very measure about which my friend Mr. Stanchfield has spoken, and I shall not say any less, but perhaps something more. In distinction from my learned friend, I am here under a retainer. I am here retained by the people of the State of New York, to see that justice is done, and with no disposition to injure any investment, but with every desire to give the fullest opportunity to enterprise, and with every purpose to shield and protect every just property interest. I stand for the people of the State of New York against extortion, against favoritism,

* Governor Hughes had prepared a speech for this occasion but Mr. John B. Stanchfield, who spoke before he did, made an attack upon the Public-Service Commissions bill, saying as he did so that he was "under no retainer from the railroads," and the Governor abandoned his prepared speech to make an extemporaneous reply to Mr. Stanchfield's arguments.

against financial scandal, and against everything that goes to corrupt our politics by interference with the freedom of our Legislature and administration. I stand for honest government and effective regulation by the State of public-service corporations.

Now, I am fully conscious, as is every one who professes to have a modicum of intelligence, of the tremendous advantages which the country and every community in it have derived from the extension of our railroad facilities. Our communities would be lifeless, our trade would collapse, we would all be worse than dead, were it not for these opportunities of communication and these facilities of transportation. We honor every just effort to make these possible. We want every opportunity afforded to enable the people to move their produce, and we want fair treatment to those who are engaged in this very necessary activity. Yet it is said that, despite the prosperity of the country and the great benefits that have been derived from the extension of our transportation facilities, there is a state of unrest; that there is a general condition of discontent throughout the country. Why? Is it because of extension of means of communication? Will any one

suggest to an intelligent audience that American citizens are in revolt against their own prosperity? What they revolt against is dishonest finance. What they are in rebellion against is favoritism which gives a chance to one man to move his goods and not to another; which gives to one man one set of terms and another set to his rival; which makes one man rich and drives another man into bankruptcy or into combination with his more successful competitor. It is a revolt against all the influences which have grown out of an unlicensed freedom, and of a failure to recognize that these great privileges, so necessary for public welfare, have been created by the public for the public benefit and not primarily for private advantage.

There has been a determined effort through the State to make it appear that the Chambers of Commerce in New York and the business men composing those Chambers of Commerce are opposed to an effective scheme of State regulation of public-service corporations and opposed to the specific measure now pending in the Legislature having that object in view.

I do not believe that the resolutions that have been passed reflect the sentiment of the business men of the State of New York. It

would be most unfortunate were it so. There are undoubtedly many whose interests are directly affected, and who desire to maintain existing conditions and to enjoy unrestricted freedom in order that they may give rein to their own selfish purposes, who undoubtedly are frankly and consistently against the proposition. There are others who throw a sop to public opinion by saying that they believe in regulation and who then will contest with you any provision that promises effective regulation.

I heard a distinguished railway man the other night speak of the great difficulties under which railroads are now suffering, endeavoring to keep up with the extraordinary demands that are incident to our very rapid improvement and development in commerce. I sympathize with those difficulties. I sympathize with the operating man who lies awake nights trying to devise means by which he can improve traffic facilities. I sympathize with the great army of active railroad men who, under severe conditions, are trying to perform their duty. There is nothing antagonistic to them, or to anybody who desires to deal squarely with the public, within the four corners of that bill. This gentleman said,

speaking for the railroads: "We want friendly co-operation; we want protection against aggression and injustice." And I speak for the people by saying: "So do we." That is what we want on both sides—friendly co-operation for just ends and protection against aggression and injustice.

I am amused at times at the phantoms that are conjured up by practical men whose experience should have taught them better. It is said that a commission with such broad powers would take active management of railroad corporations and practically oust their boards of directors. Imagine the situation of any such commission taking into consideration the vast variety of questions relating to the management of any one railroad corporation. Think of the great number of problems and complaints necessarily committed to any such commission, and then tell an intelligent American audience that any such commission could, if it wanted to, manage any railroad!

But what is important and vital to any scheme of regulation is this: That wherever there is an abuse the commission can put its finger on it and hear the evidence and determine whether or not the abuse exists, and if

it does exist stop it, no matter in what department of management it may be. Why, you cannot do that unless you give power which in an emergency will reach any department of management, so that wherever an evil exists which the State ought to control and correct, the power delegated by the State to such a body can be exercised for its correction. That does not mean that any commission should displace the operating management of any particular property. It does mean that they should have the power to exercise control sufficient to correct abuses that might exist. Now, when we consider these matters in detail, you will find, and I have found, the railroad men sitting quietly down with you and talking it over. You take up one thing after another and they will say: "Yes, they ought to have power to do so." Suppose so and so? Yes, they ought to have power to do it, assuming that they start with the premise that the business of the public-service corporation is a public business. There are many who lay down that premise very glibly, never to remember it again; and who, having admitted to you that the management of the railroad is public business, forthwith will argue with you that it is their own private concern.

But when you deal with a railroad man who fairly and squarely meets you, you will find that he will agree that these powers are needed, supposing that abuses exist which would call them into action. The other night I was talking to such a gentleman, and when we got through, the practical result of all was this: I said to him: "What you really want is a chance to go to the courts?" And he said: "Yes, that is all there is about it." That seemed to be the main point. A chance to go from the commission to the courts.

I have the highest regard for the courts. My whole life has been spent in work conditioned upon respect for the courts. I reckon him one of the worst enemies of the community who will talk lightly of the dignity of the bench. We are under a Constitution, but the Constitution is what the judges say it is, and the judiciary is the safeguard of our liberty and of our property under the Constitution. I do not want to see any direct assault upon the courts, nor do I want to see any indirect assault upon the courts. And I tell you, ladies and gentlemen, no more insidious assault could be made upon the independence and esteem of the judiciary than to burden it with these questions of administration,—questions which

lie close to the public impatience, and in regard to which the people are going to insist on having administration by officers directly accountable to them.

Let us keep the courts for the questions they were intended to consider. When questions of property rights are involved,—the constitutional right to hold property and not to be deprived of it without due process of law is involved; when, under the guise of regulation or authority to supervise railroad management, there is an assumption of arbitrary power not related to public convenience; when there is a real judicial question—let the courts have it and every good citizen will stand aside and hope to see it decided fairly and with even-handed justice.

When you deal with matters of this sort you may be sure that there will be a variety of questions, which, whatever the fact may ultimately be proved to be, can by astute lawyers be said to involve such judicial matters, and there will be abundant opportunity for review of everything that should be reviewed. But to say that all these matters of detail which will be brought before the commission,—matters requiring men to give their entire attention to the subject, to get their information

in a variety of ways, to have hearings of those interested, and to deal with questions from a practical standpoint,—should, at the option of the corporations, be taken into court, is to make a mockery of your regulation. And, on the other hand, if that policy should succeed, it would swamp your courts with administrative burdens and expose them to the fire of public criticism in connection with matters of this description, from which I hope they will be safeguarded.

You must have administration, and you must have administration by administrative officers. You cannot afford to have it otherwise. Under the proper maintenance of your system of government and in view of the wide extension of regulating schemes which the future is destined to see, you cannot afford to have that administration by your courts. With the courts giving a series of decisions in these administrative matters hostile to what the public believes, and free from that direct accounting to which administrative officers are subject, you will soon find a propaganda advocating a short-term judiciary, and you will turn upon our courts—the final safeguard of our liberties—that hostile and perhaps violent criticism from which they should be shielded and will be

shielded if left with the jurisdictions which it was intended they should exercise.

Now it seems to be regarded as a very serious thing that my successor might remove the commissioners I appoint. I do not share the fears of my friend, because the experience of the past has taught us that the only safety of democratic government is responsible government. If you put men in a position where they cannot be reached and are not compelled to be accountable, you put a premium upon incompetency, you put a premium upon political interference and set the people at bay. Do you want these commissioners elected? Some might say "Yes." I say that is not the way to get really responsible government, but rather diffused responsibility; to prevent unity of administration, to break up a system of accountability which would be found to answer the purpose. If you apply it in that case, why not through the whole administrative field? Voters would not know the qualifications of the men for whom they were voting, and they would have no opportunity to test their qualifications for this administrative position or that. There is one safety for the voters, and that is to say to the man who is elected Governor, just as the owner of a business would say to a man he

puts in control of that business: "You run this business and I will hold you accountable for it." Pick your man and get the right man, and hold him directly accountable to the people. Say to him: "You whom we can watch — you with reference to whose selection public sentiment in the first instance has the largest play under our system,— you run the business and we will see how you run it."

We have had a recent illustration. Eighteen months ago the whole country, and you might say the whole world, was shocked by the revelation of corruption in those institutions which we deemed strongest and which we supposed to be officered by the most honorable and efficient managers. It was a business that constituted a sacred trust, and affected the savings and securities of thousands of homes throughout our State. And when it appeared that those who were trusted were faithless; when it appeared that these funds had been used for extravagant, corrupt purposes, that book-keeping had been deceptive, that vouchers had been improper, that all the safeguards which go to maintain proper administration had been neglected,— a great outcry went up from the people of the State and the people of the United States. They

said: "This thing must stop!" And that was in a business under governmental control. That was in a business under a control designed by statutes which pried into the very life of every department of activity. It was a State department in the hands of those who could walk into offices, take accounts, examine books, put officers on oath, and make reports. It was a business put under severe regulations because of its high importance,—and these things happened. What a farce it all was! And the people of the State knew it.

When I went into office some eight months or so after the laws had been enacted which resulted from that investigation, there was practically the same condition of affairs that had existed in the course of the insurance investigation, and the very men through whose negligence and connivance all these things had taken place were there as the trusted and confidential advisers of the Superintendent. It was an intolerable situation. No business manager would have stood it. There was no personal question involved. It would have been much more agreeable to me to leave it alone. But it was there, and it was my duty to endeavor to put the department upon the

best possible basis of efficiency to protect the interests of the policyholders, and I sought to do it.

Now, that is an illustration of the situation where places are created which are removed from any direct accounting. No removability except by the Senate means incompetent and inefficient administration, and in the long run political administration. I do not care who is Governor, in the long run the one safeguard of the American people is responsible government with power adequate to meet the responsibility and accountability to the people for the exercise of that power.

Now we want in these measures, as in other measures, to be just ; but we want to be effective. We cannot have any power that is not susceptible of abuse. There is not a single State officer who has power enough to do his duty but could be guilty of a serious abuse if he neglected his duty.

In your Mayor and in your Governor, and in others entrusted with administrative powers, you must repose confidence. And if these men really stand, not in some secluded nook, protected by some statute passed without due regard to the public interest, but directly before the bar of public opinion, in the long run

the people will get their due. And my policy in this measure, as in every other measure, is simply to see to the best of my ability during my short term that the people get what they are entitled to receive.

VI.

Veto of the Two-Cent Fare Bill.

STATE OF NEW YORK—EXECUTIVE CHAMBER.

ALBANY, June 11, 1907.

To the Assembly :

I return herewith, without my approval, Assembly Bill No. 2269, entitled, "An Act to amend the railroad law, in relation to rates of fare."

This bill, with specified exceptions, provides for a maximum passenger fare of two cents per mile upon the railroads in this State. Steam railroads less than 150 miles in length, which are not within the counties of New York and Kings (or within the limits of an incorporated city), are permitted a higher maximum charge of three, four, and five cents a mile according to length of line, unless through consolidation, lease, or control they form part of a system whose combined lines exceed 150 miles, in which case the provision for a maximum rate of two cents a mile is applicable.

The passage of the bill was not preceded by legislative investigation or suitable inquiry under the authority of the State. Nor is the fixing of this rate predicated on reports or statistics officially collated which would permit a fair conclusion as to the justice of its operation with reference to the railroads within its purview. It plainly reflects dissatisfaction with existing conditions and an effort to provide a remedy through arbitrary action. It seems largely to have been the result of annoying requirements and discriminations in connection with the sale of mileage books on certain roads.

The bill represents a policy seriously mistaken and pregnant with disaster. It is of the utmost importance that the management of our railroad corporations should be subject to strict supervision by the State and that regulations compelling the observance of the law and proper and adequate service should be rigidly enforced. It is the duty of these corporations to provide transportation of passengers and goods at reasonable rates, and the State should compel the performance of this obligation.

But injustice on the part of railroad corporations toward the public does not justify

injustice on the part of the State toward the railroad corporations. The action of government should be fair and impartial, and upon this every citizen, whatever his interest, is entitled to insist. We shall make matters not better but worse if to cure one wrong we establish another. The fact that those in control of railroad corporations have been guilty of grossly improper financiering and of illegal and injurious discriminations in charges points clearly to the necessity of effective State action, but does not require or warrant arbitrary reprisals. In dealing with these questions democracy must demonstrate its capacity to act upon deliberation and to deal justly.

It is of the greatest importance not only that railroad corporations should be compelled to respect their public obligations, but also that they should be permitted to operate under conditions which will give a fair return for their service. Upon this depend not simply the security of investors, but the security of their employees and the protection of every form of industry and commerce through the maintenance and extension of necessary transportation facilities. Nothing could be more opposed to the interests of the community as a whole than to cripple transportation corpora-

tions by arbitrary reduction of earnings. It may be said that a two-cent passenger rate is not so extreme as to have a very injurious result. But this is a debatable question. Large and prosperous suburban communities have been built up through the offer of commutation rates much less than the proposed maximum. Upon the maintenance of these rates many thousands of our citizens rely. Considerable differences exist between the railroad corporations with respect to the territory they serve and the cost of service, and it is manifest that what would be fair for one might be far from fair for another. An arbitrary dislocation of tariffs by the fiat of the Legislature without investigation is a matter of serious concern. The best that could be said for such legislation would be that it should be regarded as an isolated case and not as a precedent. For if flat freight rates, either for all commodities or for different kinds of commodities, were similarly to be fixed by the Legislature without investigation or proper ascertainment of their justice, our railroad business and our industrial and commercial interests would be thrown into confusion.

I do not mean to be understood as saying that a maximum two-cent passenger rate would

be unreasonably low. It might be high enough in many cases. Possibly it would be high enough in all cases. I fully appreciate the fact that those who have promoted this bill believe that such a rate would be fair. But I deem it most important that the policy of dealing with matters of this sort arbitrarily, by legislative rule of general application without reference to the demands of justice in particular cases, should be condemned. Every workman, every tradesman, and every citizen believing himself to have aught at stake in the prosperity of the country, should determinedly oppose it. For it not only threatens the stability of business enterprise which makes our prosperity possible, but it substitutes unreason for sound judgment, the ill-considered demands of resentment for the spirit of fair play, and makes impossible patient and honorable effort to correct abuses.

There is a better way. It has already been pointed out in the legislation of this State. It is practically impossible, in view of the nature of the problems and the many questions requiring consideration, for the Legislature to deal directly with railroad rates in a satisfactory manner. Where a matter requires investigation in order that a just result may be

reached, the obvious course is to create a body which can investigate, with expert assistance, as summarily as possible, and which shall have adequate power to make appropriate orders. Such a body has been created in this State through the Public-Service Commissions Law recently enacted.

Provision is made for inquiry into matters of freight rates and passenger fares, and for the fixing of such rates as shall be found just and reasonable. If a passenger rate of two cents a mile is just and reasonable, it can be fixed. If it is not just and reasonable, it should not be fixed.

It will be said that this requires time and investigation. But it will not require any longer time or any more protracted investigation than are necessary to reach a right result. The interests of the country are so great and our individual interests are so closely interwoven that it is to the highest degree dangerous to give encouragement to the spirit of impatience with the orderly processes of inquiry.

It may also be said that many other States have adopted similar legislation. If the principle of that legislation be sound we could readily follow the precedent; but if it be

unsound there is the greater reason why it should not be followed. The State of New York has provided machinery to settle these questions justly to all with as much despatch as possible. It is to the interest of all that this machinery should be made as perfect and efficient as possible. It is to the interest of none that it should be discarded because of preference for arbitrary legislative action.

If this bill were to become a law it would most probably lead in many cases—on account of pretended or real necessity—to economies in service and to readjustment of rates now lower, to the annoyance and injury of considerable numbers of the travelling public for which the gain to others would not necessarily compensate. Again, the validity of such a statute would almost certainly be contested in protracted litigation, the result of which, to say the least, would be in doubt. At a critical time, when the interests of all demand that reason and judgment should control in dealing with such matters, we should have abandoned our true line of action and facilitated still wider departures.

I therefore disapprove this bill.

(Signed) CHARLES E. HUGHES.



III.

Occasional Addresses.

"If in administration we make the standard efficiency and not partisan advantage, if in executing the laws we deal impartially, if in making the laws there is fair and intelligent action with reference to each exigency, we shall disarm reckless and selfish agitators and take from the enemies of our peace their vantage ground of attack. It is my intention to employ my constitutional powers to this end."—
From Governor Hughes's Inaugural Address, January 1 1907.



I.

Speech at the Banquet of the Albany Republican Organization, February 27, 1907.

We are all interested in the success of the Republican party. I have been a Republican from the time I came of age. I am grateful for the splendid services it has rendered to the country and for the memories of the noble men under whose leadership in repeated crises the party has proved itself equal to the task of preserving and administering the government. There is no political organization in this country which at this time has such an opportunity of serving the people by efficient administration and by wise constructive effort in the correction of known evils. The party has its future in its own keeping, and if it will measure up to its traditions and meet its opportunities it will for many years be invincible both in State and Nation.

I do not condone any public wrong because it is committed by a Republican any more than

I would were it committed by a Democrat. Nor do I think that loyalty to party requires support of anything wrong either in policy or in administration which we would feel free to condemn if the wrongdoing could be charged to those of a different political faith. No one can convince me that he is a loyal Republican, with the interests of the party at heart, who will misuse official position or will be content with anything short of the best service of the people. I count it the highest loyalty to the party to insist that the work done under Republican auspices shall be honestly done and well done, and that our record of administration shall not be smirched by either corruption or inefficiency.

Organization is essential to successful effort, and no sane man would expect any political undertaking to be successful which is not skilfully organized and wisely managed. But the success of political organization, important as is practical management, will depend upon its ideals. No matter how skilfully constructed or astutely led, the people will smash any organization that is devoted to selfish interests. Give the people the idea that the main purpose of organization is to secure control for personal advantage or for favored interests, and sooner

or later they will bring to grief the best-laid plans of the most astute leaders. But, on the other hand, convince them that organization is directed to the purpose of maintaining an honorable party policy and of promoting an administration of government in the interest of the people, and they will rally to its support.

The lessons of the day to the Republican party in this State are not hard to learn. In 1894, as a rebuke to an organization that had overreached itself, Governor Morton was elected by over 150,000 majority. This succeeded many years of Democratic rule and Democratic opportunity. In the last three presidential elections the State has given remarkable pluralities for the Republican candidate. McKinley had 268,000 in 1896 and 143,000 in 1900; and Theodore Roosevelt received over 175,000 in 1904. The Republican candidate for Governor in these years, while having the advantage of the sentiment created in favor of the candidates of the national party, fell conspicuously behind the national candidate. While McKinley had 268,000 in 1896, Governor Black received 212,000. Where McKinley had 143,000 in 1900, Governor Odell received 111,000. While Mr. Roosevelt had 175,000 in 1904, Governor Higgins had

80,000. But we have a far more striking divergence when we compare the votes cast in the intermediate years when there was no presidential campaign. Thus, while Governor Black received 212,000 in 1896, Governor Roosevelt was elected in 1898 by a little under 18,000. While Governor Odell received 111,000 in 1900, his plurality in 1902 was short of 9000. While Governor Higgins was elected by 80,000 in 1904, in the last election all the Republican candidates for State offices, save one, were defeated.

