

Andrew Jackson: Hero of New Orleans

BY

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AN ADDRESS

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WITH AN

INTRODUCTION

BY

BAINBRIDGE COLBY

FORMER SECRETARY OF STATE OF THE
UNITED STATES

FOREWORD

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This noteworthy address was delivered before the American-Irish Historical Society at its annual banquet, in 1930.

When one considers the brevity and compression which a speaker, after dinner, must observe, it is a remarkable achievement to have presented so comprehensive and discerning a review of the crowded career of Andrew Jackson.

As was natural before a learned society, Judge Cohalan devoted an adequate portion of his address to a summary of the historical facts of Jackson's life.

His pure Irish lineage is engagingly revealed in the story of his forbears—men of rugged virtue, and women of piety and gentle traits. The forthrightness and virility which characterized all that Andrew Jackson said and did, he owed to this precious racial heritage.

His distinction as a soldier and his greatness as a President of the United States, are set forth by Judge Cohalan with simplicity and no touch of exaggeration. Most students of American history must agree with Judge Cohalan, in assigning to the battle of New Orleans a decisiveness in our history comparable with the battle of Saratoga. In fact, some historians are disposed to view the defeat of General Pakenham by General Andrew Jackson as more significant in its influence upon subsequent events than the defeat of Burgoyne.

The independence of Jackson's character, as shown in his courageous opposition to Thomas Jefferson, despite the latter's great prestige, and in his equally courageous refusal to ignore the services and the undisputed abilities of Aaron Burr, are vigorously portrayed by Judge Cohalan. His estimate of Andrew Jackson's place in history, as among America's Olympians, will accord with the settled judgment of posterity.

One cannot read this stirring address without perceiving that it is a definite and very valuable contribution to the history of a great epoch in our national life and of a very great and immortal figure.

ANDREW JACKSON: HERO OF NEW ORLEANS

DANIEL F. COHALAN

FORMER JUSTICE OF THE SUPREME COURT OF NEW YORK

It is always an honor to speak at, and it is always a pleasure to attend, the functions of the American-Irish Historical Society. Its history began with the birth of the century and it continued its progressive march with the majestic sweep of the Republic down to the present day. It is, therefore, most fitting that an entire evening be devoted to Andrew Jackson by this distinguished assembly of American citizens from almost every State in the Union.

Ordinarily, to speak of any man who had been President of the United States for two terms, we should have an evening at our disposal. But to speak of a man who was elected President, so far as the people are concerned, three times and who besides was a general commanding victorious armies in the field of battle during one of the most crucial stages in our country's history, deserves unlimited time in order to do complete justice to our subject—our hero if I may use that much abused expression.

But these are busy times, and you, ladies and gentlemen, have homes, businesses and most important matters to attend to. So we shall try to compress a five-volume record of achievement into an address.

I speak with no exaggeration when I say that impartial historians, writing of men who have become great in this country, must place Andrew Jackson among the first three.

Who was Andrew Jackson? Where did he come from? What stock did he represent? What did he do that made him so strongly the master of the feelings and the minds of the people of America, that it is only just the language of exaggeration to say that in some parts of the country they are still voting for him whenever they get the chance to go to the ballot box? Whence came this man? Where he was born is a matter of dispute. It is admitted that Andrew Jackson was born on the fifteenth of March, 1767, very close to the border of North Carolina, in South Carolina, or very close to the border of South Carolina, in North Carolina. Andrew Jackson himself asserted that he was born in South Carolina, and I am inclined to think that the truth of the story of his birth is in that direction. A distinguished member of this society, Cyrus Townsend Brady, writing of him, says that he was born in South Carolina. He was the posthumous son of Andrew Jackson, who, in 1765, with his wife, who had been Elizabeth Hutchinson,—the Anglicized form of the old Gaelic name of McCutcheon—came with their two children, Robert, a boy of two, and Hugh, an infant of five months, to the Waxhaws Settlement, as it was called, after a tribe of Indians who formerly occupied the territory, along the border of what became the North and South Carolina line as soon as those States came into the Union; and it is a singular thing that from that Settlement, of what were called the Poor Irish, came several of the most distinguished men who have figured in the history of this country. John C. Calhoun's father, when he came to this country, came first to the Waxhaws. William H. Crawford, a kinsman of Andrew Jackson, afterwards a Senator from the great State of Georgia and a candidate for the Presidency, came from the Waxhaws Settlement; and a dozen other men who became distinguished in the Army and in the Congress and in the Judiciary of the United States, came from that small settlement of strong, virile, vigorous people.

Andrew Jackson, as I say, was born on the fifteenth of March, 1767.

His father died several months before the birth, and left Andrew's mother in the direst poverty and distress, so that the child was born in the home of an uncle of his, one Thomas McKemey—the historian, Parton, spells it McCamie—who was married to another of the Hutchinson girls.

JACKSON'S ANCESTRY

Jackson's father in Ireland had been a linen weaver, as had Jackson's grandfather on the mother's side, that is, Elizabeth Hutchinson's father. They came from Carrickfergus, and it is an interesting thought, because the grandfather's name was Hugh Jackson—and you remember that Hugh was one of the outstanding names of the great family of O'Neill—that the name Jackson, about whose racial derivation there has been so much in dispute, is a translation of MacShane, one of the sub-tribes of the O'Neills. Those of you who are acquainted with conditions in Ireland know how the great Clans became divided in name; for instance, in a section where there were a hundred John O'Neills, presently the son of one of the Johns would take the Christian name of his father—because they were all O'Neills in that section—he would take the name of MacShane, the son of John, which, translated, became Jackson; and you know how many of the Jacksons and Johnsons came out of that section which was the old Clan ground of the O'Neills. His grandfather's name was Hugh. His infant brother, brought here, when five months of age, was Hugh; and that fact is interesting, because Jackson always insisted that there was nothing but Irish in him, that he was not Scotch-Irish—that he was Irish, plain Irish, simple Irish, virile Irish, vigorous Irish, and *only* Irish—as he showed by his conduct and opinions on a hundred occasions. When he wrote, after he had become a famous man in the country, to the Charitable Irish Society of Boston, he referred to the strain of the blood that was in his veins as being Irish; he referred to his father's country and his mother's country as being that of Ireland. He never on any occasion called himself a man of other than Irish blood, of Irish breeding, of Irish descent.

Shortly after his birth troubles developed between England and what became the United States of America. His two brothers, a little older than he, although neither of them had reached the age of manhood, took part in the struggle. Both of them died, one from fever, the other from wounds contracted while fighting for the United States. Jackson himself had been fighting, going with the soldiers to battle, tending to them, and was subsequently taken prisoner. While he was a prisoner—he was not confined indoors at the time, but was held as a military prisoner—occurred the remarkable incident when he was told by a British officer to shine his boots. Jackson said he would do nothing of the kind; that he was a military prisoner and was entitled to be treated as such; and he bore to his dying day the welt of the wound on his head and the mark of the cut on the left arm given by the sword of the British officer because he would not blacken his boots. After the refusal of Andrew Jackson the officer turned to the older brother, repeated the order, and got the same reply, and also struck and grievously wounded him.

His mother, shortly after the death of the oldest boy, went to Charleston, in order to be of assistance to those who were fighting for freedom. While there she was taken with what was called the "ship's fever"—probably yellow fever—and died, leaving Andrew, about fifteen years of age, with no immediate relative to whom to turn. He went to his collateral relations; continued with them for a while; went to learn to be

a saddler, and worked a few years at that trade before turning his attention to the study of law; being admitted to the bar at the age of twenty.

BECAME SUPREME COURT JUDGE

By that time the United States had come formally into existence. He turned his attention to the West; went to Tennessee; began to practice law there; became a famous figure at the bar; was elected to the bench; became a Supreme Court Justice of Tennessee for several years; and distinguished himself by the commonsense of his decisions. He resigned from the bench; became a Major General in the militia at thirty-four; and one of the foremost men who fought on the side of the United States in the Indian wars. Finally along came the days of the War of 1812—that war to which so little reference is made in the English school books; that war to which so little reference is made in these days, in these United States of America; that war brought on by a long series of aggressions against the infant United States by the Power which boastfully asserted its ownership of the seas.

In that war he distinguished himself to such an extent, and accomplished results of so extraordinary a nature that it can be said that he was the greatest soldier, with the possible exception of Washington, produced by America—at least until the Civil War broke out.

Bear in mind that Jackson fought leading the frontiersmen, leading the militiamen, leading such troops of the United States, regular troops, as were sent out—and they were few in number in those days—against the Creeks. Brady says that of all the Indian nations in America there was none comparable to the Creeks as warriors, as soldiers, as men of strength, of action, of vigor. He led in repeated campaigns until he practically wiped out that nation; so that when he came to take charge of New Orleans, and when the command was turned over to him, he was already an accomplished soldier; a man who had studied the art and strategy of war; a man who was able to command the heterogeneous group who appeared there, and win and hold the respect and affection of all who fought on the American side.

It is worth your while to read over carefully Brady's book on "The True Andrew Jackson," in order to get some idea of the magnitude of the task that was imposed on the shoulders of Jackson in New Orleans. He was faced by a force at least twice as large as that which he commanded; a force made up of veterans of the Peninsular War, a force made up of the choicest, the specially selected troops of the British army, who had been fighting campaign after campaign against the Marshals of Napoleon—the master of war, the greatest soldier, without exception, who ever lived. They were there commanded by men who had distinguished themselves in fight after fight, in campaign after campaign. They were in chief commanded by the veteran soldier, General Pakenham—the brother-in-law of the Duke of Wellington—no mean soldier in spite of the showing that he made in New Orleans. They had the advantage of attacking a city which was unfortified when Jackson took control; and Jackson had under his command, as against this trained force, a group of men made up of representatives of nearly every race on earth. Several of the commentators on the battle point out that in the army of Jackson was spoken probably every known human language, so heterogeneous, so varied, so strangely assorted were the men who made up the troops under his command. Of course, Jackson spoke only one language, but he was able to bring order out of chaos. He was able to control these

men, the one thing that was in his favor being that he was beloved by them, by these troops made up in part of the militiamen of Tennessee and Kentucky, men who understood him, who had fought with him in various battles, who loved and respected him; numerous as had been the times when they had run riot and mutinied, only invariably to be brought to task by him and made to take their places when the final and decisive hour came.

THE BATTLE OF NEW ORLEANS

The Battle of New Orleans is referred to generally as if it were only one event, when, as a matter of fact, there were three battles—one of them fought on December 23, 1814, one on the first of January, and the final one on the eighth of January, 1815. In the first two battles the losses on the English side and the losses on the American side were largely equal. It looked as though the defenders, having the smaller number of men, were at a disadvantage as a consequence of these losses. But celebrated soldiers who have studied and commented on the battle say that each of those apparent setbacks was a decisive victory for Jackson, and that by seeming to have been worsted in the first fights he succeeded in getting Pakenham into a position from which there was only one outcome, and that was to attack the fortifications which Jackson hastily had thrown up. Jackson's handling of the problem presented to him, marked him as a soldier of the first rank. In the first two battles and in numerous and lesser fights he assumed the offensive, struck boldly and constantly at the ranks of the English and left on his opponents the impression that his forces were much greater than they really were. When the decisive hour came he stood squarely on the defensive and could not be thrown from his position.

Charles Francis Adams, writing of the battle, says:

"Jackson on this occasion evinced one of the highest and rarest attributes of a great commander. He read the mind of his opponent—divined his course of action." Adams says again:

"A really great commander, as in the case of Napoleon in his early days, effects his results quite as much by ignoring all recognized rules and principles as by acting in obedience to them. At New Orleans Jackson had no right to succeed; Pakenham had no excuse for failure."

But the fact remains that while neither of them followed the recognized rules of strategy, Jackson succeeded, only to go on with the highest honors that could be bestowed upon him by a grateful people, while Pakenham not only lost the battle, but lost his life.

Roosevelt, who made an exhaustive study of the question, points out that the strategy adopted by Jackson was one that was decidedly American—a system condemned by most European authorities, but one that has been used on several great occasions by the Americans, particularly at Gettysburg, at Kenesaw Mountain, and at Fredericksburg; that it was essentially, in the end, defensive; that Jackson manoeuvred Pakenham with his trained English troops into the position that he desired; that all that Jackson had to do in the end, and the thing that was most advantageous for him to do, was to remain on the defensive, and to slaughter—as he did absolutely slaughter—the English, when the decisive moment came.

It seems impossible to think that upon the third battle—the really decisive battle—the occasion which has come generally to be known as the Battle of New Orleans—there could have been a contest between troops trained as the English army was trained, and troops gathered

largely, as the American army was gathered and trained, that would have such an outcome as had that battle. A great deal has been said and written about the Battle of Saratoga—and that has been referred to by historians as one of the decisive battles of the world. I maintain that the Battle of New Orleans, in its results, in the things which necessarily came as a consequence of it, was as decisive to the new-born nation as was the Battle of Saratoga in the Revolutionary War.

In the final battle, when Pakenham brought up his troops and came forward to the assault, the American losses were eight killed and thirteen wounded; the English losses in killed and seriously or mortally wounded were three thousand and twenty-six, and, of them, three thousand casualties were the result of the rifle balls that were sent into the English as they came to the attack.

Jackson directed his men in this way: That everyone of the riflemen should pick out his file man—that is, that No. 1 from the left should take No. 1, No. 3 should take No. 3, and so along the line, with the result that as the foremost of the English veterans came along they were picked off by those marksmen, who were able to shoot out a squirrel's eye—in some cases, as was said—at two or three hundred yards' distance. As they came up, absolutely solid in rank as they were, there was no escape for them, and the great difficulty that Jackson had was, after the first setback of the English troops, to keep his men from going over the fortifications—largely made up of bales of cotton—and carrying on the fight from the outside of the breastworks. It is told that one of his own relatives was the first up on the fortifications, crying, "Come on!" and that Jackson, seizing two pistols from one of the officers, jumped on the breastworks and shouted, "I will shoot the first man that comes up here. Hold back; the only way to win is to do as I say." The result was just as he foretold.

THE GREATEST VICTORY

Such a victory had never been won on these shores before, and it was a victory, considering the relative number of those who were killed on either side, like to which you will find few in all the annals of warfare. The only one I remember that was anything like it was the victory won by the same class of men at Benburb under Owen Roe O'Neill, when the losses of the English and Scotch troops were something over two thousand, while the Irish losses did not go beyond seventy.

The results of this victory were extraordinary in many ways. Jackson claimed, after he had become President, in a talk he had with Governor Allen of Ohio, that the Battle of New Orleans saved to the United States the entire left bank of the Mississippi River. You will remember that only a comparatively short time before, that immense territory had been turned over by Napoleon in negotiations with Jefferson, and an empire acquired for America.

Historians point out that in the negotiations at Ghent—strangely enough carried out before the Battle of New Orleans was fought—the English put in some words which would enable them—and as they held, justify them in claiming that Napoleon had no right, on behalf of France, to turn over that empire to the United States.

But the decisive character of the battle—the result of the battle—the showing made in this contest between the trained veterans of the British army and those rough frontiersmen—the demonstration, in other words, of the capacity of the Americans to take care of themselves—proved to the satisfaction of the English that they had better leave that question settled as it was settled, and not attempt to open it up again.

On the coming to the Union of the State of Arkansas, Jackson gave an address in which he insisted that Arkansas was the direct consequence, or one of the consequences, of the Battle of New Orleans.

He subsequently, in 1818, fought in the Seminole War. You will remember that they put him in charge down there, and finding, as he maintained time after time in his letters and in his speeches, that the Indians were being put in the Spanish territory by the English to attack the United States; he went over into Spanish territory and took possession of Pensacola; he seized two Englishmen who were inciting the Indians and putting them up to the perpetration of the outrages. Then he court-martialed and summarily put to death. Protest was made on behalf of these men; question was made that he had no right to go out of the territory of the United States into the territory of a neutral, friendly Power. Attacks were made upon Jackson in the Senate, and it was because of the attitude that was taken then secretly by John C. Calhoun in attempting to mar the political career of Jackson on the charge that he had gone into friendly territory at the head of armed men, that the great fight between Jackson and Calhoun came, which ended in the absolute defeat of Calhoun.