The Republican who fails to realize the significance of these figures is paying little attention to the demands of the people of the State and the relation of these demands to party success. Undoubtedly there were special circumstances in the case of each election. But it is clearly evident that on State issues the Republican party will be doomed to defeat unless it gives new assurances to the people of its capacity to govern in their interest.

Now, I do not profess to be versed in the wisdom of politics, and I make no claim to knowledge of political strategy. But I do know this: That if the Republican party expects to succeed in this State it must support every effort to give efficient administration.

No man is a friend of the Republican party who asks me or any one in authority to appoint a man or to retain a man who is not equal to his job. If you want a strong party organization, then let it be insisted upon that no man can expect the support of the organization who does not make good. Make it a point of honor to demand the best service for the State. Let us devote ourselves to meeting the need of the hour by providing just and effective measures for the correction of abuses. The Republican party has the vantage ground; it has the opportunity; there is no reason why it should yield it to its opponents.

I make no request for personal support. So far as I am personally concerned my interests lie in a profession to which I would be glad to devote myself. But I am desirous that the Republican party should take advantage of its opportunity to convince the people that it can be trusted to meet their demand in furnishing competent administration of every department of government, and in the enforcement of the laws, and in the enactment of the legislation that is required to protect the people against the misuse of the privileges they have bestowed.

For that policy I do desire support. I desire the support of the Republican organization.

I am grateful for the assurances that have been received. Let there be a demonstration that we are a party of the people and that the interest of all citizens is safe in our keeping.

Let us put an end to graft and to favors to special interests. Let organization be skilful and leaders be masterful, but let all seek to secure an administration of which all the people may be proud, and the party which has given the nation Lincoln, Grant, McKinley, and Roosevelt need not fear defeat.

II.

Speech at the National Arbitration and Peace Congress, New York City, April 15, 1907.

It is not my function to deliver a formal address upon any of the topics which will engage your attention, but rather in the name of the State of New York to bid you a hearty welcome. It is my pleasant duty to express the gratification of our citizens at the meeting of this Congress and their appreciation of the important influences which must radiate from such a representative assemblage.

It is fitting that this meeting should be held in a State representing in so conspicuous a degree the varied activities of peace, and in a metropolis which focusses the energies of a people who, in beneficent concord, without desire of conquest or lust of power, are working out their destiny inspired by national ideals of equality and justice. As a New Yorker, and as one representing the State in an official capacity, I find it agreeable to recall the names

of its distinguished sons who have contributed in a marked manner to achievements in the interest of the peace of the world. You will not think it amiss if I claim for this rôle of honor the foremost citizen of the Nation, whose Federal activities have not obscured his relationship to his native State, and the lustre of whose fame as President of the Republic has been heightened by his service as pacificator. And New York has also given to the Nation the eminent public servant who has addressed you, the keeper of our foreign interests, in whose wise diplomacy every citizen is assured of the astute and jealous defence of our peaceful policies. We may also claim by right of his adoption the presiding genius of this Congress, whose personal interest and generous benefactions have contributed so notably to the progress of this world-movement.

When the first Peace Congress met at The Hague, three of the six representatives of the United States were New Yorkers,—Andrew D. White, the scholar and veteran diplomatist; that eminent citizen of this metropolis, Seth Low; and the lamented Frederick William Holls, the versatile secretary of the American Commission and the historian of the work of

the conference. New York also should take special pride in the intelligent service in the cause of international arbitration which, long in advance of the meeting of that conference, was rendered by the lawyers of this State.

In January, 1896, following an address delivered before it by the Honorable Chauncey M. Depew, the New York State Bar Association appointed a committee to consider the subject of international arbitration, and to devise and submit to it a plan for the organization of a tribunal to which international questions might be submitted. In April of the same year, after careful deliberation, the committee made its report, recommending the establishment of an International Court of Arbitration, to be composed of members selected by the agreeing nations and to be open at all times for the submission of controversies. The plan was laid before the President of the United States, and later, as Secretary Foster states in his recent work, it became the basis of the instructions of the American delegates to The Hague Conference, and in accordance with this plan are found to be the essential features of the Permanent Court now in existence at The Hague. It is gratifying to trace this preliminary and influential

activity of our public-spirited fellow citizens, and we of the State of New York welcome the members of this Congress with a cordiality emphasized by our long and sincere interest in the questions you are to consider.

There are few, if any, to plead the cause of war in general, however it may be defended in particular. Statesmen and soldiers alike condemn it, and against its monstrous cruelties and wastefulness, commerce and sentiment are allied. The necessity of war as a last defence of liberty and honor is admitted only to be deprecated, and in the desire to prevent armed strife there is almost complete unanimity. There may still be those who believe in the beneficent effects of the discipline of war, and who shrink from contemplating a society enervated by exclusive devotion to the pursuits of peace. Undoubtedly benefits have been conferred by war. Against the dark background of ruin, desolation, and death, the elemental virtues of humanity have stood out in bold relief. And aside from the important and beneficial results of certain wars, the world has largely learned its lessons of courage and fortitude, of the supremacy of duty and the sacred obligations of honor from those who, in fierce but heroic struggle, have revealed the noblest qualities of

humanity. "He maketh the wrath of man to praise Him."

But while we justly appraise these consequences of past conflicts, we also know well their cost, and we keenly appreciate the frightful evils and the enormous wastes which have been incident to the evolution of the race through strife. We rejoice that the currents of progress lead to peace and that the time is sure to come when war will be unthinkable.

We can no longer look to war for the development of either national or individual character. The heroics of war have been replaced by mathematical calculations. If it was ever anything else, it is now unmitigated horror exhibiting chiefly fiendish aspects of ingenuity and scientific skill in destruction. Under our modern conditions of civilization, the supposed beneficent results of war in the development of courage and stamina must in any conceivable event be shared by so few of our teeming populations that even the most sanguinary must realize that the time has gone by when by any stretch of imagination it can be regarded as a general disciplinary agent. And in the controversies of peace and in the bloodless struggles for the maintenance of truth and justice in our personal and civic

relations, must be found the arena of the future in which character may find severer tests than ever were afforded by historic battlefield.

We note with satisfaction the fact that war can now be waged only under onerous conditions, and the increasing pressure of economic considerations for the recognition of the fundamental doctrines of the Christian faith. The growth of representative government with its restraints upon the ambitions of despotism in a just appreciation of the general welfare, our complex commercial relations ignoring national boundaries, and our growing intimacies tending to make the world one society instead of a series of hostile camps, are reducing the possible causes of armed conflict and powerfully promoting the peaceful settlement of controversies.

Much can undoubtedly be accomplished by the meeting of the representatives of the nations in the direction of perfecting international law and in providing suitable conventions for the regulation of war. No doubt much that is of value can be secured in the more adequate protection of commerce and of property in time of war.

But important as are these objects, the great

purpose to be achieved is the prevention of war, and not its regulation.

Among nations as among men, the requirements of the sentiment of honor are subject to revision as conscience becomes more enlightened and truer conceptions of personal dignity gain place. And it may be reasonably expected that public opinion, taken in connection with the serious economic aspects of war, will gradually reduce the possible area of strife over questions thought to involve the national honor. The controversies which are incident to international business and exchanges, and those which relate to alleged violations of international agreements, may be composed without resort to arms. And without minimizing the conditions which still exist, threatening the peace of the world, we have reason to congratulate ourselves that the reign of war is nearly over.

In working for the interests of peace, regard may well be had to the influences which have thus far proved so successful. The end is not to be sought through coercion, or by the vain attempt to compel peace by force, but by extending to the utmost provisions for deliberation and for conciliatory measures.

The security of peace lies in the desire of the

people for peace. Protection against war can best be found in the reiterated expression of that desire throughout the nations of the earth, and by convening their representatives in frequent assemblies. Provision for stated meetings of the Peace Conference, with their opportunities for interchanges of official opinion, the perfecting of plans for submission to arbitration, and the improvement of the machinery of the International Court indicate the lines along which substantial progress may be made.

The people of the State of New York, cordial in their welcome to the delegates to this Congress, will watch its deliberations with sympathetic interest, earnestly desirous that through these meetings the united sentiment of the United States may find effective expression.

III.

Address at the Unveiling of Tablets at the Hall of Fame, New York University, May 31, 1907.

On this day, with grateful appreciation, we commemorate the valor and the sacrifices of those who, as representatives of the people, took part in the struggle for the preservation of the Union. With the passing of the years, the wounds caused by civil strife have been healed, and old animosities and sectional rivalries have given place to a common realization of our National destiny and to a common congratulation that we have remained a united people. And to-day we render the tribute of honor as well as of affection to the memory not merely of those who fell fighting for a victorious cause, but for all who in their unselfish zeal, following what they believed to be the right, revealed the heroic qualities of American manhood.

While the ceremonies of this hour have no direct relation to the general observance of the day, it is fitting that among those who are

esteemed worthy of a place in this temple of illustrious Americans, and whose tablets are unveiled at this time, should be the great general of the Civil War, William Tecumseh Sherman.

He hated war, but brought to its prosecution the highest military genius. He appraised its horrors so justly that he had no patience with temporizing policy. But, by daring and original plans, carried out with mathematical precision and unrelenting determination to succeed, he hurried the advent of peace, which he sincerely desired. To him, war was war—unrelieved, cruel war,—a terrible means to a righteous end. And he played his part heroically, brilliantly, and unflinchingly for the sake of the end he so clearly saw. And by reason of his originality, foresight, exactness, intrepidity, and success he placed himself in the first rank of military men.

The soldier has so largely monopolized the plaudits and affection of mankind, not because of, but in spite of, the barbarities of war. Largely, of course, it has been due to the momentous political consequences of the success of arms, either in the defence of liberty or in the maintenance of national life, with which the people have felt their interests identified,

or in the increase of National glory which they proudly shared. But more largely the soldier has been honored, paradoxical as it may seem, because of love of humanity, and because through his work the noblest qualities of man have been placed in conspicuous relief. Endurance, poise, fortitude, unselfishness, disregard of personal danger, sagacity, discernment, swift and unerring analysis, exact calculation, the capacity for leadership and the mastery of men, single-mindedness and love of truth and honor, shining forth in a sincere and noble character at a time of greatest stress and peril,—these are the qualities which dignify humanity and, represented in the soldier under circumstances fixing the attention of the nation and the world, call forth a universal tribute. And by the manner in which these severe tests have been met, we test the quality of a nation's citizenship. It is not the havoc wrought, the lives sacrificed, the disaster and the ruin caused by the victory, that win the admiration of mankind, but the inflexible purpose, the intelligent plan, the undaunted courage, and the heroic self-abandonment, whether of victor or vanquished, which exercise the perennial charm and in their justification of humanity form the spell of ballad and of story.

We are rich in such memories. To-day two such heroes have their appropriate recognition in this temple of the illustrious. The one, who exhibited his extraordinary military capacity in the war that saved the nation ; the other, who dazzled the world with daring exploits in the war which made the nation possible. When John Paul Jones lashed the jib-boom of the *Serapis* to the mizzen-mast of the *Bon Homme Richard*, and with his motley crew engaged the disciplined British in one of the most deadly conflicts recorded in naval annals, he magnificently exhibited the spirit which won the War of Independence. It was not the physical results, but the moral effect of a victory achieved under extraordinary conditions and through rare personal valor, which gave it historical significance.

But more and more clearly do we understand that what we should prize most is not the occasional revelation of noble qualities of manhood in bloody warfare, but in their cultivation for purposes of peace, and their manifestation in the every-day activities of an industrious people. Our attention is fixed upon the ideals of a peaceful society. And to-day we honor, not alone the heroes of conquest, but also the framers of our govern-

mental edifice, and the scientist, the author, and the teacher, men and women, notably influential in the development of our National life viewed in its broadest aspect. Among these are three men in the front rank of American statesmanship. It is impossible in the brief word now permitted to attempt a just appreciation of their character and services. Two of them, Alexander Hamilton and James Madison, are identified with that initial period of our National history when the Constitution was in the making. It has been well said that the years immediately following the successful ending of the War of Independence were the most critical in our history. The struggle which, for want of effective union, had been unnecessarily prolonged, left thirteen independent republics with mutual jealousies and aversions and with discordant views and antagonistic ambitions. There was wanting a National consciousness. And the great victory won in the War of Independence seemed to promise little more than the establishment of a number of petty governments arrayed against each other. But powerful as were the apparent forces driving the States apart, still more powerful was the pressure of common interests, too long imperfectly recognized, which were

destined to bring them into an indissoluble Union.

Finally, in 1787, the Federal Convention met at Philadelphia. Among the men of distinguished merit who composed it, Washington, Franklin, Hamilton, and Madison were pre-eminent. Perhaps no assembly ever sat to deliberate upon the problems of government with four men who could be called their equals. Hamilton and Madison were young, the one thirty and the other thirty-six. To these two more than to others we owe our Federal Constitution. The one has been justly described as its "principal author," and the other as its "most brilliant advocate."

Hamilton was full of National spirit. He was the apostle of centralization and of National strength. Years before, when only twenty-three, he had set forth with rare lucidity and force the need of a "stronger government" with "an administration distinct from Congress." His was a master mind, acute in analysis, ready in construction, powerful in reasoning, capable in execution. But he lacked confidence in the people and in popular government. Nevertheless as a true statesman, he sprang to the defence of the work of the Convention, which had failed in large measure to

meet his views, and by the lucidity, force, and persuasiveness of his arguments broke down the opposition and prepared the way for the triumph of the Constitution.

But great as was this service, even greater were his labors in establishing a system of government under the Constitution and in the constructive work of administration. As the first head of the Treasury Department, through his luminous reports and constructive financial measures, he insured at a critical time governmental stability and gave vigor to the National life. Under forms different from those which he preferred, the supreme objects of National strength and adequacy for which he mightily strove have been secured, and no one has more deeply impressed himself upon our National thought or infused into the workings of our Constitution a larger measure of his spirit and purpose.

James Madison, the Virginian, took the leading part in the work of the Convention of 1787. When Edmund Randolph presented to the Federal Convention the Virginia plan, it was no secret that the work was largely that of Madison. He was a profound student of political history, and by his leadership in the Convention won the title of the "Father of

the Constitution." It is to this work and to the papers which he contributed to the *Federalist* that he owes his transcendent fame. Later he served the country in Congress, as Secretary of State, and as President. But in his long career he never showed to the same advantage as when he brought his rare talents and the constructive skill of the student of government to the task of framing our fundamental law. The statesman was largely lost in party politics, and as President he was called to tasks foreign to his abilities. But his service to the Nation in connection with the work of formulating its scheme of government will keep his fame imperishable.

It was this feeling which prompted the sentiment uttered by John Quincy Adams, the third American statesman whose tablet is unveiled to-day, on the death of Madison in 1836 :

"Of the band of benefactors of the human race, the founders of the Constitution of the United States, James Madison is the last who has gone to his reward. They have transmitted the precious bond of union to us, now entirely a succeeding generation to them. May it never cease to be a voice of admonition to us, of our duty to transmit the inheritance unimpaired to our children of the rising age."

Few careers in our history have been so

distinguished for variety of important public service as that of John Quincy Adams.

Only ten years the junior of Hamilton, he lived until 1848. Under Washington he was Minister to The Hague, to Portugal, and to Prussia. Later he was State Senator and United States Senator. After an eventful mission abroad as Minister to Russia, and as one of the commissioners in the negotiations which led to the Treaty of Ghent, he became Secretary of State under President Monroe, whom he succeeded as Chief Magistrate. Retiring at the age of sixty-two, he subsequently entered upon the most important part of his career as Member of Congress, serving for about sixteen years, until he received the death stroke on the floor of the House.

To Mr. Adams must be attributed the first suggestions of what has come to be known as the Monroe Doctrine. In 1823 he informed the Russian Minister "that we should contest the rights of Russia to any territorial establishments on this continent, and that we should assume distinctly the principle that the American continents are no longer subjects for any new European colonial establishments." This was the precursor of the famous declaration in President Monroe's message.

Ever characterized by independence and devotion to what he believed to be the right, his old age was devoted in no small part to the contest against slavery. With an indomitable spirit and extraordinary power in debate, strong in his absolute conviction of the righteousness of his cause, he was willing to stand alone, unterrified and unconquerable. His chief title to fame rests not upon official honors nor upon his holding the highest office in the Nation's gift, but upon his service as the well-equipped and dauntless champion of human rights in our national assembly.

On an occasion like this we are vividly impressed with the fact that monuments may perpetuate names and form imperishable records, but they cannot confer fame or make enduring the respect of mankind. To serve their appropriate purpose they must record what is already written in the hearts of the people and stand as tribute to the continued esteem which alone they are powerless to perpetuate. In the review of our Nation's history, short as it is, the petty schemes of political manipulators, the un consequential victories in conflicts for the spoils of office, and ignoble efforts of selfishness appear in their true proportions. The Nation is a sound critic and it

pays its final homage to those who with inflexible purpose and fidelity to conscience have devoted their talents unreservedly to the service of the people. The trickster, the intriguer, and those who seek to win by strategy what public confidence will not bestow, quickly pass out of the notoriety which they may temporarily achieve, unless by reason of exceptional ability they may live to point a contrast. The Nation is jealous of its ideals, and it never has been more insistent upon the straightforward conduct of public affairs than it is to-day. It demands of its representatives single-minded devotion to public duty and a knightly sense of honor in the administration of public office. We should lose no opportunity to enforce the lessons which may be drawn from the lives of those illustrious Americans by whom we as a people have been so richly served. And from their labors, of which these exercises are a fitting recognition, we may draw inspiration which will enable us to go forward undismayed to meet the problems thrust upon us by our rapidly extending activities.

IV.

Address at the Jamestown Exposition on Jefferson Memorial Day, July 5, 1907, in Connection with the Reunion of the Descendants of the Signers of the Declaration of Independence.

"We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men deriving their just powers from the consent of the governed."—Declaration of Independence.

The immortal words of the preamble of the Declaration of Independence recorded more than a protest against exactions of the British crown. They were more than an assertion of the right of the Colonies to be independent States. They passed beyond the necessities of the moment and transcended perhaps in their broad import the sentiment of many who, exasperated by tyrannical demands, were ready

to renounce their former allegiance. They have the perennial value of a political creed voicing in terms of conviction the aspirations of humanity. They suggest to us the long struggle against the usurpations of power and the impositions of avarice and cunning. They have been ridiculed as fallacious; they have sustained the assault of those who, descanting upon obvious physical, mental, and moral inequalities, have sought to obscure the profound truth of equality before the law and the inalienable rights of manhood. To-day, as always, they present to us the standard by which we may judge the successful working of our institutions. And gathered upon this historic spot in the Commonwealth which nurtured him, we may fittingly pay our tribute to the author of these words, in the language of Lincoln:

“All honor to Jefferson—to the man who in the concrete pressure of a national struggle for independence by a single people had the coolness, forecast, and sagacity to introduce into a merely revolutionary document an abstract truth applicable to all men and all time, and so embalmed it there that to-day and in all coming days it shall be a rebuke and a stumbling-block to the very harbingers of re-appearing tyranny and oppression.”

The attitude of men toward government by the people is not determined by party lines.

The man who would ignore the rights of his fellow citizens, who would establish himself in a fortress of special privilege and exercise his power, small or great, in opposition to the welfare of others, may be found in all parties and in every walk of life. It is an attitude sometimes explained by training and environment, but in general merely exhibits the rule of selfishness. There are many who have no sympathy with the principles of the Declaration and who look with alarm upon every emphatic assertion of popular rights. There are many others who will join in an appeal to democratic principles when it serves self-interest, but are ready to use every vantage point that may be gained in the struggle for existence to deprive their fellows of equal opportunity. But we may be assured that the progress of the people will not be halted. The long contest with "divine right," with usurped power however obtained, against every attempt under any form to control and exploit the many for the benefit of the few, can have but one result. Slowly and surely the people have won their way, and no final settlement will be reached until the administration of government squares with the principles of the Declaration and an end has been put to every conversion

of governmental powers to selfish purposes.

We may properly congratulate ourselves upon the marvellous record of the Nation's progress. With resistless energy the vast domain between the oceans has been developed and its remotest parts have been knit together by mutual needs and the multifarious activities of an ever-increasing commerce. The skill of a people rich in invention, endowed with boundless ambition and rare capacity for organization, has made available our natural wealth and has made our industrial achievements the marvel of mankind. Our development has intensified the sentiment of national unity, and despite our wide extent of territory and notwithstanding the many differences exhibited in our population, we are a people united not merely in form or by convention, but in interest and sentiment. An unparalleled prosperity has blessed our efforts. And never has the sun shone upon a more industrious and happy people, enjoying to a larger degree equal rights and equal opportunities than those who gather to-day under the Stars and Stripes to commemorate the birth of American liberty.

Once more we extol the heroism and statesmanship of those who laid the foundations of

the Republic but dimly conscious of its destiny. We bless the soil that gave them birth and the traditions under which they were nurtured. We come in a reverential spirit to the Old Dominion, the mother of statesmen, where within the space of a few years were given to the world George Washington, Patrick Henry, Thomas Jefferson, Edmund Randolph, James Madison, John Marshall, and James Monroe. But we would draw little inspiration from their lives and from the fascinating record of their formative days, if we gave ourselves over to mere jubilation. We are a progressive people. We are loyal to our ideals. We refuse to be content with mere material achievements. Nor are we satisfied with comparison with other nations or with earlier times. We desire that this Nation shall realize its highest possibilities. We contemplate the future with serious determination and a solemn sense of obligation.

The lesson of to-day is that every patriotic American should look upon his country's history and destiny in the light of the principles of the Declaration of Independence and with sincere sympathy with democratic ideals. Instead of looking askance at every expression of determination to vindicate popular rights, it should be welcomed. So long as the spirit of

1776 is abroad in the land there will be no condonation of abuses, and material prosperity will not be permitted to serve as a cover for public wrongs.

Jefferson had no patience with the doctrine of Montesquieu that a republic can be preserved only in a small territory. "The reverse," he said, "is the truth." We are fortunate in having a distribution of powers and in the maintenance of local autonomy through units conserved by historical and sentimental associations. We live under a Constitution wisely guaranteeing a division of powers between the Federal and the State governments so that each may exercise its appropriate authority. We have no need to look with concern upon increasing activities of the Federal Government so long as they are pertinent to the accomplishment of Federal objects and do not interfere with the exercise of the powers of the States in the conduct of their local affairs. But we may properly become alarmed when State governments lack vigor and efficiency in the protection of their own citizens and in the control of the exercise of the franchises they have granted. There is no incompatibility between vigorous State administration looking after its own affairs and

strong National administration dealing with National questions and supervising by strict and adequate regulation interstate commerce. Both are essential ; and in the proportion that the people insist upon efficient and responsible administration of local affairs are they likely to secure a proper and responsible exercise of Federal authority, whatever its necessary extent within its constitutional sphere.

Ours is not and was not intended to be a pure democracy. It is impracticable that the people should administer the government directly. They govern through representatives. For their protection they have by direct legislation created constitutions fettering the power of their representatives and establishing safeguards by which they are secure in their personal liberty and in the results of their thrift.

We note with satisfaction the increasing sense of responsibility to the people on the part of those who represent them. Efforts to dominate legislation for selfish purposes and attempts through the forms of popular election to place in office those who, in the guise of executing public trusts, serve private interests are less successful than heretofore. The people have become intolerant of such traitorous representation. And it is entirely within their

power to put a stop to it altogether. Political leaders who have performed the function of clearing-houses for legislation and who, while posing as party workers, have served under a retainer of special interests, careless alike of party principles or of public justice, are passing from the stage. The people demand leadership, and parties need effective organization to advance their principles. But the time is rapidly passing when any one can long maintain a position of wide political influence who is under suspicion of maintaining a double allegiance.

But we need more than escape from such prostitution of political power. The people are entitled to have unselfish leadership and unselfish representation. Popular government will not attain its ideal until it becomes a point of honor for political leaders not to make their political fortunes the test of their action. This in the light of human nature may seem a counsel of perfection. But the people are rapidly becoming more conscious of its necessity and more critical of its absence. And as we advance it will become more obvious to the active political worker that disinterestedness is essential to successful leadership.

We are also encouraged by the insistence

upon the performance of public obligations. The indignation that has been felt with reference to the conduct of large public enterprises, notably in the case of our transportation corporations, has been due on the one hand to the efforts they have made to attain their ends by debauching the administration of government, and on the other hand to their failure to perform their obligation in giving fair and impartial service. Their misuse of the privileges which the people have bestowed, their manipulation of securities, their malign influence in legislative halls, have had their natural result in creating a deep feeling of public resentment. This feeling is most wholesome. It would indeed be cause for alarm if at a time of great prosperity the people were servile in the presence of financial power and remained supine under abuses of public rights.

Coincident with the insistence upon more faithful representation in the administration of government, upon the performance of public obligation by our great corporations, we find throughout the business world a more general recognition of the responsibilities of fiduciary relation. This is but another phase of the general public attitude toward all who hold relations of trust and confidence, whether in

politics or in business. It is but an aspect of a wholesome demand which is being voiced from the Atlantic to the Pacific for the honorable conduct of affairs.

There is also cause for gratification in finding the standards of administration raised. It is inevitable with an alert and intelligent people that as the business of government increases greater attention should be paid to the manner in which it is discharged. We may look for a steady improvement in the public service, and on its civil side,—in the sentiment of honor and of disinterested fidelity that may attach to it,—it may rival what has long been conspicuous in connection with our military and naval organizations. The State is entitled to the best, and this we may hope the enlightened patriotism of peace will ultimately secure.

There may be those who think that to attain the ideals of popular government changes in our organic law are necessary. But there is no warrant for change until conscience and public spirit obtain from our existing institutions what they are able to confer. An honest and intelligent electorate can secure the representation to which it is entitled. Public opinion formed after full discussion of pending questions exerts a force wellnigh irre-



sistible. As Jefferson said: "Responsibility is a tremendous engine in a free government."

It has been the fear of those who distrust popular government that it would lead to excesses and that sound judgment would from time to time be displaced by the fury of an excited populace. The safeguards of democracy are education and public discussion. Our country is safe so long as our schools are full.

There are those who speak the language of conservatism but whose underlying purpose, only thinly veiled, is to protect those who have betrayed the public and to prevent necessary remedial action. There are others who resort to inflammatory appeal, careless of the interests which would be sacrificed by the arbitrary and ill-considered action they propose, or defend. We may believe that the people will not be deceived by either. With extraordinary unanimity they have supported President Roosevelt in his courageous and vigorous administration because they have believed that he voiced the sentiment of fair play. It is this sentiment more than any other that dominates American life.

Our interests are inseparably connected. We cannot by arbitrary legislation afford to disturb our industrial enterprises. There are

millions of wage-earners who depend for their daily bread upon the stability of our business interests.

But there is no reason why rapacity should not be restrained and public obligation enforced.

Those who are loyal to the ideals of popular government are anxious that the people should vindicate their supremacy, and in so doing should safeguard their essential interests. This may be done if they use the powers of government deliberately and justly. The people of this country are not at war with business or with honorable business organizations. They have no desire to fetter lawful enterprises or to impair the confidence which is essential to the maintenance of our prosperity. They do desire to thwart every attempt to secure or retain an improper advantage through unjust discriminations or governmental favoritism. If those who are sympathetic with this desire will encourage the just and reasonable disposition of each question upon its merits and promote the rule of common sense, we shall attain the desired end and prevent democracy from suffering at its own hands.

We stand in the presence of those related by blood to the illustrious signers of the

Declaration of Independence. They rejoice in their distinguished lineage. But we are all the spiritual sons of these fathers of our liberties. We have a priceless heritage. This great country, populated with an intelligent people animated by the loftiest ideals, presents unexampled opportunity. May we be worthy of our birthright and so deal with the problems confronting this generation that we may transmit to our children a still larger boon, and that they, enjoying even to a greater degree equality of opportunity, may find still better secured the inalienable rights of life, liberty, and the pursuit of happiness.

V.

Address at Chautauqua, August 24, 1907.

These meetings furnish evidence of the alertness, earnestness, and zeal for mental and moral betterment which characterize the American people. Their restlessness, their eagerness to know and to do something worth while are symptoms of health. The multiplying courses of our universities having relation to social and political subjects, our institutes of research, our voluntary assemblies for mutual improvement, our varied philanthropic associations, our organizations in every line of commercial and intellectual effort, reflect the intense desire for progress.

There are a few, fortunately only a few relatively, who devote themselves to ease and self-indulgence, awakening passionate remonstrance by the spectacular incongruity of their lives as contrasted with American ideals. But the attitude of many of these, conscious of their lack of popular esteem, is apologetic. The typical American does not seek idleness,

but work. He wants to justify himself by proved capacity in useful effort. Under different conditions, he still has the spirit of those who faced the wilderness, advanced the outposts of civilization, and settled a continent of matchless resources, where has been laid the basis for a wider diffusion of prosperity among a great population than the world has ever known. To whatever department of activity we turn, after making all necessary allowances for ignorance, shiftlessness, and vice, we still find throughout the country, dominant and pervasive, the note of energy and resistless ambition. The vitality of the people has not been sapped by prosperity. The increase of comfort has not impaired their virility. We are still a hardy people, equal to our task, and pressing forward vigorous and determined in every direction to enlarge the record of achievement.

It is easy, looking at phases of our life in an absolute way, for one who is pessimistically inclined to gather statistics which superficially considered are discouraging. Congestion in our great cities, the widened opportunities for the play of selfishness, and the increase of temptations following in the wake of prosperity give rise to an appalling number and variety

of private and public wrongs whose thousands of victims voice an undying appeal to humanity and patriotism. But one would form a very inaccurate judgment of our moral condition by considering these wrongs alone. They must be considered in their relation to other phases of our life. We must not fail to take note of the increasing intensity of the desire to find remedies and the earnestness with which all forms of evil and oppression are attacked.

The ethical sentiment of our country is not to be judged by statistics of formal relations to particular institutions. It must be determined by the general ethical standards of the people and their vital regard for sobriety, virtue, and fiduciary responsibility. It may largely be judged, not by what they approve in conventional phrase, but by what they sharply condemn and refuse to tolerate in concrete cases. I believe that the moral standards of the American people were never more sound than they are to-day. Considering the tremendous increase in the opportunities for wrongdoing, the seductive and refined temptations, and the materialistic appeals that are incident to our present mode of life, and the material comforts which invention and commerce have made possible, I believe that the

manner in which the ethical development of the people has kept pace with their progress in other directions may fairly be called extraordinary. It is really because our ethical standards are so high that we fail more frequently to take to account this fact.

In saying this I am not at all unmindful of how far short we come of an ideal state of society. On the contrary, existing evils are the more noticeable because they stand out in strong contrast to the desires and aspirations of the people. We have had disclosures of shocking infidelity to trust and to public obligation, but more important than the evil disclosed was the attitude of the people toward it. Cynics have no audience in this country. Devotion to duty and strict discharge of honorable obligation to both individual and public are not hypocritically preached, but are the sincere and insistent demand of the American people from one end of the land to the other. Individual shortcomings are many, but the moral judgment of the community is keen and severe. In this we find just cause for satisfaction.

For years there have been many prophets of civic right-doing, who have been preaching good government and insisting that citizens

should take a more active interest in public affairs. To-day the American people are more alive to the importance of impartial and honorable administration than ever before. They do not simply discuss it; they demand it. While in many communities administration is controlled in the selfish interest of a few to the detriment of the people, that which is most characteristic of our present political life is the determination that selfish abuse of governmental machinery shall stop.

Our country may be likened to a man of excellent constitution and native vigor who is determined by a proper system of hygiene and suitable rules of conduct to correct disorders in his system and come as closely as possible to perfect health. And in taking account of his condition he may have a pardonable pride in finding that there is no evidence of decay in his vital functions, and that there is every indication of fundamental soundness and of steady improvement. It may be added that the improvement will be much more rapid if he aims to avoid undue excitement of his nervous system.

When the public conscience is awake and the people are no longer insensible to their social and political needs, what is most

required is careful analysis of existing evils, a true diagnosis, and skilful treatment. Social and political affairs are the affairs of men and women, of human beings with their variety of good qualities and many imperfections. They cannot be dealt with after the manner of chemical reactions in a laboratory. Despite all the advantages of democracy, perfect scientific treatment of political conditions cannot be expected, for that would imply perfect human nature. With that, it would be easy to realize happiness either with a minimum or maximum of government. We necessarily deal with approximations. And we Americans, endeavoring to make a true appreciation of present conditions, may justly be proud of the high character of our citizenship and of the advance which has been made; and with a new realization of the preciousness of our birthright and the serious importance of our obligation, we should set ourselves determinedly to the work of all necessary correction.

We are a good-natured people and we wish no harm to any one who does right. We are simply set upon procuring the doing of the right thing in the right way in all our public relations.

Our prosperity has its source in our agri-

cultural and mineral resources, in our industry, in our talent for effective effort, and in our moral strength and mutual confidence. All these are essential, and the last as well as the first.

Confidence depends upon the assurance of stability. By stability is not meant fixity of things or relations, but steadiness. It may be steadiness in motion. Paradoxical as it may seem, human society cannot be stable unless it is progressive. That is because growth and progress are the law of our nature.

Under certain forms of government, stability has been maintained by force exercised for the benefit of a privileged few and without regard to the necessities of the great masses of the people. In a democracy stability depends upon the reign of reason, and it is the fact that we are a common-sense people that gives us assurance for the future.

Reason demands the facts. By the requirement of publicity is not meant scrappy sensationalism or distorted emphasis. It is the demand that public affairs and business which is of a public nature because of its relation to the public interest shall be conducted in the light of day, and that the public shall have the truth, the whole truth, and nothing but

the truth in regard to the matters that concern them. The emotions, in proper control, supply the power necessary to accomplish results, but the judgment must not be displaced by passion.

Reason implies patience. This is the hardest lesson for democracy to learn. It is not meant that unnecessary delays should be tolerated, or that obstacles should not be surmounted by determined effort. It does not mean weakness or paltering ; it simply means a desire to bring about good order by orderly processes ; it means recognition of our mutual dependence, of our complex relations in society, and of the necessity that our efforts in social progress should not be haphazard nor spasmodic, but steady, sober, and persistent. Reason fights evil with the drill and precision of regular troops.

Reason in its rule of governmental activities demands even, impartial, and consistent enforcement of the law. Stability and confidence can never be assured save by strength and firmness. Nothing so quickly undermines society as a failure to enforce its laws. No one is secure in his life, in his liberty, or in his daily wage, save as this is a government of law whose strong arm compels obedience to

its mandates, the expression of the people's will. It is an egregious blunder to suppose that to make the administration of government and the enforcement of law a matter of caprice involves danger only as to the subject directly concerned. The evil cannot be so confined, but poisons the whole governmental system.

Care in making laws and firmness and impartiality in executing them are the securities of our peace. Lax, corrupt, unintelligent, or vacillating administration not only causes dissatisfaction but inevitably leads to ignorant and extravagant demands. Strong, even-tempered, and dignified administration, relentless and impartial, favoring neither rich nor poor, knowing no motive but its manifest duty, compels respect, and by the very certainty of its operations conserves the public confidence. In this way alone can we secure intelligent consideration of existing defects or of needed remedial measures. Pure and efficient administration is the foundation of social progress.

Whatever natural causes may account for the development of any particular form of government at any time or place, the object of government, philosophically considered, is to secure the happiness of the individual who so conducts himself as to permit the equal

happiness of others. Democracy has constantly to struggle against three abuses.

The first is the abuse of the freedom allowed for individual effort. This is illustrated by concerted attempts on the part of those who find themselves in a strong position to put others at disadvantage by unfair means. It is the business of a free government, desiring so far as possible to give each individual a fair chance, to put a stop to improper practices designed to restrict the area of opportunity.

Then there is the abuse of privileges received from the government itself, the misuse of public franchises granted upon condition that they shall be used to benefit the public. It is the business of a free government to secure the just use of such franchises for the public benefit.

There is also the abuse of the system of government itself by prostituting representative powers to selfish advantage.

To guard against these abuses and put an end to them where they exist, the people must be constantly alert. Faithful representation of the people is of the essence of the matter. Democracy upon a large scale would inevitably fail were not the people able to act through their chosen representatives. It is only upon

simple and broad propositions of policy that the people can act directly. It is difficult to procure a complete understanding, even by those charged with its consideration, of any complicated measure.

We have a republic only in name if those chosen to represent the people serve other interests. In their insistence upon singlemindedness in the public service, the people will have no compromise. They demand a greater voice in the selection of candidates for office. They insist that those whom they choose shall recognize their representative responsibility. We have had too many men posing as the people's choice who were simply the representatives of particular business interests or the appointees of a political leader put in office to do his bidding. Party organization must find its bond of union in devotion to certain common principles. There are relatively few communities in which it can longer hope to win public support if its political power is devoted to the advancement of the selfish interests of its members.

We shall always need political leadership. The work of analysis, of careful study of existing problems, of devising necessary remedies for admitted abuses, of representing to the

people the course to be taken for their protection, must be done. There must be organization in order that measures conceived to be in the public interest may have proper support. But leadership and organization to recommend themselves to public confidence must be purged of the vice of self-service.

Let there be no vague fears about the outcome. I place full confidence in the sobriety and integrity of motive of the American people. I have profound belief in their ability to cure existing evils without disturbing their prosperity. I am convinced that we shall have more and more intelligent and unselfish representation of the people's interests; that political leadership will be tested more and more by the soundness of its counsel and the disinterestedness of its ambition. I believe that with an increasing proportion of true representation, with increasing discriminating public discussion, with the patient application of sound judgment to the consideration of public measures, and with the inflexible determination to end abuses and to purify the administration of government of self-interest, we shall realize a greater prosperity and a wider diffusion of the blessings of free government than we have ever hitherto been able to enjoy.