JACKSON'S POLITICAL CAREER

I must go very hurriedly over the political career of this extraordinary man, Jackson; I must hurry over the statesman's side of his career. As a politician he was absolutely master of a new school. He was the exemplar of a new era, so far as America was concerned. It is a singular thing in human history that during every revolution, every fight for liberty which has arisen in any clime and in any country, the fight has been led, not by men of the people—but invariably by men who represented the learned professions, those who have been educated in the colleges or in the universities. That was true in a large measure, not only in the French Revolution led by Mirabeau, or in Ireland under Wolfe Tone and Robert Emmet, or in the English Revolution led by Cromwell and Hampden, but of the Revolution in this country. The first six Presidents of the United States were men who represented that class of people—four of them from Virginia, two of them from Massachusetts. Those two States had monopolized the Presidency of the United States, and the greatest responsibilities that could be put by the people of the United States upon the shoulders of any men were held by them until that time. It was felt that men of that type were the only ones who could bear the responsibilities of such an office; who could exercise properly the duties of such office; who could meet the requirements of such office. The first man to break through, the first man who really represented the people, the first man who governed of the people, and by the people as well as for the people, was this extraordinary character, Andrew Jackson.

Often he is referred to as *one* of the fathers of the Democratic Party. To my mind, after long study of the question, I think he is beyond all question *the* father of the Democratic Party—certainly in action, certainly in work for the plain people. He never liked Thomas Jefferson. Some of the most savage and bitter attacks ever made by Andrew Jackson were made by him on Thomas Jefferson; and it is a singular thing that in these days most Democratic orators talk of Thomas Jefferson and Andrew Jackson as the founders of the Party. There were no two men in our history more dissimilar; further apart in many ways, more antagonistic to the position one of the other, than Thomas Jefferson and Andrew Jackson—and opposition entered into every relationship between them.

Jackson sneered at Jefferson as a theoretical philosopher, as a make-believe man; as one who did not practice what he preached. Jefferson thundered at Jackson as a desperate character, as a lawless man, as a dangerous person in any community. It is a singular thing that the greatest blot on the history of Thomas Jefferson—I do not oppose those who admire him most of all Americans, and I am glad to enroll myself as one of his ardent admirers—was his treatment of this strange man from the State of New York, Aaron Burr, who, for eighteen ballots—it was on the nineteenth ballot that Jefferson was elected—kept Jefferson from being chosen by the House of Representatives as President of the United States in the first contest that was thrown into the House of Representatives. Jefferson never forgave Burr for that. He pursued him with relentless hostility; he had for him an envenomed hatred; he pursued him until he broke him in his career at the bar and in the political life of the country; he pursued him in such manner that he wanted to send him to death.

Burr was arrested down in the South, and brought in chains to Virginia, and was tried before John Marshall—strangely enough, a cousin, but by no means a friend of Thomas Jefferson. While he was being tried in the month of June, 1807, Andrew Jackson, who had come on as a witness from Tennessee, as a friend of Burr's, to assist in the case, took a step which marked him out from all his countrymen. Jackson was friendly to Burr and greatly admired many of his gifts. But he was not blind to his faults. It was said by him that there was one thing that kept Aaron Burr from being the first American, even the President of the United States; the leader of the people; and that was Burr's lack of reverence for anything. He said God was not revered by Burr; man was not revered by Burr; that there was no tie so sacred in the world that Burr would not break; that there was but one flaw in his armor, one weak point in his makeup—his total lack of reverence. In spite of that thing, in spite of that fault, he had a great admiration for Burr, a great liking for Burr. He felt that Burr had been unjustly treated, savagely and unfairly treated by Jefferson; and during the trial in June, 1807, as I say, when the trial was just coming to an end, Jackson advertised in the papers of Richmond that at the close of the trial Major General Andrew Jackson, of Tennessee, would address the people from the steps of the courthouse in Richmond. Andrew Jackson at that time had not come into anything like the full measure of his power or fame. That was years before New Orleans, years before he had become a great outstanding figure as the representative of the people of the United States, and there was no special reason why people should gather to hear Major General Jackson, of Tennessee, speak from the steps of the courthouse. But the singular thing was that nearly half of Richmond turned out to hear this man, and it was said by those who studied the meeting and wrote of it, that no one left until he finished his speech. He delivered one of the most savage attacks in the history of the politics of America on Thomas Jefferson. He did this in the presence of two of Jefferson's most stalwart defenders—Wilkinson and Joe Davies—two noted duelists whom he attacked and mentioned by name in his speech. It was felt that they would challenge him. But they were discreetly silent.

ENGLISH AGGRESSION

Just before that time the English Government in the usual manner in which it impresses itself upon all occasions upon those whom it does not like—the English Government, represented by a great ship of war, the *Leopard*, of fifty guns, had pleasantly sailed up to the side of an American

vessel, the *Chesapeake*, that had only thirty-six guns, and on the ground that it wanted to take some men on the ship who were born in Ireland or England, and who had no right to become American citizens in those days according to English theory, had opened up on it without warning, and outrageously attacked the American ship. There was tremendous excitement. The whole nation was greatly humiliated and expected a declaration of war. It was one of those things that led finally to the War of 1812; and people were clamoring for Thomas Jefferson to do something. He did not do anything except talk. He did not do anything in the way of starting a fight, and that was largely the burden of the speech of Andrew Jackson in June, 1807. He said: "A year ago or more I gave at a dinner to Aaron Burr, in Nashville, the toast 'Millions for defense; not a cent for tribute.' They changed that tune on this side of the mountains. Here, it seems to me, 'Millions to persecute an American; not a cent to resist England!' Shame on such a leader! Contempt for a public opinion rotten enough to follow him!" He lauded Aaron Burr, who had distinguished himself in fighting for America in the Revolution; when Jefferson had not entered into a single military contest, or struck a physical blow for his country; he (Jackson) had never approved such actions, and insisted that there must be an end to them. In a large sense he started his political career on that occasion.

He was elected thrice, once Representative, twice Senator from Tennessee, resigning from the Senate on both occasions.

He came into the contest in 1824, against his better judgment, as a candidate for the Presidency of the United States, and was opposed by that distinguished son of Massachusetts, John Quincy Adams. William H. Crawford and Henry Clay also ran. Nobody got a majority of the votes in the Electoral College. Andrew Jackson got more votes than any other candidate before the people, so far as the popular vote was concerned; he got more votes than any man who was a candidate in the Electoral College. But he had only a plurality. He had not a majority; with the result that the election was thrown into the House of Representatives, and under the law the three candidates who received the largest number of votes in the Electoral College had their names sent into the House to be balloted for. Those names were Andrew Jackson, John Quincy Adams and William H. Crawford, Senator from the State of Georgia. Henry Clay had been the fourth candidate. Clay was a master of intrigue, a master of diplomacy in politics. He threw all his strength to John Quincy Adams, and Adams was elected and became President of the United States, the sixth President, and Henry Clay became Secretary of State in his Cabinet. Adams received the votes of thirteen states, Jackson received the votes of seven States, Crawford received the votes of four States. There was great popular unrest at the result of the vote in the House of Representatives.

FIRST MAN OF THE PEOPLE ELECTED PRESIDENT

Andrew Jackson was incensed at the result and felt that the people had been flouted. He resolved to undo the wrong done to them. He began to stump the country. He went from one part of the country to the other, to present the point of view of the people, the masses, as distinguished from the point of view of the classes. Bear in mind that I speak of the first six Presidents of the United States as men of education, university men, men of property, men of aristocratic standing—as historians refer to them. Here came along a man of the people, a

saddler, a country storekeeper, a lawyer, a fighter, a man who engaged in duels; one who had fought with knives, with swords, with pistols, with rifles; a man who had killed his man; a man who had fought with John Dickinson, a famous pistol shot of Tennessee, the political reason for which, as Jackson stated, was that Dickinson sought deliberately to kill Jackson in order to get him out of his way politically. It is interesting, the story of the way Jackson fought that duel. He was about six feet and one inch in height, and slight—he never weighed more than one hundred and forty pounds. At the time he fought the duel with Dickinson he was even more attenuated than usual, so that he was unable to fill out the long coat which he wore, and which, owing to Dickinson's extraordinary marksmanship, he arranged in such a way as to lead Dickinson to believe when he would shoot directly at a certain part of the coat that he would hit the heart of Jackson. But instead of that the ball passed on the side and broke a rib. Jackson, after receiving the fire of Dickinson, waited, as he had a right to do under the rules by which they had agreed to fight; until he had received the fire of Dickinson, and then, although badly wounded, shot Dickinson down in his tracks, so that he died that night. It was thus Dickinson, instead of Jackson, that was removed from the scene of action.

But Jackson went to the country, and in 1828 had become so powerful, so strong, that he swept everything before him. Now, alas for poor John Quincy Adams! I would remind you of the famous case in which the *America* won the "America Cup," as it has come to be called, and the dear, delightful old Queen of England, distinguished almost more than Queen Elizabeth for her virtue, for her simplicity, for her charity to the afflicted, asked, "Who is first in the race?" and was told "The *America*." And who is second?" and she was told that there was not any second. That was the story in the second contest between Jackson and John Quincy Adams. Jackson was elected; was re-elected in 1832 against Henry Clay, by an overwhelming vote, even beating that of 1828; and thus I say that Andrew Jackson, in the history of America, was three times preferred by the people of the United States for the Presidency.

Talk of some of the current statesmen, of the modern exponents of popularity, and of the hold that some of them had and have on the plain people of America! Great men in their day and generation truly—but there is only one Andrew Jackson in the history of America.

As a statesman, what did he do? What did he do as far as the Presidency was concerned, as against those who represented the classes, who represented and who led the minority that would like to rule here, as minorities would ever like to rule throughout the world? He has been condemned as the Father of the Spoils System—and he was. He was the first man to apply the New York theory—as it is called—the Marcy theory, first given utterance to by that famous New Yorker, that "to the victors belong the spoils." The first five or six Presidents of the United States had removed but seventy-five or eighty people from office. Jackson changed all that in the belief that those who win in elections should govern the country. He proceeded accordingly to turn out those who represented the old hierarchy, the old aristocracy, the old groups, and to substitute for them plain Democrats all over these United States of America.

THE SOCIAL CAMPAIGN

No story of him would be complete without telling of the vigorous campaign that he carried on in behalf of Peggy O'Neal against the social hierarchy—then already so strongly entrenched in Washington. Peggy

O'Neal was the daughter of Major O'Neal, a tavern keeper. She was educated beyond the position of her parents. She mingled with much of the best society in Washington. But there was always the thought that she did not belong, was not accepted; and even after she married Eaton, who was Postmaster General under Jackson, she would not be received by the wives of some of the other members of the Cabinet. Jackson insisted that this was not democracy; he would not permit that condition of affairs to go on; and the contest that he entered; and that he carried on, is probably the most famous social campaign ever fought in the city of Washington. Its reactions and repercussions and consequences led largely to the resignation of the Cabinet.

Martin Van Buren, Secretary of State, saw a way of getting rid of all the members of the Cabinet by leading in resigning, as did Eaton, the Postmaster General. Eaton was appointed Governor of Florida and later Minister to Spain, where Bowers, says "Mrs. Eaton, in the most dignified court in Europe, became a brilliant success."

Van Buren was appointed Minister to England. Calhoun, who had become the bitter enemy of Jackson, and who saw that Jackson favored Van Buren, set out to beat Van Buren, and by his casting vote in the Senate that body refused to confirm him as Minister to England; with the result—as very often happens when political parties start out to kill a man—that Van Buren came back from England in disgrace, as Calhoun hoped he would, only to be nominated for Vice-President of the United States in the second term of Jackson, instead of Calhoun himself, and to become, at Jackson's direct dictation, his successor.

QUESTION OF NULLIFICATION

I think the two great outstanding things which Jackson did in the way of statesmanship were his handling of the question of Nullification and the question of the United States Bank.

South Carolina was, from the start, one of the great States of the Union. It was represented by men who insisted, more than those representing any other State, upon the doctrine, or theory of State Rights; by men who believed that this country was not a nation, but was a federation of nations; by men who insisted that the National Government had only those powers that were directly given by the States, or the people, to the Central Government; that it possessed no other power than that which was distinctly and in words granted to the Federal Government; and that the State continued to have all the rights of a sovereign State, save those expressly granted to the Federal Government; that as it had voluntarily entered the Union of States, so it had the right to nullify, as it were, the doctrine of Union, and to leave the Union at any time that it liked. The great spokesman for that doctrine, and the great antagonist of Jackson, was John C. Calhoun, an extraordinary, able, logical, capable, shrewd man—a great politician, a great statesman, a great orator, a great parliamentarian. You can scarcely, without using language of exaggeration, properly describe him, this son of Irish emigrants. With Andrew Jackson he bitterly differed.

In 1830, four years after the death of Thomas Jefferson, and held on the anniversary of the birth of Thomas Jefferson, April 13, in the city of Washington, John C. Calhoun presided at a dinner where—so different from the way modern dinners are run—a long series of toasts were given. After the set toasts were exhausted each man was entitled to get up and propose a toast. I do not think, Mr. President, they drank the toasts. I think that they were only proposed; even if they drank under the old

forms they would get rather tired. Some thirty sets of toasts were proposed, and every one of them was along the line of Nullification. Calhoun was presiding. He was the master spirit of that school of thought, and he wanted the State of South Carolina to go out of the Union if it was necessary.

OUR FEDERAL UNION

A tariff bill had been passed which bore strongly upon South Carolina. South Carolina declared that it would secede from the Union in case the tariff bill went into effect. This dinner was held. Jackson was apprised of the dinner, was invited to come as President of the United States; and after the set toasts were proposed, as President of the United States he was called upon to propose a toast.

I think he proposed one of the cleverest toasts that we can find any record of in history. "Our Federal Union," he said, "it must and shall be preserved." He waited until the toast was drunk standing by all, including Calhoun, and then sat down. He had been advised by Edward Livingston, his Secretary of State at that time, and by Major Kendall, chief of the so-called Kitchen Cabinet, and several other friends as to the framing of the toast, but he had himself insisted upon this choice of words. He proposed the toast in those words, did not say another word, did not speak to the toast. He proposed it and sat down. That toast made history. I am going to read to you what Calhoun said in reply. Jackson said, "Our Federal Union, it must and shall be preserved." Calhoun rose nervously and evidently ill at ease, and proposed: "The Union! Next to our liberty, the most dear." Then after half a minute's hesitation, and in a way that left doubt as to whether he intended it for part of the toast, he added: "May we all remember that it can only be preserved by respecting the rights of the States and by distributing equally the benefits and burdens of the Union."

NULLIFICATION PROCLAMATION

When Calhoun sat down, the fight was on. South Carolina declared that if the tariff bill went into effect South Carolina would go out of the Union. Jackson—himself, as he proclaimed, a South Carolinian—at once ordered the Collector of the Port at Charleston to collect the duties, the tariff duties, on any goods that came into the Port of Charleston, and ordered a couple of American men-of-war to Charleston. He gave orders to prepare troops to go down there, and issued his famous Nullification Proclamation, which, to my mind, is as fine a State paper as has ever been penned by an American statesman in any year, in any decade.

Some historians seek to give credit for this remarkable paper to Edward Livingston, the Secretary of State.

Let us look for a moment at this unusual man and his unique career. Claude Bowers says he was "one of the strongest characters of his time—a Nationalist as intense as Webster; who penned a document as virile and militant as Webster's speech for the Union; one of the most brilliant, talented and polished publicists the Republic has known."

A New Yorker by birth and descent, he went to the House of Representatives from his native State, in his thirtieth year, and served there with distinction.

He was a master of the English language, a great scholar and devoted to Jackson. McLaughlin, in his "Life of Cass," says of the Nullification Proclamation: "Verbally it belongs to Livingston, but it is filled with the spirit of Jackson." Roosevelt says: "It is an honor to both."

It ranks with Washington's "Farewell Address" and Lincoln's "Emancipation Proclamation" as the greatest State papers of the American Presidents. In many ways it goes beyond either in its succinct, concise and eloquent analysis of the ideals, character and value to liberty of our institutions of government and of the necessity for their preservation.

Livingston was responsible for the language, but Jackson for the spirit and for the thoughts. It is as timely today as on the day when it was given to the world. It stated the American theory of the Union, the American doctrine of government, the American ideas of liberty, as no other State paper has ever done, and it gave notice to South Carolina and to all the rest of the Union that our Federal Union "must and shall be preserved"—and preserved it was; and when the time came for backing down between those two men who had started from the Waxhaws Settlement, it was not Andrew Jackson who had to back down, it was the distinguished statesman, John C. Calhoun.