VI.

Speech at the Dedication of the McKinley Monument in Buffalo, September 5, 1907.

The memorials of a free people are erected to commemorate public service and the distinction of noble character. The conqueror, lustful of power, and the seeker after self-aggrandizement are not counted among the heroes of democracy. The people honor those who, in their service to their fellow men, honor humanity.

Here was marked the tragic termination of a great career. Here in an awful moment there were revealed in sudden lurid flash the opposing forces whose conflict is the history of mankind. At a time of rare prosperity, when American industry and commerce were celebrating their triumphs with every circumstance of proud display in a city of almost unprecedented progress, the powers of darkness moved to their attack and, in an infernal frenzy of hate, an abject creature struck down

the foremost and best-loved of American citizens. Never did evil commit a more dastardly deed. The victim was the chosen representative of the American people, no less representative in his death than in his life. The assassin's blow was aimed at American institutions, represented in the head of the Nation, and McKinley fell because he was our President.

In memory of his martyrdom, in memory of an heroic death, in testimony to the futility of insensate envy and the lasting supremacy of law and order, in memory of a worthy life crowned by its sad sacrifice, this monument has been erected.

The vitality of democracy may be measured by the generosity of its tributes to fidelity and its appreciation of honorable motive and public spirit. The people must have faith in themselves, and the zeal which makes progress possible is not only intolerant of treachery to the public interest, but expresses itself in fine enthusiasm for the leaders who have justified the people's confidence. Cynicism is a destroying canker. And in proportion as we revere those who in the past have borne the burdens of the Republic, gratefully recognize our indebtedness to their service, and profit by the lessons of their experience, shall we prove our capacity

to meet the demands and solve the problems of a later day. In our warm affection and our tender reverence for those great spirits who in the providence of God have led us as a people we find the surest basis for our present trust. An ungrateful republic cannot endure.

It is not my purpose in this brief exercise to attempt to recount the services of him in whose honor we meet. They are an imperishable part of the Nation's history. Soldier, Representative, Governor, President—these were the stages of his distinguished career. Having fought gallantly in his youth, throughout the period of civil strife, to preserve the Union, it was his high privilege in his last years to preside over the destinies of the Nation when, with a revived and intensified National consciousness we assumed the enlarged and unexpected responsibilities which followed upon a war carried to notable victory under his leadership and supported by the people in an unselfish enthusiasm for the cause of humanity. It was his happy lot to be chosen the Chief Executive of the Nation after a contest which vindicated the sanity of the public judgment and established new confidence in the working of our popular institutions. With restored credit, the country under

his administration, quickly recovering from the depression of trade, entered upon a period of extraordinary expansion and prosperity. William McKinley sought patiently to learn the people's will and faithfully to execute it.

It is a significant and gratifying characteristic of the American people that, more than the particular benefit conferred by service, they prize the virtues of character which in the course of service are exemplified. Fidelity to friendship, the exquisite grace of a husband's devotion, the honor of manhood, the beauty of the forbearance of unwearied patience, endeared William McKinley to the hearts of his fellow citizens, and in their memory eclipse the glories of an administration flattering to American pride.

We may see but dimly into the future. We may be confused by the perplexities of our modern life, made the more difficult by the very riches of our inheritance, but as we set our course by the pole-star of truth and justice and conserve the ideals of character which our fathers have taught us to revere we shall not fail.

VII.

Address at the Dedication of the Monument to General Greene at Gettysburg, September 27, 1907.

We have come to this field of eloquent memorials to pay a deserved tribute to one who in supreme test vindicated his manhood and his leadership. We are here as New Yorkers to commemorate the fidelity and valor of a son of New York. We have met as citizens on consecrated soil where in severest conflict the heroism of two armies glorified the American name, and in the victory of one was found the sure promise of a restored Union and of the happiness of these later years.

In diminished ranks, mourning their departed comrades, yet rejoicing in the memories of those heroic days, the survivors of battle have gathered in honor of the brave leader under whose command the desperate engagement on this hill was fought.

Veterans : To you these stones are quick

with life. You live again in the comradeship of war, and those who fell and those who lived to fall elsewhere are once more by your side. Each bit of ground has its story of daring, of resolute defence, of suffering, of death. Here in patriotic devotion you offered your lives, and the memory of your steadfastness in that dark hour is one of the choicest of our National treasures.

The Civil War was not more notable for its political consequences than for its revelation of the quality of our citizenship. Priceless as is the National unity gained through that struggle, its value rests upon that sterling character and capacity for heroic effort which in both North and South found abundant illustration. The virtues displayed on either side of that fierce contest are the common heritage of a united people. And alike in heroism upon battlefield and in the fortitude and untold sacrifices of those who remained at home, in the skill, the discernment, and the energy of leaders, in the discipline, readiness, and valor of the troops they led, stood revealed the splendid pertinacity, the inflexible determination, and the moral forcefulness of American manhood.

New York is prouder of the manner in

which it met that test than of its broad domain and wealth of resources. It sent to the Northern Army 400,000 of its sons—one-fifth of its male population. In every part of this battlefield will be found the records of New York troops—records of fidelity and honorable achievement. On this spot, at a critical moment, when darkness added to the terror of sudden attack by superior numbers, our New York boys of Greene's Brigade held firm and by heroic defence protected the safety of the Army. To their sagacious, alert, and courageous General, we, the sons of the Empire State, erect this monument, expressive of our love, our pride, our lasting obligation.

The generation which fought here has almost passed away. The distinguished leaders still with us, and in whose presence we rejoice to-day, recall to us the more vividly the many who have departed. Their sacrifices were not in vain. The same National character which accounted for the fierceness of that strife in whose devouring flames were displayed the indestructible riches of moral strength, is ours to-day. The same patriotic ardor fills the breasts of American youth as when they rushed from field and factory and college in obedience to their country's summons. The

wives and mothers of America are as loving, as devoted, as ready to sacrifice and to suffer as were those of forty odd years ago. The men of the United States are as quick to respond to the call of duty, as keen, as resourceful, as valiant as those of our heroic past. They are blessed with the memory of your labors; they are enriched with the lessons of your zeal; they are inspired by the example of your patriotism.

We are engrossed in the pursuits of peace. Mind and nerve are strained to the utmost in the varied activities which promise opportunity for individual achievement. But the American heart thrills at the sight of the flag, the American conscience points unwaveringly to the path of honor, the American sense of justice was never more supreme in its sway, and united by a common appreciation of the ideals of a free government, by a common perception of our National destiny, by a common recognition of the riches of our inheritance, the American people should, and we believe will, go steadily forward, a happy, resourceful, and triumphant people, enjoying in ever greater degree the blessings of liberty and union.

VIII.

Speech at the Jamestown Exposition on New York Day, October 10, 1907.

New York gratefully accepts the invitation of Virginia to join in this feast of origins. We turn from our eager searching of the future to gather confidence and to learn wisdom from the record of the past, and once more we scan the ever fascinating pages of the wonder-book of American history. In contrast to an old world ravaged by greed and unprincipled ambition, where for centuries the toil and blood of the people had been given to the service of privilege and of the rivalries of despotic rulers, lay this broad land of matchless resources, enshrouded by its vast and silent forests, awaiting the fulness of time when it should become the domain of a Nation dedicated to freedom, and the scene of the greatest triumphs of humanity.

Widely separated, distinct in purpose, varying markedly in the character and equipment of the settlers were the first efforts at coloniza-

tion. How apparently unrelated were the entrance of the little company of Englishmen between the Capes in 1607, the voyage of Henry Hudson up the river which bears his name in 1609, and, a few years later, the landing of the Pilgrims on the northeastern coast. We marvel that these feeble and apparently insignificant efforts should have resulted in flourishing colonies; that these colonies with forms of organization originally so diverse, with interests distinct and often in conflict, jealous of each other and widely scattered, should have ever become confederated Commonwealths and able to oppose a united front to tyranny; that these Commonwealths, drawn together for one supreme struggle and then relapsing into bitter disagreement, should have found it possible at a time of disorder bordering upon anarchy to have formed a Nation; and that the Nation so formed and so composed should have been able to resist all tendencies to disintegration, and should now present to the world the spectacle of a people firmly bound by mutual interest and affection and welded together in an indestructible Union.

With the advantage of a truer perspective we see the irresistible progress of the sentiment of unity until to-day the National con-

sciousness is dominant from the Atlantic to the Pacific, and from the Lakes to the Gulf. With the rapid extension of commerce and facility of communication, aided by the mobility of our population, the interests that we have in common have exceeded in ever greater degree those which are separate and distinct. And the people of all parts of the Union come to the scene of this early English settlement not as visitors to a strange Commonwealth but as fellow citizens of their brothers in Virginia. They feel by virtue of their National relationship a direct interest in the events which led to the settlement of the Old Dominion, and rejoice in their inheritance of the benefits of the services which Washington and Jefferson, Madison and Marshall gave to our common country.

While this is so, it is fortunate that we retain a just pride in the history, achievements, and prosperity of our respective States. It is well that this should be fostered, for upon this sentiment to a large degree will depend the efficiency of State administration. As the range of community of interest widens, it is inevitable that the burden of National administration should increase and that the cares necessarily committed to the National Govern-

ment should multiply. But we cannot expect to have that competent and vigorous administration in National concerns which is essential to our continued peace and prosperity if our citizenship is indifferent to the problems of administration which confront them in their several communities. State and National citizenship reside in the same persons, and they cannot be effective as sources of National power and at the same time be lax or corrupt in local administration. Fortunate it is that we are not compelled to create arbitrary divisions for the purpose of appropriate local government, but that we have autonomous communities which have been developed naturally, and the citizens of which enjoy the advantages of historical and sentimental associations. In State interest and State pride we find the hope of the proper conduct on the affairs appropriate to the States, and in the development of the sense of civic obligation which demands good local government we shall make sure of that quality of citizenship which will secure the interests of National administration and National progress.

I am proud to be a citizen of New York and I rejoice in its wealth and its resources, material and moral. I shall not attempt an

inventory of its possessions, nor shall I recount to you the munificence of its provisions for education, the extent of its charitable foundations, the wide scope of its large public undertakings. With these you are familiar. And at the mention of the State of New York you, the sons of that State, gathered here in its honor, at once have presented to your minds an imposing Commonwealth comprising one-tenth of the population of the United States, justly termed by reason of its riches and its power, the "Empire State."

It has been my good fortune to become closely acquainted with its citizenship and to attest the high standards and noble qualities of its people. To every line of activity it has contributed leaders of thought and action; its citizens are alert and energetic; and in no community in the land may be found a higher level of civilization, more moral power, more strength of character, more happiness and prosperity.

But it is a world in itself. It presents the most complex problems of our modern times. It exhibits striking contrasts. It has the greatest wealth and the most abject poverty. Side by side with thrift and education and virtue may be found the depths of squalor,

ignorance, and vice. While in rural communities and small cities may be found American life at its best, in the congested quarters of the great metropolis humanity huddles in poverty, distress, and shame. Government, State and municipal, is put to the severest tests. And to the thoughtful mind the emotions of just pride and the thrill of pleasure at our material and moral advances must stimulate the sense of obligation and of the most serious responsibility. It is in New York, where in so large a degree is found the clearing-house of the Nation's commerce and where riches have been accumulated beyond the dreams of a generation past, that we must devote ourselves most sedulously to the realization of the ideals of democracy, and set ourselves most determinedly to overcome the subtle temptations and narrowing influences of prosperity.

First of all, we must overcome the temptation to indifference as to the condition and standards of our less favored brothers in the community. The fool who said that his barns were full and that he might take his ease has his counterpart in those who through material success would erect little citadels of independent strength where they may entrench themselves in calm indifference to the needs of their

less fortunate brethren. In this country no one is independent of his fellows and the security of every man must ultimately depend on the opportunities and well-being of others. Intelligent and sympathetic consideration of conditions in our great cities is the duty of every good citizen. The condition of those who enter our State, forming virtually foreign communities in our cities, is a problem to which as citizens of the State we must give heed. We must endeavor to determine what can be done to improve standards of living, to protect these newcomers, largely helpless, from being victimized, to acquaint them as rapidly as possible with the meaning of American institutions, to utilize their economic value, to protect the State by promoting the diffusion of the American spirit and reverence for law and order through fair and impartial administration.

We rejoice in the numerous efforts of philanthropy, in the large contributions that are made in personal service; but what has been done and is being done covers but a small fraction of the need. We must have a quickening of the sense of obligation and a keener recognition of the fact that Union is more than a name, that it is not a union of theoretical entities, but a union of human beings,—a union of lives,—

that for better or worse we are bound together by indissoluble bonds and that indifference to the condition of our fellow man is indifference to the safety of the State.

As prosperity increases we must be the more zealous to maintain our early ideals of work and of service. It is of the essence of democracy that a man should have opportunity for the exercise of his talent,—that he should have a fair opportunity to display his ability and to win the just rewards of his efforts,—that he should be secure in the results of his labors, won almost invariably through sacrifice and self-denial.

It is also of the essence of democracy that no man should construe his opportunity to mean license to exploit his fellow men and unjustly profit himself at the expense of their equal chance. It is of the essence of democracy that community rights should be safeguarded and that to which the public is entitled should be rigorously compelled. The ambition which knows no law but that of selfish achievement must be bound by the inexorable demands of public service and the limits necessarily imposed for the equal protection of all citizens.

He most surely attains the highest success

and the greatest happiness who in the zealous exercise of his talents finds the path of service, and whose achievements are a benediction to mankind.

But what is most needed, in a particular sense in the interest of good administration of government and of the welfare of the community, is a stricter insistence upon fiduciary responsibility. This can be obtained in part by the enforcement of law and in part must be gained through public sentiment and the cultivation of higher standards of conduct. It is an extraordinary perversion to suppose that the owner of fifty-one per cent. of the capital stock of a corporation is free to wreak his pleasure in its management. The officer or director occupies a position of trust not for the majority, but for the entire body of stockholders. And while he may execute the policy which the majority desire, it must be a policy consistent with good faith and fair dealing with all. Nothing is more reprehensible than the abuse of power on the part of those who act in a representative capacity.

The test of character may be found in the faithful discharge of trust where it may be abused in secret and with seeming impunity. Every man has his sphere of fiduciary obliga-

tion. I speak of it not in the narrow sense in which the term is employed in courts of law, but in the broader sense recognized by every man of self-respect. The lawyer owes it to his profession to maintain the dignity of independence, and is false to the trust conferred upon him when he is admitted to practice as an officer of justice, if he permits himself to become the tool of unprincipled manipulators. The editor shamelessly ignores his obligation when he hides or distorts the facts or uses his columns to pervert the public judgment.

Of highest importance is the sentiment of honor and the sense of fiduciary obligation in connection with public service. The people will tolerate no cynicism here. Parties may dispute as they will over principles and policies, but there can be no dispute with reference to the demand that public privileges shall be granted only in the public interest, and that public officers shall regard only the public interest in the administration of government.

The cry "Every man for himself" is out of date. The demand of the future will be "Every man for the people." No one can be permitted to put private interest above the

public advantage. And thus in recognizing the necessity of giving fair opportunity for individual success, of protecting thrift and the rewards of industry, and at the same time in insisting upon fidelity to trust, upon the rights of the community and upon the supremacy of law representing the will of the people, in endeavoring to call the most efficient to the service of the State, and in discharging the duties of public office with sole regard to public interests, shall we diffuse the blessings of prosperity, making it servant to the happiness of all.

We in New York should rejoice in the opportunity which is afforded us by the very difficulty of the problems with which we are confronted. In tracing the history of the past we find abundant reason for encouragement. The capacity of American manhood in each generation to deal successfully with the conspicuous evils of its day has been abundantly demonstrated.

We are far better off in the Empire State than we have ever been before. A resistless force of public opinion is directed against well-nigh every abuse. There is not a New Yorker here who from his own experience cannot recount the tale of progress. We are

a well-disposed and a genial people. We are not given over to bitterness or censoriousness. Scurrilous denunciation has but a limited vogue. In every department of official life there are men endeavoring to serve the State to the best of their ability, and the people are ready to give credit to faithful service. But they are also intolerant of faithlessness. Throughout the State are manifold evidences of determination that the just rights of property shall be protected, that the public rights shall be conserved, and that those who represent the people shall be held strictly to account for the manner in which they discharge their trusts.

The State of New York is equal to its task. It daily gathers strength from all the Union. In its success all the States may justly claim a share. Steadily it gains in population, in wealth, in the diffusion of happiness, and, attaining and still seeking to attain, aiming always at higher levels of achievement, its watchword will ever be "Excelsior."

IX.

Address at the Dedication of the Monument to General Franz Sigel, New York City, October 19, 1907.

It is our privilege to assemble here in honor of a brave soldier who rendered distinguished service to his adopted country. In the dedication of this monument we pay a fitting tribute to his memory. But it is more than a memorial to courage or to military skill; it is more than a tribute to individual worth. It speaks not simply of the service of the accomplished officer whose name it bears, but is eloquent of the patriotic ardor which has characterized the sons of the Fatherland he so worthily represented, and of their important contribution to our National life.

General Franz Sigel was born in Baden in 1824; he received his military education at Karlsruhe and served with distinction in the Revolution in 1849. Leaving the land which he loved and for whose liberties he had fought, he came, an exile, to this country, and after a

few years settled in Missouri. We should entirely miss the significance of this occasion if we did not emphasize the spirit which animated this newcomer on American soil. He came defeated but not disheartened; he was torn away from the fond associations of his youth, but he was not cynical or morose; he did not give himself over to discontent, nor was his vitality sapped by vain regrets; he came true to the cause of liberty, with generous heart, with vigor and zeal to give the best he could bestow to the country which henceforth, by virtue of his manhood's choice, was to be not a mere asylum, but a home. And at the outbreak of the Civil War, with no less zeal for his adopted land than he had shown on his native soil, he offered his services to the National cause, and in large degree through his vigor and efficiency Missouri was saved to the Union.

It is not my purpose to tell the story of his career, which may more fittingly be narrated by him who is about to address you. His military service was extensive and distinguished. He took part in many important engagements, and his courage, his military ability, and the value of his services to the Union cause not only won distinction in the

Army but have made his fame secure. Gladly we recognize his service, and by this just tribute we memorialize the kindness, the courage, and the patriotism of a gallant commander.

It is gratifying that the passing of the years has not lessened our appreciation of the heroic service which preserved our National unity. The generation which since the Civil War has come upon the scene studies the history of that terrific conflict without bitterness, but with no lack of reverence for those to whose self-denying service we owe the blessing of our vigorous National life. The memory of the founders and of the saviors of the Republic will never fade. As time heals the wounds of strife, and as with the extension of our activities all parts of our land are more closely knit together, we rejoice, in North and South alike, with a common pride of country in the splendid qualities of manhood which on both sides of that struggle were so lavishly displayed. The beneficent influence of the heroic and sacrificing spirit permeates the Nation and is not limited by sectional lines.

Fortunate also is it that we are becoming more and more free from racial and provincial prejudices, and are able to make a truer esti-

mate of the many sources from which we have derived our National strength and the virtues of our citizenship. It is a pleasant thought, which frequently has been expressed, that the ancestors of most of those who settled the country in Colonial days once lived in the German forests; and we witness here on a large scale, and after centuries of varied experience, what is virtually a reuniting of the descendants of a common stock. But however pleasing this may be to the historical imagination, our unity in fact is not racial and does not depend upon blood relationship, whether near or remote. It is the unity of a common National ideal; it is the unity of a common conception of the dignity of manhood; it is the unity of a common recognition of equal civil rights; it is unity in devotion to liberty expressed in institutions designed to give every man a fair opportunity for the exercise of his talents and to make the activities of each subordinate to the welfare of all. To the maintenance of this ideal and to the fulfilment of the purposes of our National organization, each race has made its contribution. And we are not truly Americans if we do not greatly rejoice in the fact that here is more than the work of any one people, and more

than the product of any one experience; that to the making and to the prosperity of this Commonwealth humanity has given of its best; and that its vigor and unprecedented strength are due in no small degree to the fusion of its diverse elements.

There is recalled to us to-day the notable influence that our citizens of German birth and extraction have had upon our growth and development. In Colonial times there was a great movement of German immigration, largely from the lower Palatinate, which resulted in settlements in North Carolina, in Maryland, in Virginia, in Pennsylvania, and in New York. In our own State the names of Herkimer and Palatine recall this early movement. These settlers were characterized by industry, piety, and thrift. Zealous were they in defence of the commonwealths to which they had joined their fortunes. Notable was the service of Germans in the War of the Revolution. The names of Steuben, Herkimer, De Kalb, Von Weissenfels, bring freshly to our minds our lasting obligation to the sons of the Fatherland who fought valiantly in defence of liberty. Steuben's regulations long remained the manual of the United States Army and its Militia. De Kalb falling at

Camden voiced the patriotic sentiment which dominated the service of these German patriots. Dying, he said to a British officer: "I thank you for your generous sympathy, but I die the death of a soldier fighting for the rights of man."

After the Revolution of 1848 there was a notable influx from Germany of men of distinguished talent and noble character whose lives have made a permanent impression upon the Nation. I could not without risk of unintentional omission, which might be construed as showing lack of appreciation, attempt to mention all whose advent at this time enriched the country. But I may refer to one, the soldier and the statesman, the journalist and the author, ever true to the cause which he espoused in his youth, a leader whose civic courage never failed him, and who through a long life was conspicuous even more for his purity of purpose than for his distinguished achievements, whose name will ever be honored among us—Carl Schurz. German immigration during the middle of the last century spread largely through the Middle West. Those who had struggled for liberty at home gave themselves freely to the service of the Nation. Missouri, Ohio, Illinois, Indiana,

Wisconsin, and Kansas have special reason to be proud of the patriotism of their German citizens. Schurz, Sigel, Bohlen, Hartranft, Koltes, Wagner, and Korner may be mentioned as among those whose efforts added honor to the German name.

But we honor to-day not merely German valor, but the spirit which made that valor possible, and those qualities which in peace as well as in war have aided in the development of our National greatness. In education, in journalism, in the professions of medicine and law, in trade and commerce, in every department of activity, and every sphere of philanthropy, our citizens of German birth or descent furnish constant examples of notable effort and of the highest achievement. We can not write any chapter of the history of American endeavor without doing them honor. But on this occasion when we are gathered to set apart a memorial of a soldier's service, I would emphasize our appreciation of the patriotism of our citizens of German origin and their unreserved devotion to our National ideals.

This is our common country. Whatever the abode of our ancestors, this is our home and will be the home of our children, and in our love for our institutions, and in our desire to

maintain the standards of civic conduct which are essential to their perpetuity, we recognize no difference in race or creed—we stand united, a contented people rejoicing in the privileges and determined to meet the responsibilities of American citizenship.

X.

Speech at the Opening of the Civic Forum at Carnegie Hall, New York City, November 20, 1907.

We have gathered here to install a new station for the distribution of currents of influential opinion. If we were to ask what is most needed to attain the ideals of democracy,—apart from those moral virtues which must condition all else,—we probably should desire for its citizens the highest capacity for accurate judgment and the freest opportunity for the discussion of public questions. For the former we look to education, not forgetting the great school of experience to whose discipline and variety of instruction in this land of opportunity we owe perhaps in largest degree what is called the common sense of the American people. For the discussion of public questions we rely chiefly upon the press and the platform.

It is unfortunate, however, that public discussion is so frequently perverted by self-interest,

by the temptations of popular agitation, and by the exigencies of heated political campaigns. It is a delightful thing to give truth the chance to emerge in sober discussion where only truth is sought. The American people are poorly represented by large type and flaming headlines. Their mood is not reflected by the shrieking appeals of orators upon the hustings. In the main they are a thoughtful and canny people, truth-loving and desirous to get at the heart of things. Appeals to reason are more cogent than many think, and nothing is more encouraging than the indications everywhere of an intense desire to secure accurate information and to form correct opinions. It is significant that conferences for the interchange of opinion and the debate of public questions are constantly multiplying; and I congratulate this city upon the opportunities which will be afforded by the new lyceum which is now opened.

It has been suggested that in these few introductory remarks—which will be far from disputatious, for the principles in the application of which I am most interested are so simple and obvious that they admit of no dispute—I should say something regarding the idea of public office.

Matthew Arnold tells us that conduct is three-fourths of life. Certainly the administration of office is at least three-fourths of political life. And if we could secure the administration of every office in accordance with its obligations and in adequate fulfilment of the fair intent of the Constitution and statutes creating it, we should find almost all our problems solved. That which is right in our system of government would appear revealed in the beauty of perfect adaptation, leaving no excuse for the use of legislative drugs to cure defects caused by lack of administrative exercise, and on the other hand such imperfections as existed would stand out in such bold relief as to leave little room for doubt as to the necessary remedy.

But it is to be expected that the frailties of human nature should be exhibited not less but rather more in our political relations—in view of the many temptations to which they give rise—than in other activities in which they are made so familiar. We are only men, and nothing human is alien to the public officer. He may be somewhat steadied by responsibility and safeguarded by precedent; he may be to some extent sanctified by some worthy tradition or inspired by some noble example.

But in general the administration of office will reflect the average virtues and failings of the community.

We must, therefore, constantly emphasize official obligation and ever hold up to view the true democratic ideal of office. We suffer to no slight extent from the survivals of notions of office which are entirely foreign to our governmental system. For example, there continually persists the notion of power drawn from ancient despotism converting in a small way, and as opportunity may offer, the servants of the people with defined duties into their would-be masters acting with arbitrary disregard of obligation. More common, however, is the feudal notion of allegiance to some chance lord or sub-lord by whose grace the office is believed, and frequently truly believed, to be held. From this point of view the people are recognized only to the extent necessary to capture the requisite majority of votes. But for all other purposes the conduct of office is determined by the will of some individual or group of individuals to whom the incumbent owes his temporary distinction.

But most mischievous of all perhaps is the idea derived from the American love of achievement and individual success. It is so commonly

expected that every opportunity will be availed of to the utmost to promote the success of the individual who has the opportunity. It is American to get on in the world and to let no chance escape ; and so it is not regarded as a matter for surprise but rather the action is too readily condoned, that a man will make use of office, not of course in the manner usually called corrupt and which would bring him within the observations of the penal code, but in every other way to further his individual fortunes.

Now, against the notion of arbitrary power, against that of subservience to any authority other than his constituency, against every use of official opportunity for personal ends, the American people must set the democratic ideal of office, and for their own protection must hold their representatives strictly accountable for every departure from it. The democratic idea of office is that it is a place of designated service ; that the officer is not chosen to give him opportunity for personal advantage, but to do certain things defined in the Constitution and statutes to the best of his ability because it is necessary that those things should be done and well done for the benefit of the people.

In connection with the larger part of ad-

ministrative work there is no room for the controversies of political platforms. There are simply specified tasks. These tasks may be created and defined with reference to political policy, but once created and defined there is little room for disagreement as to the manner in which they should be performed.

We shall never attain the full measure of our opportunity in this country until the meaning of trusteeship sinks deep into the American consciousness and its realization controls our activities both in business and in political affairs. It must seize the conscience of the directors of corporations, working conviction of the disgraceful perfidy of abusing their opportunities as trustees for stockholders in order to make personal fortunes. Few indeed are they who in any large enterprise deal exclusively with their own. What we call the "world of modern business" is simply a gigantic series of sacred fiduciary obligations. The lesson of to-day, both in business and in politics, is the lesson of fidelity to trust.

No system of government is complete which does not provide some method of calling public officers to account for the manner in which they discharge their duties. Varied provision

is made for this purpose, from the trial of impeachments to summary removal.

Of the highest importance are the provisions for enforcing the accountability of local officers. The greater part of administration is local. It is that which most closely affects our immediate interests. If local administration in our various communities is pure and capable, there will be no difficulty in securing the proper conduct of higher office, for vigilant citizenship begins its work at home.

The local officer is elected by the majority of the local community, but he is not the officer of that majority. He owes to all the citizens faithful service according to his duty. The minority cannot quarrel with the choice of the majority, but the man selected by the majority must do his duty. The majority have no right to keep in office a faithless official. Governor Tilden stated it as one of the essential conditions of self-government :

“That while the responsibility of public officers to the voting citizens be made effective, and they be made amenable to the taxpayers of the locality through the courts, accountability to the State be preserved through regular methods, so that the existence of such appeal of the minority and of individuals against the wrongs of governing officials will render unnecessary and inexcusable the frequent legislative interventions which have

practically destroyed all self-government, created more local mischief than they have remedied, and have grown to be prolific of abuse and corruption in the legislative bodies."

In accordance with the plan adopted in this State, the Constitution provides for the removal by the Governor, upon charges and after a hearing, of specified local officers elected by the people. And statutes have provided similar methods of accountability in connection with various local officers not mentioned in the Constitution.

In acting in such matters the Governor exercises an extraordinary power, and his exercise of it is not reviewable; but it was felt that the power to require accountability should be lodged somewhere; and while in this State, in the cases of certain minor judicial officers, the power of removal is lodged with designated courts, and in the case of higher judicial officers with the Legislature, and in the case of most officers appointed by the Governor, with the advice and consent of the Senate, it is lodged with the Senate, on the recommendation of the Governor,—in the case of important local officers charged with the enforcement of the law it is placed solely with the Governor. And this power, as has been said, is to be exercised by

the Governor upon charges and after a hearing. That is to say, it is the intent of the constitutional provision, and of the statutory provisions modelled upon it, that charges shall be presented against a local officer which specify in a suitable manner dereliction of duty warranting removal, that due hearing be had, and that, in order to justify the removal, the charges shall be found to be sustained. While the action of the Governor, under the decision of our Court of Appeals, is not reviewable by the courts, he necessarily acts not arbitrarily, but under the gravest responsibility.

Thus the quality of the administration of local officers lies with the citizens of the community. They will have good or bad administration as they insist on the former or are content with the latter. If the laws are violated, or if administrative duties are not performed, it may be brought to the attention of the local officer concerned. If he fails to do his duty, charges may be laid before the Governor, as provided in the Constitution and statutes.

This is the manner in which, with reference to local administration, the Chief Executive is able to secure enforcement of the laws. The duty of direct enforcement lies with the local

officers responsible to the people who elected them. They are scattered through the sixty-one counties of the State, and it is manifestly impossible for the Executive to supervise these numerous administrations directly save as dereliction is presented in the constitutional manner. But by availing themselves of the remedies afforded, our citizens may hold their officers to proper accountability and secure the conduct of office in reasonable fulfilment of its obligations.

I find no cause for discouragement. I believe that our citizenship was never more alert, and insistent upon maintaining proper standards of efficient administration than to-day. And I believe it would be difficult to point to a time when a larger proportion of public officers were striving honestly to do their duty. In demanding justice we must not forget to do justice. Nothing is gained by making suspicion do duty for facts. The tendency to a cynical and censorious spirit in our citizenship should be checked. Especially unworthy is such a spirit in those who pose as the prophets of reform. The first qualification of any one who would seek to secure better administration is entire candor and the spirit of fair play. I want no more to do with the man

who will spread false accusation or without good just-basis of fact will endeavor to give currency to aspersions upon public officers, than with those who are faithless to their trust. There is no health in either. If you have the facts which show that a public officer is derelict, you have no need for innuendo and you may, and should, press your case relentlessly albeit with pity in your heart. But if you have not the facts, then be fair, and let your suspicions justify your search and your rigid inquiry, but nothing more until the facts, and all the facts, are found.

In estimating the duties of officers we insist, and must increasingly insist, upon work proportioned to the exigency; upon administration suited to the responsibilities of the office. We must have efficiency; that is to say, we must insist that those things which are comprehended within the duty of the office, and upon attention to which the welfare of the people depends, shall be done, and that the community shall not be mocked by counterfeit administrations. To this end we must constantly labor, and by seeking to enlarge the interest of the people in the workings of the government, by popularizing methods of selection of candidates, by aiming in all depart-

ments to secure the best service for the State, and by holding all officers to strict accountability, we may hope to come more closely to the realization in practical administration of the democratic idea of an office.

XI

Speech at the Meeting in the Interest of Tuskegee Institute, Held at Carnegie Hall on the Evening of January 17, 1908.

We are here to-night to emphasize our interest in the work that is being done for the benefit of our fellow citizens of the black race. From a proper viewpoint it is a work for our own benefit as well. It is essential to the interests of the people as a whole.

We can never afford to lose sight of the fundamental objects alike of enlightened self-interest, of philanthropy, and of patriotism. These are first, to give opportunity and stimulus so that each man may make the most of himself ; further, to stimulate that wholesome interest in the welfare of our fellows which will make usefulness and service the standards of our activities, and without which talent and trained skill are prostituted to ignoble and corrupt purposes ; and still further, to see that our laws and our administration of laws shall secure

equality of civil rights, shall protect the gains of honest effort, and shall make the field of our labors a fair one in which talent and industry shall have a chance on their merits free from all preventable oppression.

These aims are not sectional nor do they concern exclusively any race or any portion of our population. They are the aims of a free people and they must be constantly emphasized with regard to all, white and black, whatever their occupation or antecedents. He is a bold man who would attempt to forecast the destiny of any people. A few centuries ago the ancestors of most of us were living a savage life in the forests of northern Europe. We have been fortunate in opportunities for free and independent effort and have attained a high degree of civilization, which at a time not long remote, if we consider the period of recorded human history, would have been beyond the bounds of prophecy. We have reason for pride in what has been accomplished. But we take little account of the past if we do not constantly strive to widen the area of opportunity and to do all in our power to promote the development, raise the standards, and to increase the efficiency of those who have been denied our own advantages.

The black man is entitled to his chance. He is entitled to the advantages of training and education. He is entitled, under the stimulus of free institutions, to an opportunity to prove by his works what is in him, and to make his contribution, according to his talent and aptitude, to the sum of our productive labors and of our National life; and he is entitled to the rewards which his character and industry may deserve. There is no color line in good work, whether of hand or brain. Good work, trained skill, and sterling integrity are the same irrespective of race, color, or previous condition of servitude. The effort should be likewise irrespective of race, to increase the efficiency, to produce the skill, and to develop the character. For this purpose there is guaranteed the equality of civil rights, and nothing should be left undone to make provision for education, and for training of mind and character. It has well been said that whatever problem the progress of the negro may present, it is not comparable with that which will be presented by stagnation or retrogression. In this land the door of opportunity must be wide open to our citizens. We want neither slaves nor serfs, nor any body of citizens permanently below the standards which must be maintained for the

preservation of the Republic. We cannot maintain our democratic ideals as to one set of our people and ignore them as to others.

One of the most characteristic features of recent progress is that preparation for active life becomes more definite and less haphazard. On every hand new opportunities are being provided to fit men for some useful work. These are made necessary by the conditions of modern life and the necessity of special preparation with regard to a constantly increasing number of tasks. The best stimulus to industry is the ability to do something well; and the greatest temptation to shiftlessness is the lack of any apparent opportunity for usefulness.

The widening of the sphere of educational work is shown not simply in provision for technical training, but notably in connection with agriculture. There is a widespread demand for elementary and practical instruction in farming and kindred subjects, a demand which is likely in time to affect profoundly our system of public instruction. As a leading educator said to me yesterday: "It is probable that in the future our boys will be prepared not simply for the office, but will be taught how to live in the country."

In this provision for necessary instruction to enable men to make the most of themselves in every field of activity, the negro must have a generous share. It must be a share proportioned to his need. It is because that at Tuskegee such important work has been done for the training of the negro, work, the accomplishment of which puts us under lasting obligation to the distinguished founder and director of the institution, that we are here to-night. We desire that this work shall be continued; that those who have been there trained for leadership shall have abundant opportunity in other schools to follow this example. The record of the institution is eloquent of the results which may be reached by intelligent effort. And in wishing Godspeed to this work we express our interest in the work of all other institutions which are honestly striving to provide these much-needed opportunities.

In providing them we do not desire simply to get the products of labor, simply to increase the wealth of the country, by adding to the sum of effort. Economic motives are well enough. But this country is not a mere wealth-producing machine. None of its problems can be solved if its people are treated merely as parts of an industrial mechanism. It is a country of

men, with the aspirations and the dignity of manhood. The fundamental requirement is self-respect, upon which character and the highest efficiency necessarily depend. And with respect to white and black, conditions which promote the wholesome feeling of personal honor and individual worth are alone the conditions which will secure lasting benefits for our society and the solution of the grave problems which confront it.

XII.

Address Delivered at Youngstown, Ohio, September 5, 1908.

The Republican party makes appeal to public confidence as the most important political agency for conservation and for progress. By virtue of its achievements, its leadership, and its aims, it stands forth as an efficient instrument for strong and capable administration, as a safeguard of stability, and of the prosperity which depends upon stability, and as an unrivaled power for the correction of abuses. It stands in striking contrast to the record of vacillation and ineptitude presented by the chief opposing party. That opposing party proffers a candidacy which is at once a monument and a guide-post. It memorializes the fallacies and unsafe policies we are asked to forget, and it points the way to business uncertainty and to the impairment of the confidence which is the security of industry and trade.

When we hear sounded a strident call to the defense of popular rights, we look carefully

to see who constitute the new patriotic army into whose keeping we are asked to turn over the destinies of this great Nation. The campaign watchwords "Shall the People Rule?" and the demand "Whether the government shall remain a mere business asset of favor-seeking corporations" are not impressive when emblazoned on the banners of Tammany Hall and of other essential allies. The army opposing us cannot pass muster either as one of defense or of salvation, and we may well pause before we permit it, despite its boast of fidelity, to garrison our institutions.

No one more than I desires to see administration purged of every selfish taint, to have fair and impartial laws faithfully executed, to get rid of every vestige of special privilege at the expense of public interest, to liberate trade from unjust encroachments, to purify our electoral methods and to maintain honest representative government. And it is because of his loyalty to these ideals, because of his broad sympathies and his rare equipment in character, ability, and experience, because tested in the difficult fields of judicial and administrative work he has proved his quality by eminent service, because of his varied learning, his acquaintance with affairs,

his respect for constitutional government, and his capacity intelligently and justly to plan and direct necessary reforms, that I most earnestly support the candidacy of William Howard Taft.