Some changes were made in the tariff law so as to save the face of South Carolina, and South Carolina promptly declared that it never had intended really to go out of the Union.

Even Woodrow Wilson was moved to praise him for his handling of this most difficult situation. He wrote: "The President acted as everyone who really knew him knew that he would act."

Jackson, on that occasion, gave notice of what was to happen to those who would stand against the Union which had come into existence as a result of the Revolutionary War. And when the tragic days of 1860-1861 came, his great Proclamation of 1832 blazed the way in which the friends of Liberty and Union turned their faces.

THE BANK OF THE UNITED STATES

He was confronted in his day with another critical problem, and that was the continued existence of the Bank of the United States. The bank had come into existence in the days of America's financial difficulty, and impartial writers admit and assert that it did a great deal of good, so far as the United States were concerned, in many ways. The time came, however, when the States were full of jealousy with relation to it. They felt it was infringing on grounds on which it should not enter. It was held to be the representative of foreign money and foreign power. It was held to have a power altogether too dangerous, so far as the United States were concerned. It was said that it had gone into politics, that it was already a great political force, and that if it were continued in strength and existence, it would practically be the master of the people.

Four years before his term expired, at the suggestion of Nicholas Biddle, and through the influence of Henry Clay and Daniel Webster, a new charter was passed by the Congress of the United States, which was sent to Jackson on the fourth of July, 1832. It was said that he would not dare to veto it; that if he did he would lose the election contest into which he was just about to enter, and that if he did not veto it he would lose the election into which he was about to enter; in other words, that he was between the devil and the deep sea. That did not frighten him, and on the 10th of July he sent to Congress the veto of the bill. A savage and bitter fight was started against him. But in vain were all the efforts of the Bank and its friends. The masses were aroused and Jackson was elected against Henry Clay, the great protagonist of the bank, by the largest vote up to that time that ever was given to a candidate for the Presidency, except that cast when Washington was unanimously elected. It was said that his undoing was certain to follow his action in vetoing the bill. Well, there was a demonstration of popular respect and popular approval given to him which was unprecedented in American history.

There is but little doubt that Nicholas Biddle, President of the Bank—died as a result of the fight in which he entered against Jackson; nor is there any doubt, as impartial historians admit, that it was Biddle and others who began the fight against Jackson. Jackson broke the bank, but he did not enter the fight until the bank began to fight him politically, and then he did what was for the best interest of America in breaking it—decisively breaking it. He left it so shorn of its power, in such condition that its subsequent career was confined to Pennsylvania, in which it acted as a

State institution. Its closing years showed that practically every charge he brought against it was true.

TWO OUTSTANDING EVENTS

Those were the two outstanding events of Jackson's career in the Presidency. It is too late to touch, even for a moment, upon his human side—his record as a man, his devotion to his mother and her memory, his love for his wife, his affection for his friends, his interest, warm and intense, in the defenceless or the unfortunate. A fair treatment of that side of Jackson would take an evening of itself.

I think it can be said, in closing, that he was the only President of the United States who ever retired from the Presidency with absolute and full satisfaction; with his programme worked out; with his life purpose, as he saw it, fulfilled. He had been three times to the people, and had been treated by them in the manner I have described. He had broken his great antagonist, John C. Calhoun. He had broken his other great antagonist, Henry Clay; and historians say that if there was one hate intensified in Jackson's life, it was his hatred of and for Henry Clay,—who was a great American, a great statesman, a great man; but a man who had, from Jackson's point of view, and from the point of view of the masses of the people, the wrong angle on every question on which he came into contest with Jackson. Calhoun and Clay had succeeded in having the Senate pass a vote of censure upon Jackson—after Jackson took away the funds of the United States from the Bank of the United States—thereby doing more than could be done in any other way—except by refusing the renewal of the charter—to break the Bank of the United States. They thought that they had disposed of Jackson, so far as fame was concerned, by having the Senate of the United States pass a vote of censure on Andrew Jackson. Again they counted without their host. And that came up in this way:

REMOVED SECRETARY OF TREASURY

Jackson held that the funds of the United States should not be left in the custody of the Bank of the United States, and he ordered—because that is the way he treated his Cabinet—he ordered the Secretary of the Treasury, Duane, an able man, to take the funds out of the Bank of the United States and deposit them according to his order in other banks. The Secretary, who represented great property, great business forces, waited upon the President and politely but firmly refused to withdraw the funds. They had a couple of other meetings before Jackson told him that he would either withdraw the funds or hand in his resignation; and the Secretary finally got his courage up to the point no other man could take with Jackson in that day, of refusing either to remove the funds or to submit his resignation; with the result that Jackson removed him and appointed Roger P. Taney as Secretary of the Treasury. Taney promptly removed the funds and did with them what Jackson ordered.

Taney's name went in for confirmation to the United States Senate, and that body, led again by the able Clay and the able Calhoun, rebuffed Jackson. They refused to confirm Taney as Secretary of the Treasury, just as they had refused to confirm Van Buren as Minister to England. Van Buren became, as a consequence of that, Vice-President of the United States; Roger P. Taney, after that refusal, became Chief Justice of the United States for doing what Andrew Jackson asked him to do.

Jackson keenly regretted the action of the Senate in passing the vote of censure. It was a sore spot with him that any co-ordinate branch of the Government should in this way treat the President of the United States. In a remarkable paper he gave his opinion of their action, and pointed out that they had no right so to act and were usurping authority in doing it. In spite of that, the censure stayed until the last year of the Presidency, when, strangely enough, a man who had nearly killed Jackson in a duel, Thomas H. Benton, Senator from Missouri, who led the forces

against Clay and Calhoun and Webster during all his administration, succeeded in having expunged this resolution of censure from the minutes of the United States Senate. And it is a strange thing, the wording of the resolution. It was directed that a black line in ink should be drawn around that portion of the minutes which carried this vote of censure, and that across the words should be written "Expunged by order of the Senate this 6th day of January, 1837."

That was, as Brady points out, the final and greatest victory personally won by Andrew Jackson against his bitter enemy, Henry Clay.

JACKSON IN RETIREMENT

Jackson went back to Tennessee, lived a long life there, comparatively; lived the life he wanted to live.

This man of iron, this man of fiery temper, this man of headlong passions, this man who shot and killed, who had taken the chance of being killed, who had been in a hundred fights, retired from public life, and led a life of ease and quiet and peace.

He died on the eighth of June, 1845. I think in his death died the greatest man of Irish blood that ever trod these shores. In thought, in action, in courage, in character, Andrew Jackson can stand comparison with any man that ever lived in these United States. With all the unquestioned glory of George Washington, and with all the merited fame of Abraham Lincoln, Andrew Jackson stands, in the presence of history, as an equal of both; and so far as the rest of the Presidents are concerned—and it ill behooves any American to speak without respect of any man who has ever been President of the United States,—taking them by and large, great and small, whether they be Republican, or Democrat, Federalist or Whig, or anything else that came along the long line from Washington to the present incumbent, Hoover, no other man than two—Washington and Lincoln—can be mentioned in the same breath with this son of the linen weaver who died before his son's birth.

Irish to the core; Irish in his strength and character and success; Irish in his failures; Irish in his courage; Irish in his failings—all these qualities going to the making of a great American—Andrew Jackson stands out as the equal of any man who ever trod the shores of America. Let us remember him and see that he is remembered! Peace to his ashes and glory to his name!

For Release 9:30 P. M., E.S.T.
September 17, 1935.

"CONSTITUTION DAY AND THE CONSTITUTION"

An Address

by

THE HONORABLE JUSTIN MILLER
SPECIAL ASSISTANT TO THE ATTORNEY GENERAL

At the Pageant

PRESENTED BY THE DISTRICT OF COLUMBIA
CONSTITUTION DAY COMMITTEE

WASHINGTON, D. C.

September 17, 1935,

8:30 P. M.

It is appropriate that we should meet here today under the auspices of the American Legion to honor a group of courageous, inspired men, who one hundred and forty-eight years ago laid the foundations for that great nation which it is our privilege to enjoy and to serve. But, while we honor them, we honor more the masterpiece which they then created, that great charter of our liberties, the Constitution of the United States. For us, it holds the fullest significance of intelligent participation in effective self-government. For us there is no need of kings or emperors to personify government and to provide a common basis of loyalty and patriotism. Ours is the more challenging and more inspiring, because to us government means the protection of the rights of man and the responsibility of self-government; organized society functioning for its own best ends.

Our Constitution is a living, vital, growing thing. Like the majestic oak or the giant sequoia it is alive in every inch of its being; no dry rot at its core, no dead branches withering away. It is responsive to our needs, protective of our rights; its beneficent influence permeates every phase of our activities, social, industrial, political. To know it is to appreciate its strength; and to know and appreciate it is the solemn duty of all of us who, having inherited it and its benefits, are perhaps inclined to take it too much for granted.

The expressed purpose of the Constitution is to give to each person in the United States, justice, peace, happiness, protection and the blessings of liberty. In order to secure these ends it is necessary that each should contribute, his fullest support and his heartiest cooperation; understanding that the security, the happiness and the freedom of each

can be achieved only by fairness, teamwork and decent respect for the rights of others.

Only the ignorant or the malicious could ask for more than is his right under the Constitution of the United States. So long as we hold true to its principles we have no need of dictators to save us from our own incapacity, or of revolution to free us from the yoke of dictatorship. Our proudest boast should be that during this period of depression and suffering, while other governments have given way to dictatorships we have preserved our democratic institutions; the right of a free people to work out their own destiny. Our only danger is that we may follow the guidance of false prophets - whether sincere or selfish, it makes no difference - too far to the right or too far to the left, of the path of democratic self-determination.

The Constitution guarantees to every citizen all that revolution could give, which any sane, unselfish person could ask. Among other things it gives the right to speak freely concerning existing forms of government, and existing political, industrial and social structures; and to urge, in a decent, orderly manner, changes in those structures. If any citizen can persuade the people to follow him, he can secure such changes in the manner provided by the Constitution. For this purpose the Constitution gives to every citizen the right to join existing political parties or to form new ones; to hold office and thus to help make or enforce the law. If by such methods he cannot persuade his fellows to join him then one of two conclusions follows; either he is wrong or the people are not yet ready for his proposal. In either event,

revolution and bloodshed have nothing to offer. Revolution, as a means of education, destroys what it seeks to attain.

Our Constitution requires for its successful operation, intelligence and resourcefulness upon the part of the people. It is not a suitable charter for a servile, oppressed race. It assumes opportunity for individual success and individual failure too. It assumes a decent minimum of security for all and a gradual achievement - through education and participation in government - of higher standards for all. But its makers did not claim for it the attainment of perfection; merely that it was the best agency which they could devise for striving after such a goal.

The fact that we have not yet achieved a complete realization of our ideals is no indictment of our Constitution, any more than that we have not yet achieved complete good health or an airplane speed of 1000 miles per hour. The amazing thing is that we have achieved so much; the cheering thing is that we have accomplished so much more than the people of any other country.

The most stultifying type of attack on the Constitution comes from those who, being ignorant of the problems of a great nation and of a multitude of people, propose its overthrow without knowing the lessons of history or the dangers of the present and future. Theirs is unsound leadership. Needless to say they have not the confidence of our people and can only bore from within, destructively, like rats or termites. Only by building upon the experience of the past can people progress. No firmer foundation was ever laid for future building, than our own Constitution.

The strength of our Constitution lies in its toughness rather than in rigidity. It is a tensile strength, like that of the supple, rippling muscles of a great athlete. One blow of a sledge hammer will crack a solid slab of concrete, but tempered steel will withstand many blows. Centuries of human experience in government went into the drafting of the Constitution. One hundred and forty-eight years of tremendous social and political change have proved it with acid test.

That growth, development, adaptation must take place in the law and in the Constitution should be apparent to any intelligent person. The founding fathers probably never dreamed of a day when a girl could fly across the continent in thirteen hours. It is amazing that the Constitution as originally constructed has served so well. But in anticipation of the new day the framers provided, within the Constitution itself, the means for its own improvement. This has been freely used. Over a period of years, we have been going through a process of constitutional change which in many instances has manifested itself according to the following formula: first, an effort to secure by legislative action the necessary change to fit government to the social and industrial order; second, a declaration by the courts of the constitutionality or unconstitutionality of such legislation; third, in the case of a declaration of unconstitutionality, the proposal for a constitutional amendment followed by a period of discussion, education and eventually, amendment.

In areas in which earthquakes occur, we have learned that if many small earthquakes take place from time to time, the resulting damage will be very small, while if a long period elapses without earthquakes, then a greater one is inevitable, in order to accomplish the necessary readjustment of the earth's surface. The same thing is true of social growth. It is inevitable in its coming. It must come gradually and thus almost imperceptibly; or if delayed it will come with a sufficient shock to cause some destruction of the established order. A financial panic with a depression, such as that into which we were plunged in 1929 is the best evidence of the fact that the necessary process of readjustment had theretofore not been going on. Wise leadership and good statesmanship require a frank recognition of error and a deliberate purpose to secure the necessary changes. Our first obligation is to seek appropriate remedies by legislation. If the Supreme Court holds a particular law to be unconstitutional, that does not mean that it is unAmerican, or in conflict with fundamental and unalterable principles. It means, merely, that according to the judgment of the Court the law is in conflict with then existing provisions of the Constitution. Our next resort, then, is to proceed by process of amendment. There can be no question that this is a proper and contemplated procedure. The unanimity of opinion of our great men upon this point is refreshing. George Washington in his farewell address said:

"The basis of our political system is the right of the people to make and to alter their Constitutions of government."

Abraham Lincoln in his first inaugural address said:

"This country with its institutions belongs to the people who inhabit it. Whenever they shall grow weary of the existing government, they can exercise their constitutional right of amending it."

Senator William E. Borah has recently said:

"No one can challenge the citizenship of those who, candidly and openly, advocate a modification of the Great Charter. The supreme test of a free government is the right of a people to write and unwrite its constitution and its laws."

Charles Evans Hughes, then president of the American Bar Association, now Chief Justice of the Supreme Court, in 1924, made this sane and tolerant observation:

"In the last twelve years we have had four amendments of far-reaching effect, providing for a federal income tax, for popular election of Senators, for prohibition of the manufacture and sale of intoxicating liquors, and for woman suffrage. It is not my purpose to criticize any of these amendments, much less the broad power of amendment. That power is our essential means of adaptation, our answer to the inciters of violence, our assurance of meeting peacefully - without any good reason for resort to violence - all demands to which new exigencies may give rise."

John W. Davis, goes farther still and tells us that it is our duty to anticipate the needs of the future and to improve and adapt the Constitution to meet them. He says:

"Admitting that probably no disaster so profound could overtake this country as an attempt by convention or otherwise to overhaul the entire framework of its Constitutional structure, is it not better that it should be amended by friendly and skilled hands than to run the risk of finding it wanting in any time of national crisis? Indeed is it not quite as much a duty to improve and adapt as to defend and preserve, and does it not come to the same thing in the end, if the hand is sure and the judgment true?

In spite of these admonitions of our great leaders, however, there are some who stand in the way of these necessary and natural developments.

They too are enemies of the Constitution, because they endanger its safety by failing to improve and adapt it to meet the time of crisis. Some oppose change because they are too lazy and too timid to face new problems. It is much easier to settle down with that which is. But time marches on and the lazy and the timid were ever left behind. Some oppose change because they have a big stake in the present order; more than their share, and are determined to hold it against all others. Therefore the responsibility becomes greater for those who can rise above self-interest, and for those who are not oppressed by fear, to strike out, boldly, as did the framers of the Constitution in the solution of constitutional problems which distress us today.

The preservation of proper balance between an effective, coordinated federal government on the one hand and effective, self-reliant state governments on the other; the regulation of multiplying interrelationships of commerce, growing out of our intricate system of communication and transportation, these are questions which must be faced by the statesmen of today. As Attorney General Homer Cummings said at the meeting of the American Bar Association in 1933:

"Today almost every economic and social problem is both local and national. Manufacturing, merchandising, transportation, agriculture, mining, oil production, problems of employment and unemployment, of strikes and the settlement thereof, are upon a national scale, or, if local in scope, are national in effect. Child Labor in one state may destroy an industry in another. Crime is organized on a nation-wide basis. Neither the vigilance committee of the old West nor the metropolitan police force of today can cope with this problem without national aid."