Twelve years ago the democracy of Tilden and of Cleveland was overthrown in its own house. Under the old name, but with a new alignment and leadership, a desperate assault was made upon the credit of the country and the integrity of private debts. It was an attack upon our fundamental securities, and our belief as to the sincerity of the motive serves only to magnify the dangerous character of the attempt and the unwisdom of the leadership which inspired it. A campaign of education followed. Thousands of Democrats, more intent upon the safety of the country than upon fidelity to a party name, itself betrayed, supported the Republican, or rather the National, cause. Then ensued a great popular victory, the vindication of the conscience and intelligence of the electorate, and the people ruled in the election of William McKinley. Four years later, after the surprises of the Spanish War, with its entailment of unexpected obligations, that administration was triumphantly vindicated in popular sup-

port. President McKinley, a victim of insensate passion, laid down his life trusted and beloved by all the people. To the difficult task then developed upon him with the problems created by an unparalleled prosperity, came a new leader dear to the people's heart. He entered upon his work with courage and determination, and four years ago he received an overwhelming vote of popular confidence.

For seven years, with lofty aim and unconquerable spirit, he has labored for the people, and to-day, by virtue of his sincere devotion to their welfare, his valiant attack upon evil in high places, his zeal for the common interest, whether in the protection of the public domain or in insistence upon freedom of interstate trade, or in the maintenance of high standards of administration, or in the recognition of the rights of labor, or in the care of our natural resources, the forceful and representative leader is typified to the popular imagination in the person of Theodore Roosevelt.

It is easy for those who are free of its responsibilities to criticise administration, and criticism is wholesome and stimulating. Mr. Bryan is an eloquent critic, but the record of the Republican party is known to all, and the American people will neither be confused nor

misled by adroit thrust or pleader's skill. Their good judgment may be trusted to maintain a proper sense of proportion and to make a just estimate of the work which has been accomplished.

The business of the great National departments has been in worthy and competent hands. The mention alone of the names of Hay, Root, and Taft suffices to call attention to the honorable conduct of affairs in which all our citizens take just pride. The dignity and honor of the Nation have been maintained and troublesome difficulties have been adjusted with an access of prestige. And every American has been gratified by the possession of world-wide influence attained by the President by reason both of his personal qualities and because of the distinction in our international relations of the administration of which he has been the head.

In the management of internal affairs honesty and efficiency have been insisted upon. Looters of the public domain, those endeavoring to maintain combinations in unlawful restraint of trade and those seeking to profit by unjustly discriminating rates and illegal rebates, have been taught respect for the law. Zeal and energy have been shown in the fields

of governmental activity, and the welfare of the Nation with regard both to present needs and to the requirements of future developments has been the paramount concern.

When we consider the inevitable conflict of many opinions and the importance of the question involved the record of progressive legislation is extraordinary. The creation of the Bureau of Corporations, the Railroad Rate bill, the Pure Food bill, the Meat Inspection bill, the Employers' Liability bill, and the laws passed for the better protection of labor constitute a record of legislation which no just critic can afford to minimize and which attests in a marked manner the response of the Republican party under its forceful leadership in the demands of the people.

If all that Mr. Bryan has favored during the past twelve years had been enacted into law we should have been overwhelmed with disaster and would regard it as our chief business in the future to find a way of escape from the meshes of ill-considered legislation in which we would have been entangled. It is fortunate for him as well as for us that he was defeated, and whatever may be his present political potentiality may be ascribed

to the fact that hitherto he has not been permitted to carry out his program. No doubt much remains to be accomplished in the way of necessary reform, but the record already made by the Republican party is a noteworthy one and we must make further advances with care and needed reflection. Our progress will be entrusted to safe hands, and we shall be fortunate in having a sailing master who knows his chart and who will take quite as much account of reefs and shoals as of the speed of the vessel. We have got our direction, we have a most precious cargo, and we must have a safe and experienced pilot.

Mr. Bryan says that the Democratic platform "is binding as to what it omits as well as to what it contains." He might have added that it is as significant in the one case as in the other. Lincoln said, "In the absence of formal written platforms the antecedents of candidates become their platforms." It may also be said that in the presence of formal written platforms the antecedents of candidates cannot be forgotten. Silence is often eloquent. In the election this fall we choose men, not abstractions. Platforms must be read in the light of history and they may be eloquent of past mistakes and misguided agita-

tions which their sponsors would gladly ignore, but which the Nation will do well to remember.

There are a thousand exigencies in the affairs of this great Nation which cannot be foreseen or attempted to be controlled by any platform. The sagacity, steadiness of character, firmness and sound judgment of the chief executive must be the security of the Nation in many a trying emergency. And it is no injustice to Mr. Bryan's attractive personal qualities, to his effectiveness as an orator, his skill as a party leader, nor is it any disparagement of the purity of his motives to say that the man who espoused free silver in 1896, renewed its advocacy in 1900, and later declared his belief in government ownership of railroads cannot be regarded as a safe leader to whom may be confided the great powers of the President merely because those doctrines are omitted from his present platform. The country needs a man rock-based in sound conviction and fundamental principle, in whose good judgment in any difficulty all may feel secure, and such a man pre-eminently is William H. Taft.

Our opponents seem to regard the questions before us as simply involving a program of legislation or of constitutional amendment.

But first and chiefly we are electing a President, the executive of the Nation. Nor should we in considering legislative proposals forget this. Now there is no man in the country better fitted properly to preside over and direct the varied business of the Executive Department than Mr. Taft. He already knows it thoroughly. He has rare executive ability. No one is better qualified than he to do the work which under the Constitution the President is called upon to perform.

Not only will the coming election directly affect the executive branch of the Government, but it is most important in its relation to the judicial branch. Rarely has the choice of President involved more far-reaching consequences. For it is not improbable that the next President will appoint at least four judges of the United States Supreme Court. Upon these appointments will largely depend the quality of the judicial work of this great court for years to come. Congress may pass laws, but the Supreme Court interprets and construes them, and determines their validity. The Constitution, with its guarantees of liberty and its grants of Federal power, is finally what the Supreme Court determines it to mean. Upon the learning, wisdom, and

character of the judges of the Supreme Court rests not merely the just determination of the important matters of private right which come before that august tribunal, but to a very large degree the course of our political history and the development and security of our institutions. In view of the vacancies which in the natural course of events will most probably occur during the next few years, we must remember that we are about to choose a representative of the people to whom is confided the nomination of Federal judges, a power second to none possessed by the President, the exercise of which calls for the highest judgment.

If we should search the country for a delegate of the people who could be confidently entrusted with this important duty, it is probable that no one could command higher confidence than the Republican candidate for President. Himself a judge, learned in the wisdom of the law, he commanded the respect and esteem of the entire bar of the country, without regard to partisan division. By litigants and lawyers alike it was felt that when he left his important place upon the Circuit Court of Appeals to undertake his difficult duties in the Philippines, the judicial branch of the Government had sustained a most

serious loss. And he has long been regarded as one in every way worthy to succeed the present Chief Justice of the United States. With his fairness and acumen, with his wide knowledge of the bar from which the judges must be recruited, with his broad-mindedness and democratic sympathy, and his keen interest in all that pertains to the welfare of the people, we may be assured that if he is selected to perform this duty the interests of the country will be impartially and wisely safeguarded in its discharge.

Legislation must inevitably depend upon the complexion and disposition of Congress. The President can only recommend or veto. But the quality of the National administration on its executive side will depend entirely upon the man who is chosen to be President. Whatever else we may do or fail to do, that we can determine in our vote for Presidential electors. The character of our diplomacy, the concerns of our insular possessions, the management of our vast internal business, and the many intricate questions which lie within the range of executive discretion are in the hands of the President for the weal or woe of the Nation. And on this issue alone as the coming election will determine the character

of the executive administration for four years and in all probability the character of the judicial branch of the Government for many years longer, the sober judgment of the people can hardly fail to miss the importance of the selection of such a man as Mr. Taft.

Some questions which are discussed with no little vigor can hardly be considered as campaign issues. Mr. Bryan desires United States Senators to be chosen by direct vote of the people in the several States. Mr. Taft also inclines to favor this course. And I am glad he does.

But this can be accomplished only by constitutional amendment, and such amendment can be had only when ratified by three-fourths of the States. This would hardly seem to be an issue upon which to select a President. In case of congressional initiative two-thirds of both houses must concur in order to present the amendment for ratification. Or if the States desire the amendment and there is any such sentiment as promises the necessary ratification, two-thirds of the States may require a convention to be called for the purpose. Further any State may, if it desires, provide for a direct vote which will generally be treated by the Legislature

as binding because of its expression of the wish of the people. This is the case in a number of States where Senators are practically chosen by direct vote now. But as long as there are twelve States who do not desire the amendment, the constitutional provision for the election of Senators by the legislatures cannot be changed.

Again, Mr. Bryan objects to the present rules of the House of Representatives and complains that it is no longer a "deliberative body." How to make the procedure of a body of nearly four hundred members more fully deliberative while at the same time to make provision for the proper dispatch of business, how to give greater freedom, and how to escape from the alleged tyranny of the Speaker without creating a new tyranny of the minority, is a question which parliamentarians may discuss to advantage. It would be well to have some definite statement of the amendments desired and an opportunity to judge their effect. In any event, the members of the House will make such rules as they think best and the general suggestions of the Democratic platform on this point can hardly be regarded as pertinent to the Presidential campaign.

Mr. Bryan also has much to say with regard to corrupt practices and campaign expenditures. But he omits to give due credit to the Republican party for what it has accomplished with regard to these important reforms, an accomplishment the more noteworthy in the light of Mr. Bryan's reiterated criticisms of contributions to Republican campaign funds. In the State of New York a Republican Legislature in 1906 passed a statute prohibiting corporations from making any political contributions, directly or indirectly, and providing that officers, directors, or stockholders participating in or consenting to the violation of the law should be guilty of a criminal offense. And I know of no more drastic statute in this country with regard to the publicity of campaign contributions and for the prevention of corrupt practices than that passed in New York under Republican auspices. These were not promises of an opposition party seeking power, but enactments by a party in power securing genuine reforms.

Proper recognition must of course be given to the patriotic Democrats who supported these reforms, but they were enacted by a Republican administration. Congress has also legislated against political contributions

by corporations. Purity of elections and free opportunity for the uncorrupted expression of the popular will lie at the foundation of every reform and cannot be too carefully safeguarded. And there should be Federal legislation securing proper publicity of and accounting for campaign contributions in connection with Federal elections. But it must fairly be recognized that the skirts of neither party have been clean. If we search Mr. Bryan's following we shall find not a few who have sinned, and also those who, if we may judge from their local activities, are still unrepentant. The Democratic party cannot claim unsullied virtue either with regard to the source of its revenues or its readiness to receive them. And when criticism is meted out to the Republican party on this score justice requires that it should also receive credit for the reforms it has achieved.

Both parties demand a revision of the tariff. But they differ in the principle and aim of such revision. The Republican party stands for the policy of protection. It maintains its historic position in defense of American standards of living and of the American scale of wages. The Democratic party seeks, as Mr. Bryan construes its platform, to over-

throw protection and to establish a revenue tariff. Instead of readjustment of protective rates and a fair arrangement of schedules consistent with the long-established policy of the country under which our trade has been developed and our industrial activities have attained their notable expansion, he insists on an overthrow of the entire system of protection, thus threatening the dislocation of trade and the most serious disturbance of industry. He seeks not tariff revision, but tariff revolution. Mr. Bryan appears to recognize the serious consequence of such a course and in announcing his position he hastens to assure us, that "the Democratic plan does not contemplate an immediate change from one system to the other; it expressly declares that the change shall be gradual and a gradual change is only possible where the country is satisfied with the results of each step taken." This opens a vista of indefinite tariff tinkering to accomplish the desired object.

Revision there must be. It should be prompt, thorough, and fair. But the policy of protection will be maintained and American industry, involving the interests of our wage-earners, must be properly safeguarded.

But it is urged that the Republican party cannot be trusted to make a fair revision of the tariff. Those who are opposed to a protective tariff and whose aim is to put the tariff upon a revenue basis can no more be trusted to make a revision consistent with the policy of protection than those who believe in protection can be expected to adjust the tariff to purposes solely of revenue. If, however, it be charged that the Republican party will not undertake an honest revision and that the application of the protective principle will not be worked out in a reasonable and proper way, it may fairly be retorted that there is no basis, to say the least, for any greater confidence in the operations and methods which might be adopted by our opponents in their proposed readjustment. The experience of the years when they last had the opportunity to frame new schedules in the tariff of 1894, does not inspire such confidence. The rugged Cleveland was disgusted with the work of his own party and while he did not veto the bill that was prepared, he refused to give it the sanction of his signature.

If there are interests desiring favors it does not follow that they will be denied merely

because the banner of revenue tariff floats from the Capitol. The difference is one of principle and is not to be confused by suggestions of improper influences.

The Democratic platform proposes to place upon the free list articles coming into competition with those controlled by the "trusts." But when Mr. Taft points out that if such a course were destructive to the trusts it would certainly destroy the smaller competitors of the trusts, Mr. Bryan replies, with characteristic ease, that he has "other remedies for the trusts" and that it may not be necessary to use this one after all. What becomes of the question of the essential justice of the proposal and what part it is to play in the "immediate revision"?

When, however, we consider these other remedies that are proposed for the trusts, we find ourselves journeying in a land of dreams. Again the magician of 1896 waves his wand. At a stroke difficulties disappear and the complex problems of modern business are forgotten in the fascination of the simple panacea. And as the free coinage of silver in the ratio of 16 to 1 was to destroy the curse of gold, so the new-found specific of equal perfection is to remove the curse of industrial oppression.

The delusion of 1908 is comparable only to that of twelve years ago.

The first suggestion is that the law should prevent a duplication of directors among competing corporations. However advisable it may be to have independent directorates of competing corporations, it would seem still more important to have independent stockholders, for a majority of the stockholders of a corporation choose the directors. If a law were passed preventing the duplication of directors it would easily be evaded in the selection of men who would represent the same interests. The most ordinary experience shows that it is not necessary to serve on a board of directors in order to control its proceedings. Whatever the advantage of such a law as is proposed, it hardly rises to the dignity of a "remedy," or vindicates its title to a place in an imposing scheme of reform outlined in a National platform.

But the more important proposal is "that any manufacturing or trading corporation engaged in interstate commerce shall be required to take out a Federal license before it shall be permitted to control as much as twenty-five per cent. of the product in which it deals." A license is permission, and the

object of the remedy is not to regulate large businesses, but to destroy trusts. Hence the supposed efficiency of the plan is to be found in the prohibition of the control by any such corporation "of more than fifty per cent. of the total amount of any product consumed in the United States." This is another delusion of ratio.

It might be interesting to inquire what is the meaning of "any product consumed in the United States." Does it refer to a class of commodities? And, if so, how shall the classes be defined? Or does it refer to each separate article of commerce? And, if so, what account does this proposal take of the skill and initiative of manufacturers who have built up a more or less exclusive trade in particular articles, often protected by trade-marks, although in most active competition with other articles designed for the same general purpose and seeking the same market?

In a desire to correct the evils of business are we to place an embargo upon honest endeavor whose activities present none of the abuses requiring remedies? And, if not, what statutory definitions shall be found to be adequate and just if we lay down our prohibition in terms of volume or ratio of business

and not in terms of right and wrong? If we adopt Mr. Bryan's proposal to what period of production is the prohibition to apply? Is the excess for a day or for a month to be considered? Or is the average production for a year to be taken? And what system shall be devised by which suitable information may be furnished in the nature of danger signals along the routes of trade so that the manufacturer may know when he is about to exceed the prescribed ratio? He may justly be required to govern his own conduct, but how shall he be apprised of the conduct of others upon which is to depend his guilt or innocence?

The patent laws confer a true monopoly in the exclusive right to manufacture and sell. Are these laws to be repealed because a "private monopoly is indefensible and intolerable?" Is it proposed to apply the prohibition of control of more than fifty per cent. to patented articles?

An example of Mr. Bryan's reasoning is found in his statement that "when a corporation controls fifty per cent. of the total product it supplies forty millions of people with that product." There are, of course, specialties which have a limited market and are used

by a relatively small number of the people of the United States. More than fifty per cent. and indeed even as much as one hundred per cent. of the trade in such articles may be in the control of a particular corporation. This may, in fact, be relatively a small corporation. It may never have aspired to the unsavory renown of a "trust." But by prosecuting its particular line with fidelity and meeting satisfactorily a limited want, or by reason of some secret processes or advantage of experience, it may control the trade in a given article of commerce. Or, suppose a concern controls the whole trade in some useful by-product which it has found it advantageous to make, is the trade to be prohibited?

The Democratic platform makes no exceptions to cover such cases, and we have learned that it is equally "binding as to what it omits."

If we could imagine such a crude prohibition to be enacted into law and to be regarded as valid, what would be the effect? Mr. Bryan, with his usual readiness, suggests that the concern may sell as much of its plants as are not needed to produce the amount allowed by law. He speaks as though every manufacturing concern had as many fully

equipped units of production as would correspond to any given percentage of trade which it might be required to lop off. Plants are not so easily dismembered. Reduction in output means reduction in work, reduction in the number of men employed, and curtailment of the efficiency of a growing concern. Let us suppose a concern which controls eighty per cent. of a given product—that is to say, makes and sells \$8,000,000 in value out of a total trade in the product amounting to \$10,000,000. Is it to be compelled to reduce its output to \$2,000,000 because only \$2,000,000 in value are made by others? Then, if it could sell a part of its plant on Mr. Bryan's theory, what should it sell? Should it sell off enough to reduce its capacity to \$5,000,000 and allow three-fifths of its plant to remain idle until others developed a capacity for handling the other \$5,000,000? Should it assume that the total trade will increase and is not always to remain at \$10,000,000 and hence retain a larger portion of its plant in idleness?

Or suppose a concern controls one hundred per cent. of the trade in some article, what plants shall it retain? It can produce nothing until others produce; but it may produce an

amount equal to the production of others, and it hopes the trade will grow. What a vision of business uncertainty and confusion; of idle and impaired plants; of the ruin of workmen whose lives have clustered around particular industries and who depend upon their continued efficiency, is presented by this fanciful remedy for the destruction of trusts!

Apart from this, if the dissolution were effected in the manner desired and portions of plants could be sold and were sold as suggested, to whom would the sale be made? Would it be necessarily to foes or to those ambitious to become competitors and anxious to take advantage of its plight?

This proposal, in its utter disregard of the facts of business, in its substitution of the phantasies of the imagination for realities of life, stamps the Democratic platform with the fatal stamp of 1896. The commerce and industry of this country; the interest of its wage-earners and of its interdependent masses, who must rely upon the stability of business, cannot afford to give license to such vagaries.

In the solemnity with which this proposal has been declared, and the insistence with which it is advocated, we find an appropriate

test of the capacity of our opponents to deal wisely with the problems of the day.

It is the function of law to define and punish wrong-doing, and not to throttle business. In the fields of industrial activity the need is that trade should be fair; that unjust discriminations and illegal allowances giving preferential access to markets should be prevented; that coercive combinations and improper practices to stifle competition should be dealt with regardless of individuals; but that honest industry, obtaining success upon its merits, denying no just opportunity to its competitors, should not be put under prohibitions which mingle the innocent and the guilty in a common condemnation.

The Republican party, in making intelligent progress to these ends, will be under competent leadership. Ten years ago, in the discharge of his duties as a judge, without thought of political preferment, Mr. Taft in a luminous and comprehensive opinion laid down the principles governing the anti-trust act applied to improper combinations affecting interstate trade in industrial products.

This was the famous Addyston Pipe and Steel Company case, in which the decision of the court below was reversed on Circuit Judge

Taft's opinion, and his decision afterward sustained by the Supreme Court of the United States forms a landmark in our jurisprudence in the firm application of the law against improper industrial combinations. He has expressed himself clearly and emphatically, and his sincere desire to lead the people in intelligent warfare against every form of abuse in interstate trade which admits of legislative or administrative correction, may be trusted.

The line of progress lies not in arbitrary action but in securing suitable publicity and supervision, and by accurate definition of wrongs and the infliction of proper punishment. The processes of justice may be slower and more laborious; but if we desert the lines of soberness and fair play to get quick results through arbitrary interferences with trade, we shall find that such short cuts lead only to disaster.

The plan proposed by the Democratic platform to provide for a guarantee of bank deposits is also open to serious objection. Mr. Taft promptly pointed out its weakness, and Mr. Bryan, despite his skill, has been unable effectively to answer his criticisms. The plan proposes to make the honest and

prudent banks meet losses for which they are in no way responsible. Mr. Bryan replies that all banking restrictions operate to curtail the freedom of the prudent because of the dangers arising from the abuses of others. But it is one thing to put a business under needed restrictions operating impartially and quite another to compel banks to make good specific losses not attributable in any way to their neglect or default.

If this plan is a good one for the banks, why should it not be applied to insurance companies? They are chartered by the State and are subject to its close supervision. Life insurance, for example, is one of the essential safeguards of the home, and the interests of the policyholders cannot be too surely protected. But what would be thought of a proposition to compel the well-managed and conservative life insurance company to make good the losses which would be sustained by those insured in other companies that become insolvent? This would largely deprive the former of the just benefit of its own conservatism and well-earned reputation and make easy the efforts of the unscrupulous.

The business of banking and insurance must be transacted under strict supervision;

but those institutions which operate fairly and prudently within the law should not suffer either from laxity of governmental supervision with regard to others or from imprudences and frauds with which they have no concern.

Mr. Bryan tries in vain to meet the criticism that the plan proposed would encourage reckless and dishonest men, who would seek deposits on the faith of such an assurance. It must not be forgotten that they do not conduct their enterprises with the expectation of failure nor do they contemplate loss to the depositors; but deposits are the sinews of banking enterprise, and to the extent that such a guarantee would facilitate them in obtaining deposits, the opportunity for the play of illegitimate purposes and the temptation to indulge such purposes, would obviously be increased.

Mr. Bryan asks: "Would it not be worth something to the stockholder in peace of mind to know that the maximum of his loss would be the value of his stock and the one hundred per cent. liability, and that no depositor could lose anything?" It may be supposed that there would be an added "peace of mind" on the part of managing officials. And this diminution of anxiety and of the sense of

moral responsibility with regard to deposits could not fail to have its effect upon the prudent conduct of the business, and place a severer strain upon governmental supervision. The conditions under such a plan would inevitably tend to increase banking losses, however they might be made up. It may be added that the guarantee fund, if it were established on a scale sufficiently large to ensure the required protection, would furnish difficulties both with regard to its investment and its availability in emergencies.

This proposed plan does not meet the demand for an elastic currency system through which the monetary wants of the country may be supplied. To supply such a system is an urgent necessity and its provision would obviate many of the dangers which have hitherto existed; but to make banks pay for losses they have not caused is to depart from proper principles and to encourage improper practices.

The Republican party has been solicitous of the rights of labor. Mr. Taft is clearly right when he says that "not since the beginning of the Government has any other National Administration done so much for the cause of labor by the enactment of reme-

dial legislation as has Theodore Roosevelt and the Republican Congresses elected to sit during his term of office." And in support of this assertion he instances the reenacted Employers' Liability act, the Safety Appliance acts, the Government Employees' Compensation act; provision for the investigation of mine disasters, and legislation with respect to child labor in the District of Columbia. He has exposed the disingenuousness of the plank in the Democratic platform that "Injunctions should not be issued in any cases in which injunctions would not issue if no industrial disputes were involved,"—a Janus-faced proposal, meaning what you like. The Republican party has taken a reasonable attitude upon the injunction question. But more important to labor than any benefits which may reside in improved procedure in injunction cases is the opportunity to work. It profits little to a workingman to be told that he will be given the right to trial by jury in case he is guilty of contempt of court, if those who promise it propose to enter upon a fatuous course of arbitrary interference with trade. The prosperity of the workingman fundamentally depends upon wise, conserving, and upbuilding policies; and demands that

efforts to reform industrial evils should be carefully conceived and prosecuted without endangering the stability of legitimate business enterprise.

And it is to the Republican party under its wise and experienced leadership that we must look in the present exigency for proper guidance to these ends. It is not a time for nostrums or for the rule of a party which proposes them.

But while we freely criticize opposing programs and candidacies, we as freely recognize that no party has a monopoly of patriotic motive or of sincere endeavor to contribute to the welfare of the Nation. Divided into different groups, espousing different principles, and advocating conflicting methods, our citizens are imbued with the same love of country and are inspired by the same devotion to its interests. We criticize each other without bitterness, realizing that in the contests of public discussion we find the surest protection of our institutions, and that we may confidently rely upon the final judgment of an intelligent and conscious electorate. I have an abiding confidence in the progress of the people. Resistlessly they move forward to the attainment of their goal. Every privilege main-

tained at the expense of the common interest will finally go the way of despotism and ancient tyranny. But in our progress we must seek to avoid false steps. Ours must be the rule of reason, clear-eyed, calm, patient and steadfast; defeating the conspiracies of intrigue and escaping the pitfalls of folly. Supreme must be the sense of justice, with its recognition of our mutual dependence. We cannot change human nature or bring about a state of society or of administration of government which does not reflect its failings. We rejoice in the measure of success which has already been attained, and we must resolve to devote ourselves more loyally than ever to the general good, counting our partisan opportunities and victories as gain only as they give us chance to serve our common country.

XIII.

Address before the New York State Bar Association, January 14, 1916: Some Aspects of the Development of American Law.

In addressing you, I am keenly aware of the difficulty of discussing vital subjects—foremost in the minds of lawyers—without dealing with questions which are likely to come before the Supreme Court and which the members of that Court should discuss only in the course of judicial determination. But within the limits your judgment must approve, although they exclude points of great interest to the Bar, I shall speak to you upon some aspects of the development of American law.

In the mere multiplication of laws, when this is considered relatively to the growth of the country, there is nothing novel. This is an ancient grievance and the significance of its continuance lies in the showing of the reluctance of democracy to forego legislative opportunities in the interest of simplicity

and efficiency. I see no prospect of remedying the evil of needless multiplicity until, in the place of merely general lamentation and futile inveighing against "too much law," enlightened opinion shall aim at securing improvement in those cases in which the mischief is especially prominent and some measure of relief is not wholly impracticable: for example (1) by increasing restrictions against special and private legislation, not only through constitutional provisions where these are appropriate, but by changes in the rules of legislative bodies with respect to the consideration of private bills; (2) by the development in local communities of the sense of civic responsibility which will lead to entrusting each municipality with the care of its purely local affairs under rules of its own making; (3) by seeking to deal with matters of general concern, though within State power, through uniform State laws not only enacted but maintained as such both by force of the public judgment and by the efforts of the Bench to avoid conflicting interpretations; and (4) by seeking to provide a simple judicial procedure which shall not be a legislative patchwork. We are apt to be suspicious of everything but generalizations and we find it hard to agree on the

details of constructive enterprise. But gains are always possible through a wise direction of effort, and if Legislatures are relieved of unnecessary burdens there will be opportunity for increased care in formulating and adopting new laws.

When, putting aside the trivial and comparatively insignificant, we pass to the consideration of the principal enactments of recent years, we find that this legislation has such distinctive features that it is hardly too much to say that we have entered upon a new era in the development of our law. I shall not attempt to speak of particular policies involving new conceptions of rights and duties, but there are to be observed certain changes in point of view with respect to the methods deemed to be desirable which, perhaps, are even more deeply significant than immediate legislative aims. Most notable, I think, is, first, the exercise of the power of Congress in the regulation of interstate commerce, and, second, the establishment in Nation and State of administrative agencies with both legislative and quasi-judicial powers of vast importance.

The content of the Federal authority over commerce has not been enlarged since the

beginning, and to understand its scope we recur to the classic definition of Marshall; but there has been a profound change in the disposition to use that authority. From the outset, Congress exercised its power somewhat broadly with respect to foreign commerce, but it did little in the interstate field until a short time ago. In that field the requirement of uniformity, until quite recently, was taken to assure freedom rather than restriction. Within a few years, plans of regulation involving new exertions of Federal power have followed each other in swift succession, reflecting convictions of recent origin with respect to national needs. The Interstate Commerce Act, the Anti-Trust Act, the Safety Appliance Act, the Hepburn Amendment and the Carmack Amendment to the Interstate Commerce Act, the Food and Drugs Act, the Meat Inspection Act, the Hours of Service Act, the Employers' Liability Act, the Clayton Act, and the Trade Commission Act have, to a considerable extent, recast our law. And it is of the deepest significance that these changes have not led to partisan controversy and that in the most recent legislation there has been no indication of any desire to withhold the exercise of Federal power. It is also note-

worthy that Congress has seen fit, in increasing measure, in its government of interstate commerce, to adopt means having the quality of police regulations. The authority recognized in the Lottery Case has been extended to persons in the White Slave Act and a still more recent illustration of its exercise is found in the Sherley Amendment to the Food and Drugs Act, making "articles of drugs" accompanied by false and fraudulent statements as to curative effects contraband of interstate commerce. What this means is apparent. Abounding activities and facility of intercourse have been producing their natural legislative reactions; and when the people have determined to exercise governmental control, they are disposed to utilize freely whatever powers they find at their immediate command, caring little for former divergencies of political theory.

With this noteworthy change in point of view, there have been constant manifestations of a deepening conviction of the impotency of Legislatures with respect to some of the most important departments of law-making. Complaints must be heard, expert investigations conducted, complex situations deliberately and impartially analyzed, and legislative

rules intelligently adapted to a myriad of instances falling within a general class. It was not difficult to frame legislation establishing a general standard, but to translate an accepted principle into regulations wisely adapted to particular cases required an experienced body sitting continuously and removed so far as possible from the blandishments and intrigues of politics. This administrative type is not essentially new in itself, but the extension of its use in State and Nation constitutes a new departure. The doctrine that the Legislature cannot delegate its power has not been pushed so far as to make needed adaptation of legislation impossible, and reconciliation has been found in the establishment by the Legislature itself of appropriate standards governing the action of its agency. The ideal which has been presented in justification of these new agencies, and that which alone holds promise of benefit rather than of hurt to the community, is the ideal of special knowledge, flexibility, disinterestedness, and sound judgment in applying broad legislative principles that are essential to the protection of the community, and of every useful activity affected, to the intricate situations created by expanding enterprise. But mere bureaucracy

—narrow, partisan, or inexpert—is grossly injurious; it not only fails of the immediate purpose of the law and is opposed to traditions which, happily, are still honored, but its failure creates a feeling of discouragement bordering on pessimism which forms the most serious obstacle to real improvements in the adjustment of governmental methods to new exigencies.

With Congress using widely its authority over interstate commercial intercourse and the States creating new obligations and remedies the difficulty and importance of the work of the Courts as the interpreters of Constitutions and laws has enormously increased. There has never been a time when that work, in view of the intimate relation of legislation to commerce and industry, has been of more vital concern to the country than it is to-day. It is plain that our dual system of government is being subjected to a new and severe strain. Congress is constantly defining the scope of its legislation by reference to the commerce clause, while on the other hand the States, with respect to almost every important activity, press their action to the constitutional limit of State power. Thus the Interstate Commerce Act fastens upon interstate trans-

portation, while statutes with similar purpose and thoroughness deal with the transportation that is intrastate, conducted by the same carriers. The Federal Employers' Liability Act applies to persons suffering injury while employed by railroads in interstate commerce, and other acts define what it shall be unlawful for any person to do "in the course of such commerce" either "directly or indirectly." Now, as has been aptly said, interstate commerce is a "practical conception"; it is not determined by mere forms of contracts, or by bills of lading, or by mere technicalities of any sort—that is, by anything short of the substance of the transaction. But, while this is true, interstate commerce is a department of practical affairs which as a rule is segregated only in legal theory. It has no separate existence in economics and is not separately maintained by transportation companies or by those engaged in trade. When is an employee of a railroad company engaged in interstate commerce? There may be no distinction in the mere physical conditions of his work or in his wages. Train crews handle interstate and intrastate traffic indiscriminately and the practical service of the carrier is determined by the nature of the haul, not by

the presence or absence of a State boundary. If, while in his usual work as a train hand, there is an interstate passenger on the train, or goods in a freight car are in the actual course of an interstate journey, his rights and the correlative liability of his employer in case of injury through the latter's neglect are governed by Federal law; but if the passengers or goods are being moved solely in intrastate transportation, the State law alone determines right and remedy. Again, the same right of way, terminals, tunnels, and bridges are used for both classes of traffic. The railroad has economically but one value; but this value must in some way be apportioned to determine whether laws of different jurisdictions permit a fair return upon that value, which for legal purposes must be assigned to each. Certain rate structures, which from the standpoint of economic principle and practical judgment are single, are split into legal divisions for the purpose not of academic discussion, but of vital control. Our recent reports abundantly show that questions of utmost nicety are constantly being presented in the application of new statutes, and evidence the extreme difficulty of the work of carrying out the will of Congress over the activities within its control while at

the same time avoiding encroachment upon the State field. This difficulty is sure to be very keenly appreciated in whatever fields of activity the regulating power of government takes hold. It is the problem of many governments, within one nation, dealing with portions of an activity which has economic unity. The import of this should be clear to every disinterested observer; a practical people with boundless opportunities and with aspirations unconfined will not be disposed to permit legitimate progress to be needlessly restrained or government to defeat itself by its own complexity.

But in the face of the difficulties already upon us, and destined to increase in number and gravity, we remain convinced of the necessity of autonomous local governments. An over-centralized government would break down of its own weight. It is almost impossible even now for Congress in well-nigh continuous session to keep up with its duties, and we can readily imagine what the future may have in store in legislative concerns. If there were centered in Washington a single source of authority from which proceeded all the governmental forces of the country—created and subject to change at its will—

upon whose permission all legislative and administrative action depended throughout the length and breadth of the land, I think we should swiftly demand and set up a different system. If we did not have States we should speedily have to create them. We now have them, with the advantages of historic background, and in meeting the serious questions of local administration we at least have the advantage of ineradicable sentiment and cherished traditions. And we may well congratulate ourselves that the circumstances of the formation of a more perfect Union have given us neither a confederation of States, nor a single centralized government, but a Nation—and yet a Union of States each autonomous in its local concerns. To preserve the essential elements of this system—without permitting necessary local autonomy to be destroyed by the unwarranted assertion of Federal power, and without allowing State action to throw out of gear the requisite machinery for unity of control in national concerns—demands the most intelligent appreciation of all the facts of our interrelated affairs and far more careful efforts in coöperation than we have hitherto put forth.

Manifestly, our governmental arrangement

would be unworkable were it not for appropriate provision for determining the scope and validity of State and Federal laws. Without it, we should be in the direst confusion. This was apparent at the outset and care was taken to insure the permanence of our system by creating a judicial tribunal as far removed as possible from the passion and prejudice of partisan controversy which should observe the traditional requirements of reasoned judgment in applying to the decisions of controversies the supreme law. I do not propose to discuss this power. It has been argued of late to the point of demonstration,—notably in connection with the researches conducted by this Association. It is sufficient to point to the express words and necessary implications of the Sixth Article which make the Constitution, and the laws of the United States in pursuance thereof, and all treaties made under the authority of the United States, the supreme law of the land, and the Judges in every State are to be bound there by anything in the Constitution or laws of any State to the contrary notwithstanding; and to the provision of the Judiciary Act of 1789, itself a virtually contemporaneous interpretation of the Constitution and supplying the neces-

sary rules of procedure by which State judgments involving the determination of the validity of State or Federal statutes might be reviewed by the Supreme Court of the United States in those cases where asserted Federal rights had been denied. The recent legislative activity has called for the reaffirmation of cardinal principles of constitutional law to which the practical success of our system is very largely due. Thus, it is recognized that within its sphere as defined by the Constitution, the Nation is supreme. The question is simply of the extent of the Federal power as granted; where there is authorized exercise of that power, there is no reserved power to nullify it,—a principle obviously essential to the maintenance of national integrity, yet continually calling for new applications. Thus regulations required in the exercise of the judgment committed to Congress for the protection of interstate commerce cannot be made nugatory by the mere commingling of interstate and intrastate transactions. To illustrate, when the validity of the Hours of Service Act was under consideration, it was emphasized that the interstate and intrastate transactions of the carriers were so interwoven that it was utterly impracticable for

them to divide their employees so that those engaged in interstate commerce should be confined to that commerce exclusively. But this fact, it was held, did not preclude the exercise of Federal power. As Congress for the purpose of promoting safety through the reduction of the risks incident to excessive strain could limit the hours of labor of those engaged in interstate transportation, it necessarily followed that this exertion of its authority could not be frustrated by prolonging the period of service through other requirements of the carriers or by intermingling the duties which related to interstate and intrastate operations. So, also, Congress has taken account of the practical exigencies of traffic, and of the interdependence of train movements and has insisted that cars moving on railroads that are highways of interstate commerce shall be suitably equipped to the end that interstate traffic shall not be exposed to unnecessary danger. Again, Congress has asserted its authority to compel interstate carriers to give to interstate traffic reasonable rates without unjust discrimination; and the question whether interstate trade was left to be destroyed by hostile discrimination under the authority of local governments

was decisively answered when the Constitution superseded the Articles of Confederation. On the other hand, while there is this supremacy of national power within the national sphere, it was never intended that throughout the extent of authorized Federal action there could be, in the absence of the actual exercise of Federal power, no employment of State authority. There are undoubtedly many matters of such a nature that but one authority can be exercised over them, and the Federal power must be exercised or none at all. But along with these are a host of local necessities which from the beginning were viewed as properly engaging the attention of the States in the protection of the interests of their people, albeit interstate commerce was involved or incidentally affected, until Congress should act and by the exertion of its constitutional authority supersede State laws by its own requirements. Various exigencies have thus been met. Consequently, in large measure the Federal power has been dormant,—and its exercise has awaited the revelation of national need and the pressure of a gradually forming national sentiment. The importance of these principles in our development cannot be overestimated; and while they ob-

viously permit many adjustments to be made on the practical judgment of Congress, their recognition does not involve any real impairment of State government in matters which, as being exclusively local, lie outside the sphere of Federal power.