Another example is found in the effort to regulate the legitimate agencies of commerce itself. While industry is entitled to know the rules of the game under which it must play, that does not mean that it shall alone determine what those rules shall be; or that, because it enjoys a favored position under rules now in force, that there shall never be any change in them. To say that the framers of the Constitution intended to create or preserve a static situation, forever favoring a particular condition, would be far from the truth. The purpose of the Constitution was to give to all citizens as large a measure of health, freedom and happiness as possible. That purpose must be interpreted and reinterpreted in the light of changing social and economic conditions. As James M. Beck has well said:

"Political institutions are never static, but are always in a state of flux, and who can say whither the great current is flowing?"

The increasing density of population in this country; the disappearance of the frontier; the crowding in upon us of the intricate problems of old civilizations, have brought us great new burdens and responsibilities. If we can guide and control our vast accumulations of human energy and human intelligence; social, industrial and political development will go forward with increasing rapidity. If they are checked and hampered and unwisely guided, then we may expect to see a continuation of panics, depressions, revolutions; futile, wasteful and destructive.

Our task then in protecting, upholding and defending the Constitution is a double one; to strive constantly to carry out its mandates and to strive when need arises, to adapt it in accordance with new conditions; in

order that it shall not be found wanting in times of national crisis.

To these ends we dedicate ourselves; grateful for the privilege of carrying forward the noble purposes of the founding fathers; hopeful that with the inspiration and guidance of Almighty God we may achieve a more complete realization of their ideals.

Congressional Record

REMARKS

BY

HON. THOMAS P. GORE

OF OKLAHOMA

IN THE SENATE OF THE UNITED STATES

Will Rogers Memorial

August 24, 1935

Sorrowing friends, I can say of Will Rogers as Mark Antony said of Caesar, "He was my friend, faithful and just to me." I knew him before his name was known to the trumpet tongue of fame. He was unspolled by fame and fortune. He could walk with kings and keep the common touch.

He was in the truest sense an original American. He was a Cherokee, an ornament to his tribe, an ornament to his race.

He was Oklahoma's most celebrated native son. He was Oklahoma's most celebrated son. All his rivals paled beside him as the stars beside the sun.

He was America's greatest humorist. He shone with his own luster; he did not shine with borrowed splendor.

He had more than humor, he had a heart; more than talent, he had genius. Genius is universal, it is not national, it is not local, it belongs to no time or place. It belongs to the race. It is the heritage of man.

Will Rogers contributed more than his share of sunshine, of joy, of happiness, more than his share of good will, good cheer, and good fellowship, to the sons and daughters of men. But we never miss the music till the sweet-voiced bird has flown. Hushed and forever are all the happy "hello folks", hushed and forever his world-renowned alarm clock, hushed and forever all the sparkling wit and humor. Silent and forever all the mirth and merriment, silent and forever all the cheery laughter—forever and forever. "And the silence is unbroken and the darkness gives no token and the only word there spoken" is—The Last Round-Up.

This day has seen the last of Will Rogers, but the world has not heard the last of Will Rogers. His fame cannot die. His name will not perish from the earth, his name will not perish from the earth.

Too many sorrowing souls will sigh

"For the touch of a vanished hand,
And the sound of a voice that is still."

Too many sorrowing souls will sing

"And when some day the shadows fall,
As shadows sometimes do,
I'll reach my hands across the mist,
And touch the hands of you."

Good night, till we meet again.

I Hope That We Can Preserve Peace and Prevent War

August 24, 1935

Mr. GORE. Mr. President, I have listened with interest to the discussion now in progress in the Senate. I have listened with interest to these protestations on behalf of peace.

In times of peace everybody pays homage to the goddess of peace. On yesterday Mr. Lansbury, the leader of the Labor Party in the British Parliament, expressed apprehension that war is now imminent. He expressed the belief that in the event of war the United States will become involved. Indeed he said: "The United States cannot possibly keep out of the next war." He may be right. That may be true. I hope that we can preserve peace and prevent war.

Whatever the junior Senator from Idaho [Mr. Pope] may have said across the sea, every Senator must, in the light of our experience, feel some apprehension as to the danger that the United States would become involved, in the event that war should break out in Europe.

I apprehend, as others must, the possibility that the United States might become embroiled in a foreign war. I apprehend the probability that we might become involved in European carnage, should it occur again. In the light of our experience we may well give heed to Mr. Lansbury when

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he forecasts the certainty that America would again plunge herself in a European sea of blood and fire. As for me, I am one "burnt child" that dreads the fire.

I appreciate the fine sentiments expressed by the senior Senator from Arkansas. In these piping times of peace everybody professes to share those lofty sentiments. But I remember that when the World War burst upon Europe in 1914 the same lofty sentiments were universally expressed, and, I believe, all but universally entertained. There was a general, if not a universal, sentiment in this country against our participation in that holocaust of death. I said at the time that there were a few munition mongers sitting like vultures on the Tree of Life.

Senator Lodge was at that time the Chairman of the Senate Committee on Foreign Relations. He was in Europe at the outbreak of the war. He issued a solemn warning that the United States must remain neutral and must not enter the conflict.

I remember that the President of the United States issued a solemn proclamation of neutrality. He said the United States was not concerned with the remoter causes of the war. He declared it to be our supreme duty and purpose to remain neutral in fact as well as in name; that we must be impartial in thought as well as in action. We must be neutral in thought. We were even to observe neutrality in our thoughts. Yet the United States entered the war, with all its tragic consequences.

How far our entrance into the war was attributable to the course of events in Europe and how far it was attributable to subtle and sinister propaganda in this country I cannot tell. Sir Gilbert Parker was at that time connected with the intelligence bureau in the military service of Great Britain. He was obliging enough to tell us and to tell the world the steps which he took to decoy or to drag the United States into the charnel house of Europe.

[From Harper's Monthly Magazine, issue of March 1918]

(By Rt. Hon. Sir Gilbert Parker, Bart)

We advised and stimulated many people to write articles; we utilized the friendly services and assistance of confidential friends; we had reports from important Americans constantly; and established association, by personal correspondence, with influential and eminent people of every profession in the United States, beginning with university and college presidents, professors, and scientific men, and running through all the ranges of the population.

We advised and stimulated many people to write articles. The Americans have nothing to gain by success in this war, except something spiritual, mental, manly, national, and human.

There, Mr. President, is the trail of the serpent—"something spiritual", "something spiritual." When Madame Roland was being led to the guillotine she exclaimed, "O Liberty, what crimes have been perpetrated in thy name!"

Perhaps the safest situation that could be imagined actually did arise. The Democratic Party in America, which probably would not have supported a Republican President had he declared war, were practically forced by the logic of circumstances to support President Wilson when he declared war, because he had blocked up every avenue of attack.

Mr. President, to what extent our entrance into the World War was due to such propaganda I do not know. No man can tell.

To what extent the boys who gave up their lives in that war owe their untimely death to that propaganda I do not know. To what extent our wounded and crippled veterans owe their infirmities to such propaganda I do not know.

Mr. President, I did not then and I do not now quarrel with any man who voted in favor of our entrance into the World War. It was the most solemn responsibility that any man in American public life was ever called upon to assume. It was the most tragic decision that any man in American

public life was ever called upon to render. I never quarreled with them and I could never understand why they quarreled with those of us who did not favor the United States' entrance into the war.

Mr. LOGAN. I think it not a very good time to go back and fight over the World War again, or fight over one which we may think is coming in the future.

Mr. GORE. Mr. President, if we revive the memories of that war, the propaganda and the insidious methods which plunged this Nation into the World War, if a review of those causes, if a review of that propaganda may serve as a warning, if it may save the life of one American boy, it is well worth 5 minutes of the invaluable time of the junior Senator from Kentucky.

Mr. President, the pending resolution came up but a few moments ago. War is imminent in Europe. An acute crisis exists across the sea. We are warned by our experience, and 200,000 graves plead with the American Senate to be warned by that tragic experience. If the Senator from Kentucky is indifferent toward the voice of the dead I cannot share his indifference. I was in the Senate when the United States declared war. I was opposed to the war then. Yet we rushed headlong into the bloody vortex of crimson war, and today as a legacy of that deed we have the present depression, with all its evils and with all its agony, warning us against a repetition of that act; and if I venture to take one moment of the Senate's time and it irritates the Senator from Kentucky, I apologize to him and to his constituency.

But I must discharge my duty as I see it.

Let the Senator answer to his constituency for the indifference which he manifests upon this floor to an impending tragedy which might cost millions of lives and billions of treasure. If I speak a moment upon that subject, and if that be an offense, then, indeed, am I an offender.

Mr. President, we became involved in that war. It cost the warring nations more than \$330,000,000,000. It left the warring nations staggering beneath a debt of \$200,000,000,000. That was bad enough, but that is not the worst. It cost them ten millions of priceless human lives. And the price has not been paid in full. You cannot destroy that much wealth; you cannot create that much of debt; you cannot extinguish that many human lives in as short a time as 4 years on as small an earth as this planet without bringing the most tragic, the most terrific consequences in its train. This depression is part of that train. And who can say that the half has yet been told? Unborn children who inherit those debts instead of liberty must toil beneath their chains. I grow weary thinking of their load.

Mr. President, the venerable senior Senator from Nebraska [Mr. NORRIS] is the only Member, sitting in the Senate today, who then cast his vote against the war. I was a Member of the Senate at the time. I had been confined to my bed for 3 months when the declaration of war was adopted; I was unable to be present and to register my protest, but I announced then to the world that if I had been present I should have voted against the war. I was one of seven Senators who were opposed to our entering the war; indeed, I was the only Member from Oklahoma who was opposed to our entry into the war. I repeat that I quarrel not with those who voted in favor of the war; I repeat that I could never understand why they quarrel with us who did not.

They got their war; they got their war with all its taxes, with all its debts, with all its bonds, with all its blood, and with all its graves. I do not quarrel with them.

Mr. President, I had promised the people of Oklahoma that I would oppose our entrance into the war. In the presidential campaign of 1916, the national committee did me the honor to send me through the suffrage States of the far West, bearing the assurance that President Wilson had kept this country out of war and that he would continue to keep this country out of war. Our boys were then on the Mexican border. The mothers of this country had just enough touch of war to fill them with horror at the

threatened possibility of our entering the war across the sea. That to them was an unspeakable tragedy.

I told the women of the West that a vote for Wilson was a vote for peace; I told the women of the West that a vote for Hughes was a vote for war. I described the scenes that would follow if they voted for Mr. Hughes and elected him to the Presidency—how their sons would be torn from their arms and sent across the seas to die in the bloody slaughter pens of Europe. I assured them that if they voted for Mr. Wilson, and that if Mr. Wilson were reelected, they would kiss their sons to bed at night with their prayers and hail them on the coming of the morrow; that there would be no empty chairs in their family circle. The women of the West wept upon my words.

The Republican organization could not keep the Republican mothers in line; they broke ranks; they voted for Mr. Wilson; they elected Mr. Wilson. They voted to keep their sons out of the jaws of death. They voted in vain. But I told them, as I had told the people of Oklahoma, that I would never vote to draft their sons and ship them over the sea to fight and bleed and die in anybody's quarrels but our own. They took me at my word. I kept my word with them. I kept the faith. It cost me my seat in the Senate. It put me out of the Senate for 10 years. I am, perhaps, the only man in the history of American politics who was ever defeated for keeping his plighted faith. But, Mr. President, today I have this one consolation, that the mothers of Oklahoma will believe me when I tell them now as I told them then that I will never vote to tear their sons from their arms and ship them over the sea to fight and bleed and die in anybody's battles but our own.

Soil Conservation

April 19, 1935

Mr. HATCH. I neglected to state that the Senator from Oklahoma [Mr. GORE] had introduced two bills covering the same subject. In addition to that, the Senator from Oklahoma attended our committee meetings, was present at the time of the hearings, and rendered very valuable services to the committee at those hearings. He also made suggestions concerning amendments which were adopted by the committee and are now in the bill.

I have in mind the particular amendment which designates the agency to be established as the Soil Conservation Service. Heretofore that service has been designated as the Soil Erosion Control Service. It was on the suggestion of the Senator from Oklahoma [Mr. GORE] that we adopted the new name, "Soil Conservation Service", which, to my mind, is much more fitting and much more descriptive of the work to be done under the bill.

Mr. GORE. Mr. President, I am obliged to the Senator from New Mexico for bearing witness in this place to my interest in the subject of the prevention of soil erosion. Erosion is the evil, and soil conservation is the remedy.

As suggested by him, I introduced a bill upon this subject, Senate bill 2418.

I wish now to say a few words upon the subject of soil erosion and soil conservation, because soil erosion is not a local question; it is a question of national scope and of national concern.

I may say that this menace or this evil is omnipresent. It is everywhere. This evil is active in every section, in every State, in every county, and in every community, and I might say that it is active or threatening to become active on every farm throughout the entire country. It is, therefore, a matter of vital concern not only to individual farmers but to our entire citizenship, because the existence as well as the prosperity of town and city alike in the last analysis is dependent upon the prosperity of the farm. I think recent tragic history bears witness to the truth of that statement.

Mr. President, as I have just observed, this question not only concerns the individual farmer; it concerns the general welfare. The solution of this problem is indispensable to the prosperity and the well-being of the farmer. It is indispensable to the preservation of our entire economic structure. The soil is the source of wealth. I might say that the soil is the source of life.

Soil lies at the basis of the farm and the home, the basis of organized society. It is the basis of our civilization itself.

Mr. President, our soil, the source of our wealth, is running down to the sea. It is estimated that 3,000,000,000 tons of soil are eroded and destroyed year after year in this country. It is estimated that as much soil fertility, as much plant food, is destroyed every year by erosion as is absorbed by all our agricultural products taken together.

It is estimated that our losses by soil erosion in terms of money amount to \$400,000,000 year after year. In every period of 5 years that is 1 percent of our entire national wealth. Our wealth is wasted to that extent.

There are two kinds of soil erosion, one due to wind and one due to water. Of course, erosion by water is general throughout the entire country; that is a permanent menace or evil. It is persistent, and it must be attacked in every community throughout the entire country. It calls for long-term treatment.

Wind erosion is also permanent and persistent. It is not so general throughout the country. Its worst ravages are limited to the section in which I happen to reside, in a vast area on the great plains stretching from Canada almost to the Mexican border.

On the 11th day of last May this country witnessed something new under the sun. It witnessed a dust cloud originating in the Northwest, a dust cloud which darkened the sun. A dust storm originating in the Northwest brought the proof of its ravages as far east as this Capital, as far east as the metropolis of this country, and went far out to sea. Dust from the farms in the section of the country to which I have referred drifted down on vessels 300 miles out in the Atlantic Ocean.

That storm is estimated to have removed 300,000,000 tons of fertile soil. That amounts to stripping 200,000 acres of soil to a depth of 6 inches.

The more recent storms of this kind have originated in my immediate section, have originated for the most part between the thirty-fourth and fortieth parallels, the ninety-ninth and one hundred and fifth meridians. The storm center has been near the point where Oklahoma, Texas, New Mexico, Colorado, and Kansas come together. Cimarron, the most westerly county in Oklahoma, joins Texas, New Mexico, Colorado, and corners with Kansas. I have here a picture from which one can gather some conception of these devastating storms.

Mr. President, the recent dust storms originating in my State have sifted dust down upon the dome of this Capitol. To me these dust storms have been the most tragic, the most impressive lobbyist, that have ever come to this Capitol. Like death, they hold every man by the ear; they challenge attention, they demand action, they demand action now, and they give proof positive that there is no economy in delay.

If our own experience were not sufficient warning, we might find sufficient warning in the experience of other countries. Their experience tells the tale, and teaches a lesson which we ought to learn. The fate of other countries in other climes and in other times constitutes a tragic warning. Their ruins stare at us like a death's head. Their soil and their splendor departed together.

Large areas have been destroyed in Italy, vast areas in northwestern China. Erosion has laid vast regions waste and made them desolate.

Fortunately this problem can be solved. The problem has been solved. This evil can be arrested and prevented. Italy has worked out a scientific system of soil conservation not only arresting erosion, not only conserving her soil, but ac-

tually reclaiming regions which were lost and condemned to death.

Japan has worked out a scientific system; she has arrested erosion and is doing much to redeem and to reclaim what was lost. Experiments carried on under the auspices of our own Government have demonstrated that much can be done to arrest erosion and to promote conservation.

I think the experience of the Soil Erosion Service has demonstrated that means and methods of a practical kind have been worked out which will greatly reduce, if they do not entirely correct, the dangers and the evil of which I now speak. I will not discuss the details. At any rate, the necessity is so great, it is so overpowering, that, in my judgment, all doubts should be resolved in favor of action. It is certain that inaction will not avail, and this is an evil which will not cure itself. It grows worse with time.

The Mississippi River discharges into the Gulf of Mexico 400,000,000 tons of soil each and every year. It robs, it impoverishes, the land without enriching the sea.

I believe the Mississippi can be curbed and its lawless waters held in leash. I think that ought to be done.

The farmers feel and manifest the keenest interest in soil conservation. Not only the farmers but the people in the towns share this interest and support this movement.

I desire to see adopted and pursued a policy as a long-term policy wherever required, both as to wind and as to water erosion, to enable the individual farmer to help himself, to protect his own farm against this menace and this evil. I believe he will do it. Every time he stops a drop of water where it fell he helps to conserve the moisture on his own farm and to control the flood waters of the Mississippi, both a private and a public service. The spirit already manifested in Oklahoma in support of this movement confirms my faith in this undertaking.

The people of Oklahoma are the last pioneers. They assembled in that section from every other State in the Union—I might almost say from every quarter of the globe. There they encountered the hardships of the border. They conquered the obstacles of the frontier. Brave men and brave women underwent all the privations of a new country, inspired by the sacred desire to acquire a home. They developed there the virtues of the pioneer, fortitude, self-denial, self-reliance, self-respect—virtues which have made this country great in the past, virtues which alone can keep us great in the years to come.

In our country the pioneers lived in sod houses. They lived in dugouts. That country was settled by brave men, by men who dallied with danger as the she tiger fondles her young. They made Oklahoma in their own image. They asked only a chance. Give them a chance and they will rebuild their fallen fortunes. Give them a chance and they will conquer their own destiny. That is my faith. That is my hope.

Respectfully dedicated to Hon. THOMAS P. GORE

MY OKLAHOMA HOME

(Words by Mrs. George A. Bottom, music by Jack Stanley)

Just a picture of my Oklahoma homestead,
Comes to mem'ry as I dream of it tonight.
'Tis a little old brown cabin on the prairie,
Where the western sun shines o'er it clear and bright.
There I took my sweetheart wife one golden summer,
When all the world with Nature seemed at play.
And in our love were happy there together,
In my Oklahoma home so far away.

Chorus

From the mountain tops the purple haze is falling,
While the prairie's breeze I miss where'er I roam;
And old mem'ries come to me like voices calling;
For I'm dreaming of my Oklahoma home.

How I long to see again that old brown cabin,
Though now its roof is falling to decay.
And my sweetheart wife has gone from me forever,
But her mem'ry still grows dearer day by day.
In a grave she sleeps beneath the waving prairie,
As o'er it gently falls the summer rain,
The birds are ever singing songs of sorrow,
'Round my Oklahoma home out on the plain.

Our Strength and Our Burden—Stop! Look! Listen!

August 22, 1935

Mr. GORE. Mr. President, it will appear elsewhere in the RECORD that I promised the people of Oklahoma in 1916 that I would oppose the United States entering the World War and that I kept my promise, although it cost me my seat in the United States Senate. That record gives proof that I try at least to keep my promises. In my last race for the Senate (1930) I made the people of Oklahoma just three promises in just six words:

"LESS TAXES, MORE TRADE, NO TRUSTS"

I have stood by those promises and I still believe that those promises if carried out would constitute a pillar of cloud by day and a pillar of fire by night leading us out of this depression. They control and they explain my votes. Four tax measures have passed Congress since my return to the Senate. I did not vote for them. I could not vote for them without violating my promise to the people—less taxes, not more taxes.

THE POWER TO TAX IS THE POWER TO DESTROY

I did not vote for the tax bill which has just passed, although I favored certain of its provisions. I had secured two amendments important to Oklahoma. I therefore paired on the bill. In season and out, I stand on the declaration contained in the national Democratic platform for "a system of taxation levied on the principle of ability to pay." That tax bill, it has been said, was passed to compel the rich to bear their share of our governmental expenses. They *should* bear their share, their full share. But viewed in that light the bill reveals one tragic truth to which no one should close his eyes. It will raise about \$250,000,000 a year. That is the added burden placed on the rich—that is their allotted share. It will raise enough money to pay our expenses at current rates for less than 10 days. If the Government should take each and every income in the United States in excess of \$50,000 a year—should take the total incomes instead of a mere tax on such incomes—it would pay current running expenses for less than 5 weeks. For every dollar of taxes it takes in, it borrows another dollar—and spends both. The Federal Government is now spending more than \$28,000,000 a day—more than a million dollars an hour—more than \$10,000,000,000 a year. Here is the question that appalls me. Who are to pay our expenses for the remaining 355 days in the year? If that completes the quota which the rich are to pay, who will pay the rest? The middle class, the producer, the consumer, the farmer, the wage earner? Alexander Hamilton spoke the grim truth when he said that the Government must get its revenue out of the backs and bellies of the people.

Why! the present Federal tax of 1 cent a gallon on gasoline and lubricating oil alone raises \$200,000,000 a year. I fought the Federal tax on gasoline. I thought that resource should be reserved to the States. Besides, when the oil industry is overtaxed Oklahoma is overburdened. But, if I had voted for all these big appropriations, I would have voted for all these tax bills, but I have not. Witness the fact that I introduced Concurrent Resolution No. 23, creating a joint committee of the two Houses to prepare and recommend a plan to reduce our expenses and revise our tax laws so as to bring revenues and expenditures into balance. When that task is undertaken, and I see signs now, I will go as far and as fast as prudence and sound public policy will permit. Sooner or later that task must be undertaken and must be performed or disaster will "follow fast and follow faster." I was one of those who voted against the BIG \$4,800,000,000 BILL. Pay day stares at us like a red light in a death's head—warning us that your children and mine will have to pay these bonds. Shall we leave them no legacy but debts—no keepsakes but chains?

OKLAHOMANS SHOULD COMPARE THEIR STRENGTH AND THEIR BURDENS

Oklahoma has 2,500,000 inhabitants. It has, including school districts, 6,353 governmental units vested with the power to tax and with the power to create debts. On the average this is 1 taxing unit for every 11 square miles of territory and every 397 inhabitants. Is it any wonder that the taxpayer is bleeding at every pore? "An unnecessary tax is an unjust tax." (Democratic national platform, 1884.)

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The assessed valuation of all taxable property in the State is \$1,258,000,000. (Our tax rolls do not list mineral properties.)

Oklahoma's corporate and individual debts aggregate \$1,500,000,000. To this must be added State and local debts, \$240,000,000, plus Oklahoma's share of the national debt, approximating \$600,000,000. The grand total is \$2,340,000,000—nearly \$1,000 per capita, \$4,000 per family. The interest on that amount will approximate \$100,000,000 a year.

Oklahoma's total tax levies, including special taxes, for the fiscal year 1935 amounted to \$101,000,000. Oklahoma's share of Federal taxes for the fiscal year 1935 amounted to \$76,000,000. The two combined equal \$177,000,000—\$70 per capita, or \$300 per family—that much cash out of pocket each year.

It must be borne in mind that Federal expenditures last year largely exceeded Federal revenues. The difference is met out of borrowings. Oklahoma's share of Federal expenditures for the last fiscal year amounted to \$136,000,000 and her share for the current fiscal year amounts to \$205,000,000.

Oklahoma, in addition to these governmental expenses, pays railway freight charges approximating \$60,000,000 a year.

Oklahoma pays annually fire, life, and casualty insurance premiums approximating \$50,000,000.

Under the Social Security law just enacted Oklahoma will be required to pay \$38,000,000 in 1937, \$45,000,000 in 1945, and \$56,000,000 in 1950. But, excluding that item and including only taxes, interest, freight charges, and insurance premiums, we have current carrying charges totaling \$387,000,000—\$154 per capita, more than \$600 per family per annum.

To summarize, Oklahoma's share of all taxes, national, State, and local, for the last fiscal year aggregated \$177,000,000, and her share of all national, State, and local expenses for the fiscal year 1935 aggregate \$237,000,000. The latter item for the current fiscal year amounts to \$306,000,000.

What about our strength? What about our resources? What about our income? Take the two chief sources, agriculture and petroleum:

Our farmers in 1934 received from the sale of farm products, including livestock, \$109,000,000, to which should be added \$26,000,000 for rental and benefit payments.

The producers of oil received last year \$183,000,000.

It thus appears from the foregoing figures that all the farm products, including livestock, marketed in the State in 1934 lacked \$68,000,000 of bringing enough to pay our total tax bill. And all the petroleum marketed in the State last year brought only \$6,000,000 more than enough to pay the total tax bill. The aggregate receipts from all such agricultural products and petroleum combined for the last fiscal year lacked \$14,000,000 of bringing enough to pay our total governmental expenditures for the current fiscal year.

To complete the record it should be added that the Brookings Institute estimates the total wealth of Oklahoma for 1933 at \$3,500,000,000 and the total income of her people at \$608,000,000. The income of the Government must, in the long run, be taken out of the incomes of the people. Out of every \$3 of income the taxpayer today parts with \$1 to pay some form of Government expense. Our income per family in 1934 was \$1,587. Our public debts, not including private debts, per family was \$1,663.

The foregoing figures shed a lurid light on the disproportion between our strength and our burden. Viewed in this light the people can appreciate the concern which I feel over the increasing weight of our multiplying tax burdens—why I want to take the ax out of tax—why I fear that we are forging chains for our children which they will have to bear or will have to break—why I approved the stand of Speaker "Red" Phillips and his legislative "mill boys" for low taxes against high taxes, for economy against extravagance, for experience against experiments—why I think that the taxpayer is the forgotten man. Let others glory in voting additional taxes, in adding to the taxpayer's burden. For my part I am unwilling to raise taxes until we are ready to reduce expenses and thus bring revenues and expenditures into balance. Then count me in. I will then discharge that duty and meet that responsibility. An unbalanced Budget is a standing invitation to repudiation, inflation, and bankruptcy—"three in one." Confidence is the life of business. Confidence is indispensable to recovery.

Governor Wm. H. Murray's

**LAST
GENERAL
MESSAGE**

**TO THE
FIFTEENTH LEGISLATURE
OF THE
STATE OF OKLAHOMA**



Tuesday, January 8, 1935

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S T A T E O F O K L A H O M A

Executive Chamber

Oklahoma City

Jan. 8, 1934.

GOVERNOR'S MESSAGE TO THE FIFTEENTH LEGISLATURE

TO THE HONORABLE SENATE AND HOUSE OF
REPRESENTATIVES, FIFTEENTH LEGISLA-
TURE OF OKLAHOMA,

Gentlemen:

Under Section 9 of Article 6 of the Constitution, it is the duty of the Governor to submit to the Legislature at its convening the general condition of the State, and make recommendations as to laws and policies for change or modification.

While I avail myself of this duty and power, I shall confine myself to those things only that relate to the permanent policy of the State, leaving the immediate policies to my successor, for fear of making pronouncements in cross-purpose to those things that he may hereafter submit to you. But I do urge you to remit all tax penalties.

PROBATION—PAROLES—PARDONS

Under Section 10 of Article 6 of the Constitution, it is the duty of the Governor to submit at each Regular Session of the Legislature his exercise of clemency granted to him exclusively by the Constitution. I quote the section as follows:

“Sec. 10. The Governor shall have power to grant, after conviction, reprieves, commutations, paroles, and pardons for all offenses, except cases of impeachment, upon such conditions and with such restrictions and limitations, as he may deem proper, subject to such regulations as may be prescribed by law. He shall communicate to the Legislature, at each regular session, each case of reprieve, commutation, parole, or pardon, granted, stating the name of the convict, the time of which he was convicted, the date and place of conviction and the date of commutation, pardon, parole, or reprieve.”

This last clause has been overlooked too often in the past, but I shall attempt to follow its provisions in spirit and letter.

There is here filed with each House of Your Legislature, copies of each and all Acts of Clemency, and the reason in each case given in the copy filed with Your Body.

I may state also that all Acts of Clemency have been made of public record. The Parole Department knows where every convict is, and the condition of every Act of Clemency.

I call your attention to the fact that while I have liberated either on probation or parole and pardon some 1600 persons, yet my Acts of Clemency will aggregate nearly 2400, because of duplications of such acts; first, by giving a probation of six months, or twelve months, followed by a twelve months' period to ascertain from the monthly reports whether it is probable that the convict will obey the law; and, if it is believed that he will do so, he is then given a parole. I pardon no one unless he has been out four, five or more years, and been law abiding.

My predecessors have followed the policy of pardoning every person who served their entire term. These are called "Expiration Pardons." For instance, Governor Haskell executed some 500 of such cases; but I have never pursued that policy for the reason that because the convict took all the punishment is no reason that he would become a law-abiding and responsible voter.

I have executed a total of 48 pardons,—the lowest number of any Governor. I have paroled and placed on probation more than most Governors. But these probations, leaves and paroles have been given in such a way as to be revoked at any time—with few exceptions.

I have never pardoned anybody in the face of an election, so there could be a charge that the same grew out of political consideration. Up to the General Election, on the 6th day of November, 1934, I had executed but 20 pardons. These, for the most part, were persons who had obeyed the law, and had been relieved from imprisonment for from ten to twenty-one years. Immediately after the election, in keeping with my purpose, I pardoned more than during any other period; but, in all cases, where the convict had had four, five or more years trial.

It will be observed that I paroled more in 1931 and 1932 than any year since, for the reason that many persons without friends, unable to employ a lawyer, had been overlooked. I sought through the faithful and painstaking effort of Judge C. E. B. Cutler to ascertain such cases, and to give them an opportunity; and I yet believe there are between 300 and 400

of these cases. I have turned out few who ought not to be out; for lack of time there are more who ought be out.

I have established the policy of not turning out any convict who had committed a crime more than once, with but few exceptions. I found quite a difference in the convict that could be trusted, depending upon the crime for which he was convicted. For instance, robbery with firearms, called sometimes, "Hi-Jackers", paroled in 1931 and 1932, proved untrustworthy to the amount of 20 per cent. In cases of chicken theft, they repeated the theft to the amount of 25 per cent; while statutory rape have proven law-abiding to the amount of 99 per cent; and other crimes, 98 per cent on all to date more than 93 per cent have proven worthy.

I have also found from the statements of the convicts themselves that the four or five first months was the trying period of the convict. They could not sleep; they continued constantly in dread of their terms; but, when left there for several years, they become calloused and adopt a feeling of "Don't Care" about themselves or society in general.

I have found that if a short-time convict, for his first offense, is turned out after four or five months, for a year, and then put back in four or five months, it will do him more good than to have kept him there the entire time, and, in a measure, repeats the months of dread and nervousness; and, therefore, he may safely be paroled.

If I could regulate the criminal jurisprudence, I should turn out every person at the end of four to six months where the term is less than three years, and the crime was his first offense. It is not safe either to turn a boy out without compelling him to take some punishment. Many times, such a boy, if saved from the Penitentiary entirely, will repeat a greater crime. They have been brought up without restraint, and they must needs have this restraint before they will learn to obey the law. The greatest mistake is to fail to punish a boy for first offense.

There should be some reform in the matter of short-term convicts. This may be done by writing into the criminal law a condition that will relieve him after a certain period of service in the Penitentiary, because the entire power of Clemency, under the Constitution, is with the Governor, and cannot be transferred by the Legislature to any Board, or Commission, or to any other authority whatsoever. It must be a part of the conviction, and decree.

Under our Constitution, the Legislature is the only power to enact a criminal law. The Courts possess the only power to try and convict him under the law thus enacted. After conviction and final judgment, the Governor alone may lib-

erate him. The Legislature would be powerless to pass an act to liberate him, and so also would the Court. It is beyond the jurisdiction of both; but a statute could be written providing for cases of conviction for a period of less than three years that, upon conviction, the Judge would write the final judgment under the law, whereby he would be liberated and thus avoid any conflict of power and authority.