But important as is the judicial function in maintaining the integrity of the constitutional system, it should not be overburdened, nor should work be expected of it which should otherwise be performed. No opportunity should be neglected to secure that wise cooperation which in our network of activities, can go far to avoid unnecessary friction. While I cannot enter the domain of legislative policy, may I suggest that the resources of accommodation have not been exhausted; indeed, they have scarcely been touched. Very often the differences that exist between State and Federal laws governing different phases of the same general activity are due more to accident or lack of forethought than to difference in deliberate purpose. We have had in our States too little regard for the remoter and indirect consequences of legislation. There has been, perhaps, too much thought of questions of abstract power rather than of its sagacious use by those who after

all must have a common prosperity or none at all. Some progress, very gratifying, has been made toward unifying our commercial law by the enactment of uniform acts in many States, relating to negotiable instruments, warehouse receipts, bills of lading, and sales. But it should be possible to do far more than has been done in the promotion of agreement rather than diversity, inasmuch as our people are to a very great extent inspired by the same ideals. When Congress has legislated on a subject within its province, variations in statutes as to corresponding activities in the local field may well be examined to see whether such variations are worth while or whether it would not be possible to secure harmony without sacrifice of any real local interest. The various administrative commissions easily provide opportunities for deliberation and conference which should be of inestimable importance in avoiding unfortunate differences, particularly when the legislative policies underlying administrative action appear to be identical. Our administrative law is comparatively of recent development and we have hardly begun to consider the practical needs and advantages which go with the creation of such agencies in Nation

and State. In most cases differences yield to a complete understanding of facts, and equipment for competent investigations should diminish the dangers of conflict. It would seem to be clear that bodies of intelligent men dealing as experts, for example, with the interstate and intrastate phases of traffic situations, should be in practical accord, or that at least such differences as may appear to exist should be put to the test of mutual statement, analysis, and consultation under plans more definitely designed to prevent unnecessary divergencies. I do not mean to underestimate such voluntary efforts as have been made in this direction; nor shall I presume to suggest the details of possible improvements in administrative schemes with this end in view. But I should think that many of our difficulties might be solved by perfecting the machinery of administration with the direct purpose of promoting harmony of action in dealing with those activities which are conducted in the world of affairs as parts of the same enterprises. It should not be deemed impracticable to secure the protective purposes of State and Nation without injury or needless embarrassment to the honest undertakings upon which both depend.

Recurring to the work of the Courts,—it is evident that legislative activity is constantly raising questions involving not simply the constitutional adjustment of National and State power, but also the application of the historic clauses of our bills of rights securing life, liberty, and property. Here, also, our system is under an increased strain as efforts to impose new obligations are brought to the constitutional test. In view of the impossibility of comprehensive definition of the content of the great guarantees of due process and equal protection, and of the necessity for what Mr. Justice Miller called the “gradual process of judicial inclusion and exclusion, as the cases presented for decision require,” there is peculiar danger of defective generalization in a critical estimate of results. For a fair view of judicial work in this field, it must be judged in its entirety and without losing sight of the broad range of legislative discretion which is every day recognized despite constant efforts to induce judicial decision upon matters which are essentially mere questions of legislative expediency and over which the Courts have no constitutional authority. Even with respect to procedure, which is of the essence of due process, it has

repeatedly been held that there was no intention by the adoption of the Fourteenth Amendment to confine State practice to archaic forms. For, as Mr. Justice Moody said, in *Twining v. New Jersey*, if that were so, "the procedure of the first half of the seventeenth century would be fastened upon the American jurisprudence like a straitjacket, only to be unloosed by constitutional amendment"; and that, he continued, quoting from Mr. Justice Matthews in *Hurtado v. California*, would be "to deny every quality of the law but its age and to render it incapable of progress or improvement." Thus it has been found, for example, that there was nothing in the guarantee of due process of law contained in the Fourteenth Amendment which required a State to proceed by indictment by a grand jury (instead of by information) or by trial by a petit jury of twelve persons in prosecutions for infamous crimes, or from dispensing with the exemption from compulsory self-incrimination. And in the operation of this amendment according to our established constitutional doctrine as a restriction upon the enactment of substantive legislation, it is manifest that the prohibition was not intended to override legislative action by the views of

Judges as to its wisdom. The amendment was the affirmation of individual rights deemed to be fundamental. It was incorporated in the Constitution with full knowledge of the judicial duty to apply the supreme law in the decision of controversies. What was thus sought was not a privilege to deny the legislative authority to enact reasonable measures for the promotion of the safety, health, morals, and welfare of the people, not to make improvement or rational experimentation impossible, but to preserve and enforce the primary and fundamental conceptions of justice which demand proper notice and opportunity to be heard before a competent tribunal in advance of condemnation, immunity from the confiscation of property, and, with respect to every department of government, freedom from the exercise of purely arbitrary power. The perpetuity of this judicial function characteristic of our system, in my judgment, lies with the Courts themselves rather than with their critics. With the alternative of legislative power, uncontrolled no matter how indulged, the people have preferred the interposition of the judicial scrutiny in order to conserve what have been deemed to be the essentials of liberty. It is not a function likely to be

disturbed so long as Judges in the discharge of their delicate and difficult duty exhibit a profound knowledge and accurate appreciation of the facts of commercial and industrial activity, and by their intelligence and fidelity in the application of the Constitution according to its true intent commend its guarantees to the judgment of a fair-minded people jealous alike of public rights and individual opportunities.

I have spoken of constitutional grants and restrictions, but quite apart from these the development of our law is making very heavy demands upon the Courts as the organs of the interpretation of statutes. Many forget how necessary is the judicial work to the carrying out of any legislative program. I like to think of the Courts as in the truest sense the expert agents of democracy,—expressing deliberate judgment under conditions essential to stability, and therefore in their proper action the necessary instrumentalities of progress. We are constantly reminded of the fact that legislation, even when making important changes, is new only in part. It cannot escape its roots. In providing what is new, it also brings forward what is old. Concepts long familiar in the law are intro-

duced into new statutes; language can hardly be used otherwise, despite crudities in drafting, and in nearly every line is a connection with the past which demands the expert judicial interpreter. And, further, what may seem at the time to be an abrupt or catastrophic change takes ultimately its place in legal history, when causes and effects are better understood, as a natural evolution. It is undoubtedly the duty of the Courts to construe legislation according to the intent of the Legislature. But the question remains, what is the intent of the Legislature? The man in the street will tell you at once what it is; but when you put the case to him in its details, he hesitates. What seemed clear becomes doubtful as the particular application to concrete facts is faced. Much that arises in the controversies which the Courts must decide was not or could not have been foreseen and actual intent to deal with it was lacking. There is no one who has had anything to do with legislation but knows how various are the views inducing votes, and it is recognized that it would be highly unsafe to take even expressions in debate as representing the opinions of others whose concurrence was necessary to the passage of the measure.

The intent of the Legislature is sometimes little more than a useful legal fiction—save as it describes in a general way certain outstanding purposes which no one disputes but which are frequently of little aid in dealing with the precise points presented in litigation. Moreover, legislative ambiguity may at times not be wholly unintentional. It is not to be forgotten that important legislation sometimes shows the effect of compromises which have been induced by exigencies in its progress, and phrases with a convenient vagueness are referred to the Courts for appropriate delimitation,—each group interested in the measure contending that the language adopted embodies its views. Legislation does not execute itself; very rarely does it fully explain itself; and with the legislative word, in order to make it effective, must go the judicial judgment. How important this work is in connection with recent legislation is at once apparent. For it is through the Courts that consistency and symmetry will be given to new departments of law.

I have said that every statute shows its connection with the past and contains in its language references to familiar legal concepts, but the work of interpretation cannot faith-

fully be performed in a technical spirit which would sacrifice the growing substance of the law to a lifeless formalism. Nor can it in linking the future with the past ignore the evident purpose of many legislative changes. Thus, in the case of our Uniform State Laws, formulated and adopted with the purpose of unifying the commercial law of the country, nothing could be more lamentable than to treat the Uniform Act as an outgrowth of the separate law of the State and through conflicting interpretations to create a new diversity in place of the desired unity. It is an old maxim that in construing statutes the Court should consider the old law, the mischief and the remedy. The maxim has become so hackneyed that its fine quality is often not perceived. It calls for a statesmanlike appreciation of past, present, and future, through which alone the Judge can meet his responsibilities as the interpreter of legislation in the expanding life of democracy. In judicial tribunals, the Legislature is happily, though somewhat mythically, personified as possessed of all accessible information, learned in the law of the past, wise to the point of infallibility in matters of legislative discretion, generally using legal language with legal

acumen and certainty, and imbued with the spirit of unflinching consistency. The intent of this ideal legislative intelligence is found in the words it employs and when found must be faithfully applied; and the general success of the Courts in this arduous endeavor is shown by the fact that although the Legislature is always free to repudiate any misconstruction of its purpose such action is rarely taken.

There are two tendencies in legislation, here and there observable, which I cannot but think are opposed to a proper conception of the function of the Courts. There is the tendency to assign to the Courts administrative duties which do not belong to them and, sometimes, Judges are denied appropriate authority.

Legislation of the first sort undoubtedly arises from distrust of powerful administrative agencies; it shows a desire to escape their authority and to have the judgment of judicial tribunals, with whose standards the public is familiar, in the final decision of difficult administrative problems. It seems to me to be the wrong way to reach the right result. The only reason for the creation of the new administrative instrumentalities—which ap-

pear to present government in a new phase—is the complexity of the facts with which government undertakes to deal and the necessity, if they are wisely dealt with, for the continuous and expert attention of a body exclusively concerned with the particular subject. To put upon the Courts the burden of considering the details of administrative problems would be to overwhelm them; but for the Courts to revise and rescind administrative action without a competent and close study of all the pertinent facts would be not only to destroy the effectiveness of the administrative agencies but also seriously to impair the confidence reposed in judicial tribunals. It cannot be too strongly insisted that if we are to have these important administrative instrumentalities properly perform their duty, they should stand on their own footing, and that the public should realize that their safeguard is not in injecting the Courts into the work of administration, to the confusion of both, but in maintaining an enlightened policy and in insisting upon proper standards of official conduct. The Courts cannot be substituted for administrative agencies; nor, as I believe, is it to the ultimate advantage of the community to divide be-

tween them the responsibility for purely administrative action.

This is not to say that the Courts do not have a very important function in connection with the work of administrative commissions. These bodies exercise prescribed powers, and the limits of these powers as well as constitutional restrictions must be defined and maintained by judicial tribunals. There is thus interposed one of the most important safeguards of the community against all efforts on the part of administrative agents to draw to themselves powers not conferred; and on the other hand the appropriate demand intelligently enforced, for the proper execution of the law does not in any way sacrifice administrative efficiency. Rather it tends to conserve such efficiency by avoiding the reactions which inevitably follow abuses of authority. There is also apparent at times the tendency, in a desire for the play of administrative discretion, to preserve opportunities for arbitrary action without responsibility. The requirement of a fair hearing, of action upon evidence, of a disclosure of the basis of action that all parties interested may have suitable opportunity to challenge it, in no way trammels the just administrator who is loyal to the stand-

ards of democracy, but are very important safeguards against the development of bureaucratic despotism under democratic forms.

The other tendency of which I have spoken is occasionally observed in legislation which denies to Judges the authority which would seem to be needed for the efficient discharge of judicial duty. Thus, in some jurisdictions, the freedom of the Judge in instructing the jury is very considerably curtailed in a manner which betrays a regrettable distrust. This, of course, carries the lesson of the extreme importance of such conduct on the part of our Judges as will commend their office to the community they serve. But I venture to say that no intelligent citizen has ever taken part as a jurymen in a trial over which presided a thoroughly competent Judge, who swiftly, fairly, and firmly applied the law, extricating the essential merits of the controversy from the confusing details of testimony and argument, without profound respect for the expert knowledge and trained capacity which successfully meets a test so severe. There can be no respect for the law without competent administration, and there can be no competent administration without adequate power. We shall never rise to our op-

portunities in this country and secure a proper discharge of the public business until we get over our dislike of experts; and the difficulties in the way of needed improvements in the administration of justice will not be overcome by tying the hands of those most competent to deal with them.

And this leads me to speak briefly, in conclusion, of the urgent needs of reform in judicial procedure. If I may be permitted to speak with the liberty of a member of this Association, I am very glad that at last the time has arrived when we may reasonably expect radical changes in our procedural law. We have very unnecessary differences with respect to different Courts. The essentials of procedure are simple, and they should conform to one simple type with only such modifications as are necessary to adapt it to differences in jurisdiction. We have become accustomed to a network of legislative rules of practice which in their complexity are a reproach to the State. The remedy, I believe, is to replace these rules with a few statutory provisions forming the basis of procedure, leaving all the details to be supplied by rules of Court. The important equity practice of the Federal Courts is governed without

difficulty by a few rules promulgated by the Supreme Court. There is no other way, it seems to me, to give the requisite simplicity and elasticity to procedure. There may be a prejudice among lawyers to committing this power to the Bench, because of the fear that rules of practice will be removed from the range of the just influence of the Bar. This, I think, is a misapprehension. It would be far easier to convince a Court of the necessity of a change in its rules than to convince the Legislature, while, on the other hand, unnecessary tinkering would be made more difficult. When the Federal equity rules were adopted committees of lawyers were appointed through the Circuit Judges of each circuit and thus the expert opinion of the entire country was obtained, to the great advantage of those engaged in formulating the rules. Instead of being withdrawn from the influence of lawyers, the regulation of practice by rules of Court would permit that influence to be exerted in the most intelligent manner. Proposed changes would emerge from the discussions of Bar Associations and would be presented finally to those who were most sensitive to professional opinion and most competent by reason of constant experience to

pass upon the questions submitted. In this way the rigidity of statutory enactments will be avoided and judicial procedure will cease to be the mere sport of those whose game is to avoid decisions on the merits.

Justice in the minor Courts—the only Courts that millions of our people know—administered without favoritism by men conspicuous for wisdom and probity, is the best assurance of respect for our institutions. The administration of commercial law by recognized experts in a direct fashion appropriate to the subject is needed quite as much as uniform State acts to commend the law to practical men of affairs. The stripping of criminal procedure of needless requirements, without impairing the security of innocence, and in general the fearless destruction of provisions which only embarrass the just disposition of controversies should not be long delayed.

We are living at a time when men and women in a large part of the world are undergoing a discipline unrivaled in its severity and are exhibiting a heroism that has never been surpassed. Let it not be supposed that those who survive will lack the strength which such

sacrifice and such discipline must give. Let us not content ourselves with the comfortable thought of hardships we have escaped, but rather reflect upon the vigor, self-discipline, and patriotic ardor which alone can make us worthy of opportunity or able to use it. The sentiment of the Bar is a fair index of public virtue. If its standards are corrupted, the vital forces of society cannot fail to be enfeebled. With a sound, courageous, and independent Bar, a foe of demagogy but a friend to rational improvement, vindicating its expert leadership by intelligent conception of the interests of the community, and by its zeal for the better administration of justice which is its especial care, democracy will not essay its tasks in vain.

THE END



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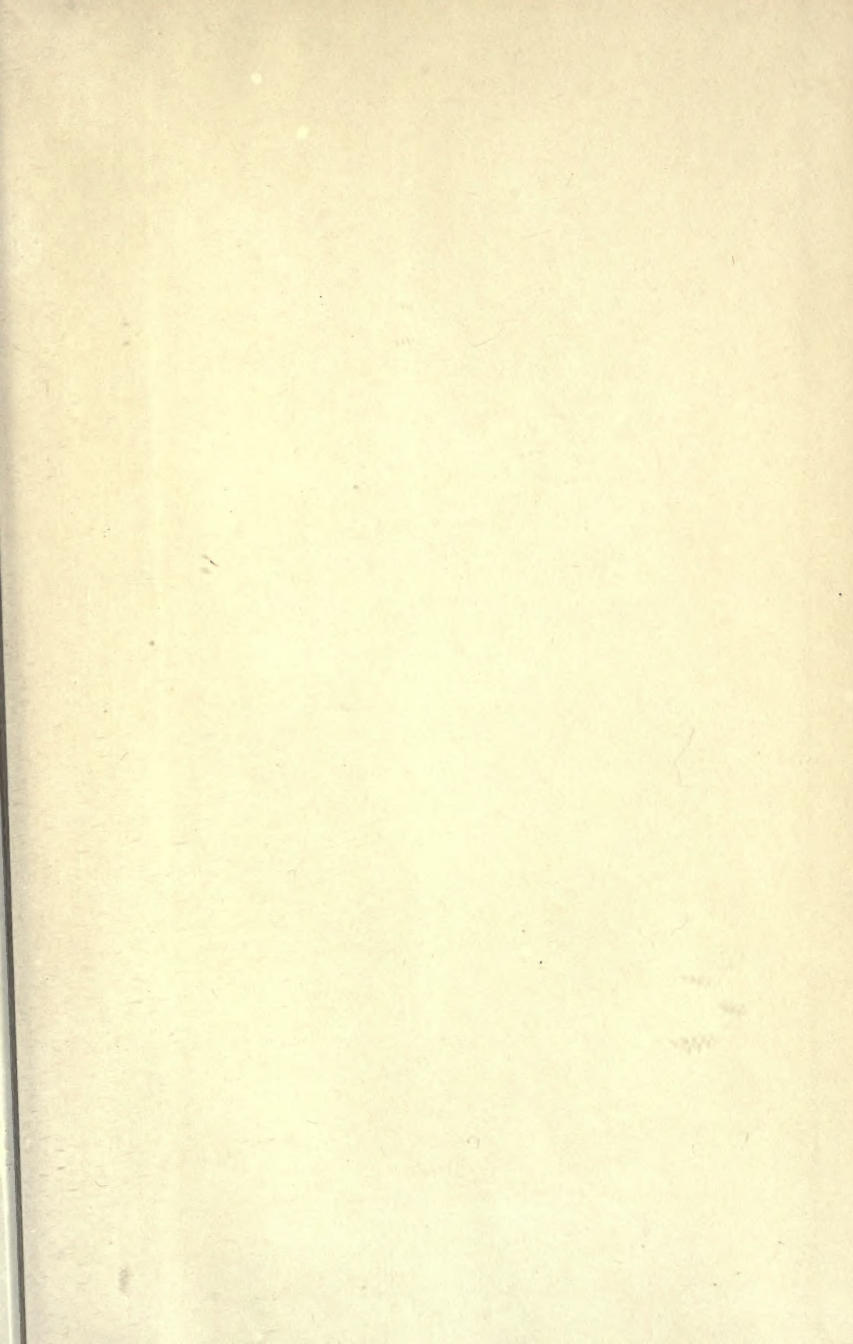
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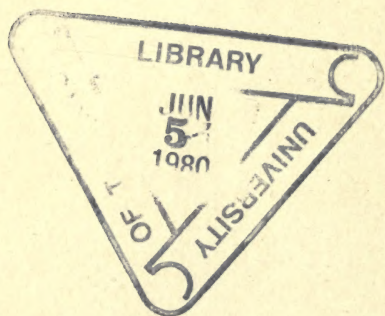
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