The question of what to do with convicts is a vexatious one,—not only to society, but to enable the convict to reform. I find that a convict who has served for ten or more years comes out without any ability to compete with his fellow-man and earn a livelihood; whereas, if they are paroled in care of some person of good judgment, they would never again violate the law. This grows out of the necessity of restraint and discipline, so necessary for the entire human race, and should never cease from childhood to old age,—some restraint either by training or by moral force, or both. With the exception of that class of Negroes in the Penitentiary who drink and are disposed to fight, even the life-termer may be paroled to some honest person who understands the Negro character; and, almost without exception, they would obey the law and maintain characters of steady, straightforward course. This method saves the State a great deal of expense, and, at the same time, gives that training and restraint so much needed by the convict. By reason of this fact, there ought to be some means whereby every convict, liberated after a long term of service, may procure employment until he breathes the air of freedom and learns social competition, which, during his long incarceration, he has forgotten.

LAKES AND PONDS

In my opinion, and I so recommend, that the Legislature pass a law declaring it to be the "Policy of the State" for ten years to spend every year \$100,000.00 in the construction of dams to impound water. The State could stand this appropriation; and possibly \$200,000.00 a year for the next ten years, with a provision in the law that work shall begin in the extreme southwest corner of the State and go northward and eastward. These lakes could be constructed on School Land and on privately owned land, under a contract with the owner to preserve and permit the State to repair and preserve these dams, and they would serve all the purpose and benefit to the State that they would serve if the land should be owned by the State; and, by the expenditure of this money every year for ten years, would have a pond on practically every quarter-section in Western Oklahoma.

The provisions of the law should be that water at least 8 feet deep could be impounded for the reason that the evaporation in Western Oklahoma in ordinary years is 5 feet (last year much more); and an 8 foot depth would likely never go dry. Think what benefit there had been during the past summer with such ponds. There would have been some seepage below the dam, in the sub-soil, that could have produced gardens and feed-crops; there had been abundant of stock-water; there had been also breeding places for fish, particularly cat and perch.

The growth of fish is far greater than the ordinary person might believe. I know of one man who had such a pond of two acres in South Central Oklahoma. It had been constructed some seven or eight years. Last year, he desired to drain it and take the mud out; for it was so located that much silt and soil had washed into the lake. He arranged with a restaurant-keeper to sell all fish at a given sum, of a certain weight; and, as they drained the lake, they decided it was a lot of trouble, and he agreed to sell the fish for \$350.00 but the purchaser continued to weigh, and found, had he paid for the fish at the original contract price, they would have cost him \$750.00.

Now, that amount of money on two acres of land, for eight years, is quite an earning, and, indeed, more than had it been planted in crops, and that, too, without the expenditure of labor. These constructions of ponds and small lakes would doubtless be aided through effort of our Congressmen and Senators for the Government to construct large lakes in the same section.

Let no man in Eastern Oklahoma think that the expenditure of this money in Western Oklahoma would be a favoritism for the evaporation from lakes on every quarter-section in Western Oklahoma would moisten the atmosphere in dry years and save the corn crops as well as the cotton crops in Eastern Oklahoma by producing dews; and a cotton crop can be produced alone on dews. It is not the heat that kills the corn in Eastern Oklahoma, but the dry air that destroys the silk, or female, portion of the corn, so that it will not pollenize; and, in the end, Eastern Oklahoma would get more benefit than Western Oklahoma; and, for that reason, every section of the State should be interested in the construction of such ponds.

There are also a number of places in Western Oklahoma where great reservoirs might be constructed, and doubtless the Federal Government would gladly furnish the funds, particularly while the Relief Money is used, if the State would obtain the title to the land.

LAKE MURRAY

In this connection, it will be recalled that the Legislature in 1933 made appropriation of \$90,000.00 to purchase 18,000 acres of land, with the view of the use of the Federal Relief Money to construct a dam.

For two years before the time of the appropriation, a voluntary committee, headed by Fred Tucker, with George Giboney and Mike Gorman, all of Ardmore, had at my request, taken up options on this land, as the owners were scattered from Boston to Los Angeles. They had three-fourths of the land contracted for; the option calling for \$85,000.00. So soon as the appropriation was made, land agents, seeking to speculate on the State, began to acquire options on the other one-fourth, and it was discovered that it would take possibly \$150,000.00 to purchase all of it; so, under my direction, we abandoned all options, and went into the courts, and condemned the land for \$93,000.00. Then it was discovered that we would need several thousand acres more. This has also been condemned at a cost of some \$15,000.00.

The design of the Committee was to build a road entirely around the lake 200 miles long, but for the State to own the land for a quarter of a mile from the road, so that filling stations, restaurant-keepers, and other privileges might be on the State lands, and the State reap all of the benefit from the Lake. It was also planned that the space between this road and the outside limits of the parkage should be devoted to free campers, to all citizens and persons who desire to fish at the Lake, and that the space between the road and the lake water-edge should be rented to persons desiring to place a cabin, on the same plan of Yellowstone Park, pursued by the United States Government. In this, there would be one portion segregated for the Negro Race; another for the wealthy, who would pay the greatest sum annually for the rental on their cabins; and another with a smaller charge for the average citizen. By this method, there would be a shore-line of 200 miles; ample room for all classes of our citizens, and for all people who desire some place for an outing.

And in this connection, let me warn that there will be an effort from clubs and other people to get control of this Lake, or a portion of it. This should never be permitted. The control should always be under the State Game Department so that the poorest family in the land may have a place to fish and the right for a free outing.

The revenues from this plan every two years ought to pay for the upkeep, for the policing and for the cost of the State for the land; for the amount of fishing is unlimited in a

lake that will be some six and a half miles wide and nine miles long,—nearly as large as Lake Erie, and larger in size than the renowned Sea of Galilee, so often referred to in the New Testament.

In the main portion, this lake will be 80 feet deep, eight miles from the dam. It will have all of the contours of an ocean,—straits, bays, promontories, harbors, islands, et cetera. It can scarcely be described. Go look at it and see.

While I controlled the Relief Money, I had from 3,000 to 4,000 men at all times working on the Lake. I cut off all of the timber and into cord-wood, until there is wood to give away. In addition, many saw logs of walnut, oak, ash, etc. were cut. I purchased a second-hand sawmill for \$350.00 and that mill has cut since, more than \$25,000.00 worth of lumber.

One CCC camp was established more than a year ago. They constructed it out of the lumber sawed at this mill, and it is on State land; and, because of its great size, it will be a wonderful place to hold conventions. Recently, two CCC Camps were located there. Other buildings have been erected that may be rented out, including many offices, built of stone, ideal filling stations, and restaurants.

While I had the relief Money, we built a granite mansion at a cost of \$17,000.00, wholly constructed from material on the ground. I am informed that since the relief was taken from me, there has been spent \$1,000,000.00. Undoubtedly, it was a lake hundreds of years ago, and the geologists can explain to you why it broke. The U. S. is doing a great work on it.

To give you an idea of the possible patronage of the lake, if you will but draw a circle with a radius 200 miles, with the Lake as a center, you will discover that Texarkana, Ft. Smith, Dallas, Fort Worth, Wichita Falls, etc. will be within that circle, and that within the 200 miles there are 3,500,000 people. We may safely predict that there will be a patronage of 100,000 people a year, which, in turn, will cause the sale of a lot of gasoline, and thus give the State that much needed revenue.

Under the law, the land for the Lake was to be purchased by the State Board of Public Affairs; the work construction to be under the charge of the Governor; and, when completed, the control of the lake to be under the State Game Department; and, let me admonish you again, it should always stay there, and the laws governing its use should remain permanently so, that the poorest citizen may have this free outing.

OPEN SEASON DECLARED FOR DEER

Something more than twelve months ago, the farmers in several sections of the State complained that deer were eating their crops. In consultation with the State Game Department, they issued with my approval an order for an Open Season for a given period of time, and provided that local people should be guides to all hunters, and that they should pay the State a certain fee for the hunting privilege.

This pleased the people in the locality in that many, many persons earned money as guides. It also gave the State quite a sum of money; but the Attorney General ruled that the Game Department, even with the approval of the Governor, could not collect this fee from the hunters; and, while I think the Attorney General was wrong in that the Game Department certainly had the right under the law to declare an Open Season, and that carried with it their right to stipulate the conditions, and one of the conditions was the fee. In that sense, it is not a tax, but a charge under the police power, or a permit; however, it is no matter. This may be corrected by the passage of a law authorizing the State Game Department, with the approval of the Governor, to declare such Open Season, and to make collections of the permit fee charged; and an Act also should be passed authorizing the Game Department to use the money, then collected and impounded; and I recommend you do so. This will certainly not conflict with any policy of my successor.

CO-ORDINATING BOARD

The Fourteenth Legislature passed an Act creating a Co-ordinating Board, in House Bill No. 626, composed of fifteen members appointed by the Governor, for four years, carrying out a policy for cooperation with private colleges, and for the advice of some of the tax-supported State institutions; with representatives from the tax-payers. I appointed five heads of private or church colleges; also Dr. Bizzel or Dr. Bennett to represent the State Institutions, making seven educators; then eight persons representing law, medicine, the business world, the banking interests, in order to give a composite view in the matter of wholesome, economical education.

Let me state that I had never met half of the members I appointed, and less than five of them could I call my friends; and, yet, to me, the Board was an ideal one, with the exception of two persons, whom I would not appoint, were I required to do so again.

In the beginning, the Rev. Hale V. Davis of the Baptist University was afraid of too much church influence, in which, if true, he was certainly sound and justified, but, after the Board had met, for several days, on several occasions, we adopted a form of constitution and by-laws that were highly approved by heads of all denominations, including the Rev. Mr. Davis, who ought in fact to be on the Board.

In my opinion, it would be a sad condition if there were no church colleges, and it would be equally unwholesome to have no State-supported institutions. In the one instance, education would reach a stage of stasis, so characteristic of theocratic movements, amply shown in theocratic governments of the past; on the other hand, without these church colleges, materialistic thought, bordering on paganism, would prevade the scholarship of the country.

It is also found that where there are many church and private colleges, it requires less expense for an institution supported by the State, as well as the cost, required to educate those attending both State and church colleges. That has proven particularly true in Tennessee where they have quite as many educational institutions of church and private colleges as State-supported. The reflex is shown in the cost of the State-supported institutions.

Remember, this Co-ordinating Board does not determine how many schools nor how much appropriation should be made, for that is a question with the Legislature, beyond merely recommending; nor do they appoint the faculty of the State-supported schools, for that is a question of administration through the Regents of the State Colleges. The Board devises the proper course of study, the Code of Ethics, and of Morals; makes a study of floor space, fixes qualifications for graduates, and like matters and things. All colleges,—church, private, or State—become units of what is termed the "Greater University of Oklahoma of Co-ordinated Colleges." The Chancellor, selected by the Co-ordinating Board, would sign all diplomas, giving greater standing and prestige to the graduates, holding each school within the sphere upon the principle of gradation up to the capstone, as it were, the University.

I explain the foregoing functions of the Board in view of recommending a Bill to be introduced later, which is made necessary because the Board had no money appropriated to it, and it was found, by charging at the present time 50 cents for each and all pupils attending, a member of the "Greater University," which would include not only those attending the State institutions, but those attending the private colleges and church colleges, that such an amount would give

sufficient funds to operate without appropriation on the part of the Legislature; but, under the ruling of the Attorney General, a charter could not be granted under the present law, and it becomes necessary to pass a Public Charter by the Legislature authorizing the provision of the Constitution and by-laws, and to give them power to collect and use the 50 cents from each pupil.

I may state also that the educational directors of the Carnegie Foundation have made a full and complete analysis of the Boards' plans, and they approve with a promise that they will set aside an annual budget "without strings," beyond the purposes stated in the Constitution and By-Laws, for a program of five years, in the sum of \$20,000.00 a year.

I have had a committee of this Board at work for twelve months, studying the questions within the purview of their functions, and paying the expense of their clerical and statistical help out of a contingent fund of the Governor.

In August, I called in some of the friends or supporters of the Governor-elect, and told them that if he wanted this work continued that I would continue to pay the expense; otherwise, I would junk the whole proposition. After consultation with him, they reported to me that he approved the general purposes; and, therefore, I am not interfering with his plan by recommending the passage of the bill that will fix the purposes of the Board and give them the needed revenue without appropriation from the funds of the State. It is necessary to put into law in the form of a Public Charter the provisions of the Constitution so that it cannot be diverted from its purposes, to the end that there will be complete harmony between the church colleges among one another and with the State. When the Bill comes up, you will understand the complete purposes and provisions provided for in the Bill; and let me suggest that you remember that it should not have a single amendment, for the Co-ordinating Board would be subject to the control of the Governor and the State, or any other law hereafter passed, and the Act authorizing the Public Charter would contain nothing except the matters and things named therein.

It ought to be apparent from the foregoing that I have no desire, as Governor, to interfere with the plans of my successor.

I have always believed that every Governor should be given free and full hand, subject only to the limitations of the Constitution. God knows that if he or any of them can administer this office better than I, the State should have such services.

If any successor can make the Government more economical, efficient, and preserve honesty; keeping crooks out of public funds; lowering the appropriation; and cutting the tax down 50 per cent, which is the greatest burden on private industry and the citizen, I, along with all the citizens of this State, will welcome such achievement, and applaud his efforts. The ad valorem tax is still too high.

NEW TEXTBOOK ADOPTION

All have some knowledge more or less of the adoption of new textbooks; but, in order to give you complete reasons therefor, it will be necessary to make this explanation:

The Twelfth Legislature passed a law providing for a Textbook Commission with the provision that one-fifth of the books should be adopted every year. Under this law, there was no adoption except in 1929; and thereafter no adoption of one-fifth of the books until 1933, when some 65 per cent of the books were adopted; and the remainder, recently in the year 1934. These last adoptions were made under an Act of the Regular Session of the Fourteenth Legislature.

Remember that the Act of the Twelfth Legislature provided that if the law should be "amended, or repealed," that the Textbook Commission would have authority to cancel the contracts of books adopted thereunder; and that provision was written into the contracts, as shown in the Office of the State Superintendent of Education. The Act of the subsequent legislature, or the Fourteenth, (1933), provided for an entirely new Commission, with the same provision. It provided that the Governor, by Executive Order, might cancel the contract made under the Act of the Twelfth Legislature.

The new Textbook Commission, in keeping with these provisions, in its meeting in 1933, by regular form cancelled all contracts; and, to be doubly sure of the legality, the Governor issued an Executive Order cancelling the same. The Commission, under the law, had as members three educators. Seeking to secure the viewpoint of the various elements of society, since the adoption of textbooks is more than scholastic, and primarily a business proposition, as Governor, I appointed the following:

R. H. Stanley, Chairman, Lawyer, Hugo, Okla.

John Vaughn, Ex-Officio Secretary, State Superintendent, Oklahoma City.

Professor Charlie Forbes, Superintendent of City Schools, Thomas, Okla.

Professor Ernest Miller, Superintendent of Schools, Gypsy, Okla.

Dr. D. E. Cantrell, Physician, Healdton, Okla.

W. N. Barry, Banker, Okemah, Okla.

Fred C. Tracy, Farmer-Business, Beaver, Okla.

The foregoing gentlemen entered upon their functions; opened up for bids, and adopted nearly 65 per cent of the books prescribed by the State Board of Education, many of which were re-adoptions, for a period of five years, making a saving of more than 45 per cent on the price of the books, as disclosed by the price list appended hereto.

The Commission again assembled on the 15th day of October, 1934, to complete the adoption. There being two resignations, I appointed Judge Wm. L. Cheatham, lawyer, of Bristow, Oklahoma, as Chairman, in lieu of Judge Stanley, resigned; and Superintendent Ben Hatcher, Superintendent of Schools at Moore, Oklahoma, in lieu of Fred C. Tracy, resigned.

The Board advertised for bids, after John Vaughn, State Superintendent and Ex-Officio Secretary, declined to do so; and completed the adoption.

In this last (1934) adoption, on the last named date, it was provided that no book should be used until the beginning of the school year in the fall of 1935, except the re-adopted books, which should begin at once with the reductions in prices, thereby making quite a saving this year upon the re-adopted books.

Approximately one-third of the new adoptions were such re-adopted books. In the case of the History of Oklahoma, the old text was re-adopted, but the book was brought down to date and contained the Constitution of the State together with a "Glossary," of legal definitions of the law terms found in the Constitution, using the definitions from the Standard Law Dictionary by Bouvier. This added some 150 pages to the old text, but the price was the same as the old price of the adoption of 1929. In the re-adoption of all other texts, there was a substantial reduction in the price. All of the foregoing named adoptions will expire by July 1, 1939, which will enable our successors to provide for a new adoption if they so desire, to begin on that date in the last of the year 1938.

REASON AND NECESSITY FOR COMPLETE ADOPTION was made necessary because new books could be installed at less cost than the adoption of 1929 and prior thereto, and for the further reason that some of the books were not up to standard of scholarship; for the further reason that thousands of school children were unable to purchase books.

I had at my command a given sum of money,—approximately \$260,000.00,—with which to purchase books for the poor. I was enabled to supply the new books at the beginning of the school year of 1933-34 for practically all of the needy children of the State with this amount of money by making new adoptions; whereas, had no adoption been made that year, they would have cost \$500,000.00. In some counties, there were as high as 3,000 and 4,000 children without school books the two previous years. Now, by completing the adoption, it will enable you gentlemen to the Fifteenth Legislature to make provision for completion for supplying the poor children of the State; and I recommend that you make an appropriation of \$150,000.00, with such provision for the distribution as you may choose to provide, to every poor child in the State unable to buy a book with the books needed.

It is an absurdity to think of spending large sums of tax money for school houses, teachers, and supplies, and have thousands of children without textbooks, and many children could not attend school at all if not provided with a free textbook.

The foregoing candid statement is for the purpose of informing you and warning you against gossips which in late years seem to pervade society on all public questions.

Had we not made an adoption last year and this year, and had waited until next year, the textbooks would cost 30 to 35 per cent more than the price secured in the adoption. To illustrate: one book company bid on a book last year, 96 cents. It was the only bid. The Textbook Commission thought it was not enough. This year, that company and others bid, and that company bid \$1.14 on the same book. They were asked why they did not bid at the same price this year as last. The reply of the agent was that "Had we received the contract last year, the company had purchased all the material required for the life of the contract." He further stated that books would be 18 to 20 per cent higher next year; that by bidding this year, they would make purchase of material for the entire life of the contract. Therefore, if adoptions were not made until next year, you would pay from 18 to 20 per cent on the recently adoption; and 30 to 35 percent more on the adoption made last year. Moreover, it was essential to settle the question of adoption in advance of the convening of you gentlemen, that you might provide for the necessary additional books for those unable to buy them, and I can conceive of no greater relief-expenditure than the expenditure for books so that the poor child may attend school.

THE DIFFERENCE IN COST OF THE NEWLY ADOPTED AND THE OLD BOOKS is given in the following tables:

BOOKS ADOPTED LAST YEAR 1933

GRADES 1 TO 8 "NEW BOOKS"

SUBJECT	For Grds.	Name of Publishing Company	New Price	Old Price	Amt. Saved of New Adoption	Percentage Saved on New Adoption
AGRICULTURE						
Elem. Agr.—A. & M. Faculty	7-8	Amer. Bk. Co.	.69	.85	.16	18.85
ARITHMETIC						
Bk. I Steps in Arith.—						
H. G. Bennett	3-4	Amer. Bk. Co.	.39	.48	.09	18.7
Bk. II Steps in Arith.—						
H. G. Bennett	5-6	Amer. Bk. Co.	.39	.48	.09	18.7
Bk. III Steps in Arith.—						
H. G. Bennett	7-8	Amer. Bk. Co.	.39	.48	.09	18.7
CIVICS						
The Pursuit of Happiness						
Manley	8	Benj. H. Sanborn & Co.	.79	1.13	.34	30.5
READING—Special Pre.						
Laidlaw Readers State						
Ed.	Primer	Laidlaw Bros. Co.	.30	.47	.17	36.2
Primer Laidlaw Readers						
State Ed.	Primer	Laidlaw Bros. Co.	.30	.50	.20	40.0
Bk. I Laidlaw Readers						
State Ed.	1 st.	Laidlaw Bros. Co.	.45			
Bk. II Laidlaw Readers						
State Ed.	2	Laidlaw Bros. Co.	.38	.53	.15	28.3
Bk. III Laidlaw Readers						
State Ed.	3	Laidlaw Bros. Co.	.42	.60	.18	30.0
Bk. I The Atlantic Readers—						
Condon	4	Little Brown & Co.	.58	.67	.09	13.4
Bk. II The Atlantic Readers—						
Condon	5	Little Brown & Co.	.60	.72	.12	16.7
Bk. III The Atlantic Readers—						
Condon	6	Little Brown & Co.	.65	.72	.07	9.7
Prose & Poetry.—Avery and						
Others	7	L. W. Singer Co.	.68	.83	.15	18.1
Prose & Poetry.—Avery and						
Others	8	L. W. Singer Co.	.72	.83	.11	13.1
SPELLING						
Progressive Course in Spelling						
—Hunt (Compl. Text)	3-8	Amer. Bk. Co.	.30	.35	.05	14.3
Pt. I Spelling—Hunt (Compl. Text)	3-5	Amer. Bk. Co.	.22	.34	.12	35.4
Pt. II Spelling—Hunt (Compl. Text)	6-8	Amer. Bk. Co.	.24	.33	.09	27.2

GRADES 1 TO 8 "OLD BOOKS RE-ADOPTED"

DICTIONARY						
Elementary School Dict.—						
Webster	1-8	Amer. Bk. Co.	1.03	1.14	.11	7.9
DRAWING						
Augsburg Drawing Bks.—						
Augsburg	1	Augsburg Pub. Co.	.15	.20	.05	25.
Augsburg Drawing Bks.—						
Augsburg	2	Augsburg Pub. Co.	.15	.20	.05	25.
Augsburg Drawing Bks.—						
Augsburg	3	Augsburg Pub. Co.	.15	.20	.05	25.
Augsburg Drawing Bks.—						
Augsburg	4	Augsburg Pub. Co.	.15	.20	.05	25.
Augsburg Drawing Bks.—						
Augsburg	5	Augsburg Pub. Co.	.15	.20	.05	25.
Augsburg Drawing Bks.—						
Augsburg	6	Augsburg Pub. Co.	.15	.20	.05	25.
Augsburg Drawing Bks.—						
Augsburg	7	Augsburg Pub. Co.	.15	.20	.05	25.
Augsburg Drawing Bks.—						
Augsburg	8	Augsburg Pub. Co.	.15	.20	.05	25.

BOOKS ADOPTED LAST YEAR 1933.

GRADES 1 TO 8 "OLD BOOKS RE-ADOPTED"

SUBJECT	For Grds.	Name of Publishing Company	New Price	Old Price	Amt. Saved of New Adoption	Percentage Saved on New Adoption
HISTORY						
The Story of Our Nation—						
Barker, Dodd & Webb	6	Row, Peterson & Company	.62	.78	.16	20.5
The Growth of a Nation—						
Barker, Dodd & Webb	7-8	Row, Peterson & Company	1.20	1.35	.15	11.1

PENMANSHIP

Pract. Pen.—Putnam & Mills	1	Pract. Draw. Co.	.05	.07	.02	28.5
Pract. Pen.—Putnam & Mills	2	Pract. Draw. Co.	.05	.07	.02	28.5
Pract. Pen.—Putnam & Mills	3	Pract. Dr. w. Co.	.05	.07	.02	28.5
Pract. Pen.—Putnam & Mills	4	Pract. Draw. Co.	.05	.07	.02	28.5
Pract. Pen.—Putnam & Mills	5	Pract. Draw. Co.	.05	.07	.02	28.5
Pract. Pen.—Putnam & Mills	6	Pract. Draw. Co.	.05	.07	.02	28.5
Pract. Pen.—Putnam & Mills	7	Pract. Draw. Co.	.05	.07	.02	28.5
Pract. Pen.—Putnam & Mills	8	Pract. Draw. Co.	.05	.07	.02	28.5

PHYSIOLOGY

Bk. I Health, Happiness, Success Series By—Burkard, Chambers & Maroney	4-5	Lyons & Carnahan	.50	.56	.06	10.7
Bk. II Health Habits By—Burkard, Chambers & Maroney	6-7	Loyns & Carnahan	.55	.60	.05	8.4

SUPPLEMENTARY READERS

Story & Study Readers—						
State Contract Binding—						
By—Withers, Skinner & Gecks	1	Johnson, Primer, Publishing Co.	.61	.71	.10	14.
" " " " "	2	" " "	.31	.41	.10	8.4
" " " " "	3	" " "	.41	.47	.06	12.8
" " " " "	4	" " "	.48	.59	.11	18.6
" " " " "	5	" " "	.54	.63	.09	18.2
" " " " "	6	" " "	.58	.67	.09	13.4

Total for Grades 1 to 8—Year 1933 16.78 20.83 4.05 19.34

HIGH SCHOOL "NEW BOOKS"

ENGLISH

England's & America's Literature						
By—Tappan	11 & 12	Houghton, Mifflin Co.	1.15	2.40	1.25	52.09
Everyday English—Laird,						
Walker & Locke	9 & 10	Row, Peterson Co.	.76	2.78	2.02	72.69
Modern Speaking—						
Brees-Kelly	11 & 12	Follett Pub. Co.	.90	1.50	.60	40.

MATHEMATICS

Algebra—First Course						
By—Calhoun, White & Simpson	9	Johnson Pub. Co.	.64	1.11	.47	42.3

BOOKS ADOPTED LAST YEAR 1933

BOOKS ADOPTED LAST YEAR 1933							Percent- age Saved
HIGH SCHOOL "NEW BOOKS"							Amt. on New Adop- tion
SUBJECT	For Grds.	Name of Publish- ing Company	New Price	Old Price	Amt. of Sav- ing	Adop- tion	
MATHEMATICS							
Algebra—Second Course— Calhoun, White & Simpson	11 & 12	Johnson Pub. Co.	.70	1.14	.44	39.	
Geometry—Elem. of Plane Geom. By—W. H. Bruce	10	Southern Pub. Co.	.68	1.05	.37	35.2	
A Higher Arithmetic— Stone Et. Al.	11 & 12	Benj. H. Sanborn Co.	1.05	1.14	.09	79.00	
LANGUAGE							
First Year Latin—Foster & Arms	9	Johnson Pub. Co.	.96	1.21	.25	20.6	
Second Year Latin— Foster & Arms	10	Johnson Pub. Co.	1.35	1.56	.21	13.4	
Bk. I Essentials of Span- ish—Torres'	9	Doubleday, Doran & Co.	.97	1.35	.38	28.1	
Bk. II Essentials of Span- ish—Torres'	10	Doubleday, Doran & Co.	1.04	1.35	.31	22.9	
ECONOMICS							
Elem. of Economics— Fradenburg	10 & 12	Chas. Schibner's Sons	1.00	1.52	.52	34.2	
SCIENCE							
High School Agri.— A. & M. Faculty	9 & 10	Am. Book Co.	.95	1.24	.29	23.4	
Everyday Problems in By— Pieper & Beachamp	10	Scott, Foresman & Co.	1.38	1.69	.31	18.3	
Bk. I Science Problems of Modern Life	9	Webster Pub. Co.	.45	1.45	1.00	68.9	
Bk. II Science Problems of Modern Life	9	Webster Pub. Co.	.45	.56	.11	19.7	
Essentials of Physics— Sears	11	Laurel Bk. Co.	.96	1.42	.46	32.4	
Physics Laboratory Manual— —Personal & Pub. Health —Buckard, Chambers & Maroney	10 & 11	Lyons & Carnahan	.90	1.40	.50	35.6	
HISTORY							
United States History— Hulbert	11	Doubleday, Doran & Company	1.38	1.83	.45	24.6	
COMMERCIAL							
1st. Sem. Bookkeeping I—Lazenby	9	Univ. Pub. Co.	1.20	2.86	1.66	58.	
2nd. Sem. Bookkeeping II—Lazenby	9	Univ. Pub. Co.	1.20	2.87	1.67	58.19	
Typewriting—Drake	10 & 12	Lyons & Co.	.70	1.20	.50	41.66	
HIGH SCHOOL 9-12 "OLD BOOKS RE-ADOPTED"							
COMMERCIAL							
Commercial Law—Peters & Pomeroy	11-12	South-Western Pub. Co.	1.11	1.21	.10	8.26	
Shorthand—Gregg	10-12	Gregg Publishing Co.	1.29	1.50	.21	14.	
CIVICS							
Our Community Life By—King & Barnard	9	John C. Winston	1.00	1.20	.20	16.7	
Total for Grades 9-12 for Year 1933			24.62	39.10	14.48	37.0	

BOOKS ADOPTED THIS YEAR 1934

BOOKS ADOPTED THIS YEAR 1934

SUBJECT	Grds.	Name of Publishing Company	New Old		Percent- age Saved	
			Price	Price	Amt. on of Sav- ing	on New Adop- tion
GRADES 1 TO 8 "NEW BOOKS"						
HOME ECONOMICS						
Dom. Sci. Elementary	7 & 8	Am. Bk. Co.	.69	1.01	.32	31.6
GEOGRAPHY						
Human Use Geog.—Smith	4-5	John C. Winston Co.	1.10	1.00	*.10	*.9
Human Use Geog.—Smith	6-7	John C. Winston Co.	1.15	1.32	.17	12.9
LANGUAGE						
English for Use	3-4	John C. Winston Co.	.40	.48	.08	16.6
English for Use	5-6	John C. Winston Co.	.40	.48	.08	16.6
English for Use	7-8	John C. Winston Co.	.42	.62	.20	32.2
MUSIC						
Music Introductory	3-4	Follett Pub. Co.	.60	.62	.02	3.2
Bk. 2 Music Elementary	5-6	Amer. Bk. Co.	.73	.66	*.07	*.09
Bk. 3 Book of Songs	7-8	Amer. Bk. Co.	.84	.72	*.12	*.14
HISTORY						
Oklahoma History	5-6-7	Economy Company	.68	***.90	.22	24.4
READERS						
Pre-Primer—Fact & Story	Pre-Primer	Am. Bk. Co.		.15		
SUPPLEMENTARY READERS						
Primer Fact & Story	Primer	Am. Bk. Co.	.35	***.57	.22	38.5
1st. Fact & Story	1st	Am. Bk. Co.	.35	***.57	.22	38.5
2nd. Fact & Story	2	Am. Bk. Co.	.46	***.69	.23	33.2
3rd Fact & Story	3	Am. Bk. Co.	.54	***.73	.19	26.
4th Fact & Fancies	4	John C. Winston Co.	.65	***.72	.07	9.7
5th. Whys & Wherefores	5	John C. Winston Co.	.65	***.76	.11	14.5
6th. Scouting Through	6	John C. Winston Co.	.70	***.79	.09	11.4
Total for Grades 1-8 for Year 1934			10.71	12.64	1.93	15.2
Loss on Grades 1-8 for Year 1934					.29	.23
Total Saving for Grades 1-8 for Year 1934					1.64	12.8
*Amount of Loss. **Percent of Loss on New Adoption. ***Average Price of Books Now Generally Used.						
HIGH SCHOOL 9-12 "NEW BOOKS"						
LITERATURE						
Anthology I	9	Amer. B. Co.	1.14	1.81	***.67	37.
Anthology II	10	Amer. Bk. Co.	1.14	1.93	***.79	40.9
Anthology III	11	Amer. Bk. Co.	1.14	2.02	***.88	43.5
Anthology IV	12	Amer. Bk. Co.	1.14	2.15	***.101	47.
Grammar Essentials	9	Follett Pub. Co.	.65	1.04	***.39	38.5

BOOKS ADOPTED THIS YEAR 1934

HIGH SCHOOL 9-12 "NEW BOOKS"

SUBJECT	For Grds.	Name of Publishing Company	New Price	Old Price	Amt. of Sav- ing	Percent- age on New Adop- tion
HISTORY & SOCIAL SCIENCE						
Ancient History	12	Am. Bk. Co.	1.52	1.69	.17	10.
Modern History	10	Am. Bk. Co.	1.52	1.69	.17	10.
General History	10	Houghton Mifflin Co.	1.90	1.82	*.08	** .04
Sociology	10 & 12	Am. Bk. Co.	1.41	1.48	.07	4.7
Problems American Life	11-12	Row, Peterson & Co.	1.50	1.38	*.12	** .18

SCIENCE

Chemistry	10-11	Laurel Bk. Co.	1.12	1.80***	.68	37.8
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COMMERCIAL

Business Arithmetic	11-12	Gregg Pub. Co.	.69	1.14	.45	39.5
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HOME ECONOMICS

Home Economics—Home	11	Houghton Mifflin Co.	1.46	1.56***	.10	6.4
Home Economics—Clothing	10	Houghton Mifflin Co.	1.50	1.77	.27	15.3

OLD BOOKS RE-ADOPTED

Oklahoma History	9	Economy Co.	1.00	1.00		
Business English	11 & 12	Gregg Pub. Co.	.69	1.00	.31	31.
Home Ec. Foods	9	Houghton Mifflin Co.	1.46	1.47	.01	.68
Industrial Geography	10	Am. Bk. Co.	1.41	1.64	.23	14.
Total for Grades 9-12 for Year 1934			22.39	28.39	6.00	21.1
Loss on Grades 9-12 for Year 1934					.20	5.88
Total Saving for Grades 9-12 for Year 1934			22.39	28.39	6.00	21.13

*Amount of Loss.

**Percent of Loss on New Adoption.

***Average Price of Books Now Generally Used.

Total for Grades 1-8 year 1933			16.78	20.83	4.05	19.4
Total for Grades 9-12 year 1933			24.62	39.10	14.48	37.0
Grand Total for Year 1933 Grades 1 to 12			41.40	59.93	18.53	30.9
Total for Grades 1-8 year 1934			10.71	12.64	1.93	15.42
Total for Grades 9-12 year 1934			22.39	28.39	6.00	21.13
Grand Total for Year 1934 Grades 1 to 12			33.10	41.03	7.93	19.33
Grand Total for Years 1933 and 34			74.50	100.96	26.46	26.28

I wish to call attention to the Legislature to the fact that not only was the Constitution of the United States and of the State excluded from the history of the State and the United States, but Civil Government as well, through the influence of the North Central Association, and backed by the State Superintendent's Office. Neither Constitution could be found in any textbook.

This continued until the Act of 1933, creating the Text-book Commission, in which Act we followed a like course in Texas, by declaring that the Constitution of the State should be a part of the history of the State, and that of the United States a part of the history of the United States, and both Constitutions should be included in any textbook on Civil Government.

It is little wonder that those under the influence of the Communist Russian professors of the United States have discarded the Constitution and have practically taught a generation that there existed no such thing as a Constitution.

I say to you deliberately that a Republic cannot be conceived without a written Constitution, nor can Democracy in monarchy, without some form of a Constitution. In England, the whole Constitution is unwritten because it is made up of the written portion known as the Magna Charta, the Acts of Settlement, and the sundry other charters of English liberty, combined with the decisions of the Courts and the Acts of Parliament,—these together constitute the English Constitution. With us, each State and the Federal Government has a complete, written Constitution, which is the only safeguard in moments of anarchy and strife, and passion, and mental intemperance among the people, for a Constitution is made to bind the people in such moments as well as to bind the official at all time.

The crying need of our times is to return both State and Nation to Constitutional Government in its purity, and that means not only the Executive Branch but above everything else that the Courts of the land do not exceed their powers, and this is particularly true of the Oklahoma Courts.

Permit me to call your attention to another course pursued by the State Department of Education. Appropriation is made from time to time to print the school laws, and they were printed in 1933, which assumed to contain all of the laws, but John Vaughn, the State Superintendent, left out an Act of the 14th Legislature (House Bill No. 194), which provided for disorganization of school districts.

I wish it understood that this was no particularly favored law of mine; I did not even know it was under consideration until it reached my desk; but I realized that it was a whole-some Bill, for, often, in these oil sections, a town is built up and great improvements are established, to be followed by the scattering of the town by reason of the failure of oil, and that is true in some of the coal districts, and the necessity arises just as greatly to disorganize both the independent school and municipal districts as originally to organize them; and I therefore approved the Bill; but John Vaughn seems to think that because he does not like the Bill, it should not go into the school laws. He is as bold in excluding the law and the Constitution as these Communists, German, and Russian professors, called "Brain Trust."

Therefore I recommend that in every appropriation bill, when money is appropriated for the printing of the laws governing any department, that the law include a provision prohibiting the payment for the printing until the Attorney General, or some Judge, or some power independent of that department, certifies that the law, and ALL THE LAW governing the department, is printed in the pamphlet. In short, if Mr. Vaughn wants to circulate John Vaughn laws, let him pay the bill out of his own pocket.

John Vaughn told the Agent of one of the Textbook companies, whose books were recently adopted that he (Vaughn) intended to try to have the Legislature nullify the recent contract of adoption; and, failing, he would appeal to the courts; and, if he failed there, he would instruct the teachers to throw books out of the Schools. You gentlemen should find some way to compel such officials to obey the Law.

THE WM. H. MURRAY EDUCATIONAL FOUNDATION was organized by a group of friends of higher education, which included practically all of the faculties of the higher institutions. Its design was the collection of a fund to be loaned to poor boys and girls ready to attend college, to the end that they might secure a higher education, otherwise impossible.

Life memberships of \$100.00 each were provided in the charter of organization, which was sufficient to aggregate a sum of \$18,000.00; with provisions for "Bequests" by any person desiring to make to said Foundation.

I secured, beginning in 1931, the writing of a textbook on "Agriculture" in the grades, and another one for colleges by the faculty of the A & M College. Their copyrights were

transferred to this Foundation. Textbook companies were authorized to bid for the printing of this book with the understanding that unless their bid was the lowest, the book would not be adopted, they to pay 10 percent royalty on all books sold in the United States to the Foundation. The old book, which was replaced by it, was but a compilation of articles, sold to schools for 89 cents. Three companies bid lower, the lowest being by the American Book Company for 69 cents, and that book was adopted. It has more recently been adopted in Arkansas for a period of six years, and will likely be adopted in four or five other States this coming season. A 10 percent royalty in every case is to be paid to the Murray Educational Foundation.

A set of Arithmetics, written by Conger, Bennett and Conger (Dr. Bennett is President of A & M College) was also bid upon, and was the lowest bid and the best book offered to the Textbook Commission. It also pays 10 percent, to Foundation; as does a work on Anthology, which is sold for the purpose of Literature and Anthology, 4 Volumes, at \$1.14 each; whereas the Anthologies heretofore used have cost from \$1.75 to \$2.25 a copy,—quite a saving there; and, yet, this fund goes to the Foundation; and the particular merit of this Anthology is that while it includes the literary productions recognized as standard in the past; also includes those of some fifty Oklahoma authors, and others of our Western country.

It is proper for me to explain that I have no control over this fund; that the members selected a Board of Trustees of Nine Members who will administer the fund without compensation and that the fund is handled through Hugh Harrell, the State Treasurer, through the Trust Department of the State Treasury; and the loans are authorized by a Committee of Three selected by the Board of Directors. That Board consists of:

Clive Murray of Tishomingo, Oklahoma.

Clint Strong of Clinton, Oklahoma, and

Dr. Henry G. Bennett of Stillwater, Oklahoma.

This Loan Committee has approved a number of loans this year totaling \$10,000.00, their design being to hold back sufficient funds to put the person to whom it is loaned through a four years' course before they are expected to return the money. The notes bear 5 percent interest.

To give you an idea of what may be expected of this Foundation in the future years, I call your attention to the organization of a foundation by Benjamin Franklin in Philadelphia, and another in Boston, beginning with \$5,000.00 each, with provision that neither should be used until the end of

100 years interest accumulation. At the end of 100 years, each of these foundations had to their credit more than \$700,000.00. They now each amount to more than \$1,000,000.00.

Governor Brown of Georgia, fifty years ago, created such a foundation, with \$50,000.00. At the end of fifty years, (1934), the foundation had educated more than 1,000 men, some of them prominent judges in this State; had assets amounting to \$275,000.00, notwithstanding a loss of \$29,000.00.

We estimate, through royalties and additional memberships, that the MURRAY FOUNDATION will have assets aggregating \$100,000.00 within twelve months; and, in the event of no additional funds, the interest on that will pay the operating cost and make the usual allowance for losses, and result in a fund in a hundred years of \$10,000,000.00.

With the present tendency of compelling every person who desires to practice dentistry, medicine, law, the profession of teaching, most of the rest, to go to college, without regard to what they may learn at home, and secure a given number of "credits,"—this tendency will finally end where no person can enter a profession unless he or she attends a college, and that would result in the professions being filled only from the families of the wealthy. That would prove disastrous to society, because brains of the poor have shown their merit on the whole to surpass those of the wealthy; and we cannot afford not to avail ourselves of the brains and scholarship of the poor, for the Creator did not put brains on the "Free List." No university ever made a brain—they merely give refinement and method to this product of the Creator.

NEW OBLIGATIONS CONTRACTED REQUIRING PAYMENT

When I went into office, there were contracts aggregating \$275,000.00, or debts created by the heads of sundry institutions; and there were Deficiency Certificates in excess of appropriations issued by my predecessor, aggregating \$250,000.00. They were paid from the appropriations of the Legislature of 1931. In order to check unwarranted contracts, an Act was passed in the Legislature of 1931 prohibiting any Department or Institution of the State to contract an obligation in excess of the appropriation without approval by the Governor. The result is that you will not have the necessity of paying a very large sum of outstanding obligations not provided for in the appropriation. There are a few, however, that could not be avoided.

The Thirteenth Legislature appropriated, (counting the excess of contracts and deficiencies), nearly \$35,000,000.00. The Legislature of 1931, including the \$525,000.00 excess, and including \$600,000.00 for free seed and relief of the people, made an appropriation of \$31,000,000.00 round numbers. During the first fiscal year beginning July 1, 1931, the various heads of the Institutions and Departments, under the direction and control of the Governor, returned to the Treasury \$1,500,000.00. During the second fiscal year, out of the same appropriation, there was returned to the Treasury on July 1, 1932, \$2,300,000.00, making an aggregate sum saved from the Legislative appropriation of 1931, the sum of \$3,800,000.00.

The Fourteenth Legislature of 1933 made an aggregate appropriation of \$21,642,000.00 for the two fiscal years beginning July 1, 1933, making \$10,000,000.00 less than the Legislature of 1931, and nearly \$14,000,000.00 less than of the Legislature of 1929, and of the Departments and Institutions for the fiscal year ending July 1, 1934, operating within the appropriation, and a bit of saving was in addition made out of the appropriation, except for a Supreme Court decision.

During the present fiscal year, beginning July 1, 1934, the heads of the Institutions began a demand in excess of the appropriation; however, in consequence of the law of the Legislature of 1933, authorizing the Governor to audit every quarter, I have held them down to within the appropriation up to this January 1st.

There are some obligations that could have been paid but, under the ruling of the Attorney General, were not allowed to be paid, that your Legislature should appropriate by Special Bills, which, under the Constitution, requires a two-thirds vote:

First. The sum due Ed Andrus, and not provided for prior to July 1, 1931, because of the exhaustion of the appropriation by his predecessor.

Second. Mrs. Andrus, who has done quite as much work in the Institution for the Feeble Minded at Enid as any one else, was not permitted to receive her salary, due to the fact that the law governing that Institution provided for the selection of the help by the Superintendent, whereas other Institutions provided for such selection by the Board of Public Affairs; and, therefore, it was ruled that Mrs. Andrus came within the Nepotism Law. Had she been selected by the terms of the law as the other Institutions were selected by the Board of Public Affairs, this objection could not arise. A bit of thought on this point will convince any sensible man that

the head of an institution like that one, or an Orphans' Home, should provide for a married man with a wife to assist,—not some outside woman which, was in the case referred to, leads to immorality. That recommendation was the advice of such experienced men as Dr. Griffin; and, if you will but visit that institution at Enid, you will understand the truth of what I have said. Now, it appears from the records that Wm. Alexander, the predecessor of Ed Andrus, had his wife on the payroll, and she was paid for her salary, while Mrs. Andrus has never been paid. I submit, in all justice and equity, an appropriation should be made to pay her salary by a special act. No other woman could be used for that work.

Third: The Legislature of 1931 provided for the construction of an additional dormitory at Stillwater and for the sale of bonds, to be paid out of rentals. The money was secured from the Federal Government and the building is practically completed; but there is no provision for a heating plant. Certainly it was not the intention of the Legislature that that building be constructed and lie idle for a year for the lack of a heating plant. Taking that view, I therefore directed the Board of Agriculture to take bids for such a plant. When these bids were made, I told the lowest bidder that I would execute a contract for the installation of the heating plant, and let it bear interest until it was paid, the same as non-payable State warrants, at 6 percent. He accepted the contract, aggregating the sum of \$18,000.00, and the heating plant was supplied, and installed.

I urge your Legislature to pass a Special Appropriation Bill to make that payment.

Fourth: Colonel Sneed, Secretary of State, informed me that the Legislature had made it incumbent upon him to submit to the voters certain Constitutional Amendments, without providing for the additional fund. I therefore approved a contract on the same terms as before mentioned to make the payment. That also should be paid.

Fifth: The Textbook Commission has had no appropriation since their first meeting. I sought to pay them out of my contingent fund (Extraordinary Protection of the State), which has heretofore been regarded as wholly within the discretion of the Governor, to be used for any lawful purposes that the Governor might choose; but the Auditor refused to make the payment, although I had sufficient funds with which to do so. It therefore becomes necessary for the Fifteenth Legislature to make an appropriation for this purpose. The account sworn to will be submitted to your appropriation Committees.

Sixth: When the Federal Relief Bureau assigned to Oklahoma the sum of \$500,000.00, on the 15th day of December, 1933, and then took the control of said funds away from the Governor in January, 1934, I was compelled to administer the appropriations for the fiscal year, made for the indigent and sick, and for the distribution of free seed, et cetera, which I did. There were outstanding a number of food orders and accounts held by merchants left unpaid and due, to be paid by the Federal Government. A representative of the Government in the past spring came to Oklahoma and proposed to make such payments, aggregating some \$200,000.00 or more; but he insisted that my County Superintendents of Relief should personally take up these accounts, and promised to make payment of their salary of \$62.50 a month for their services, but declined at length to make the payment on these salaries; and, although they have promised to do so from time to time, these men have not as yet received that money; and, while I had the funds in the indigent appropriation sufficient to make the payment, the law limiting the percent that could be used for that purpose would not permit me to make the payment, although I have the money now to the credit of that fund.

It therefore is your duty to make appropriation to pay for these men for that month's salary in each of the 77 counties. And there are a few outstanding orders that for some reason,—negligence or otherwise,—that merchants did not send in that should be paid also; but, in these particular orders, I warn you that claims will be set up not authorized. No claim for relief should be made for supplies or for any purpose not authorized and signed by the Governor,—a rule that I adhered to through the entire relief set-up, to prevent frauds and fraudulent claims being made against the State; however, the auditor of these State funds, as well as the Federal Funds, Sam M. Bounds, can identify every one of them. They are not many, but should be paid.

I know of no other legitimate claims against the State. I have recited them in detail to prevent fraudulent claims being presented for your consideration, which surely will be done, but the aggregate amount of all foregoing claims will not exceed \$80,000.00.

SCHOOL LAND COMMISSION AND PUBLIC SCHOOL LANDS

All are somewhat acquainted at least with publication of questions arising out of the administration of the school funds

and public lands of the State. It seems difficult to arrive at the exact truth and to eliminate gossip and secure exact facts.

The Legislature of 1931 passed an Act for the appropriation of \$25,000.00 to audit "all State Departments." The School Land Department had not been audited since Statehood. I sought to make that audit only. Bids were made ranging from \$100,000.00 and up to make a complete audit of the Department and the field work. I therefore made a contract with Wilson and Garnett, auditing firm, to make a partial office audit, which, in consequence of the mixing of the records incident to the removal of the State Capitol, exhausted the \$25,000.00 by the year 1917. I authorized them to continue with a limited audit, which cost the State some \$12,000.00 more, and thus discovered the theft of \$48,000.00. This audit of Wilson and Garnett was made up to July, 1932, and the Legislature passed a law directing the employment of an auditor every two years to audit, beginning on July 1, 1933, the contract for such audit to be made by the Commission, composed of the Governor, Speaker of the House, and President Pro Tempore of the Senate, but made no appropriation therefor.

This Commission, composed of Wm. H. Murray, Governor; Tom Anglin, Speaker of the House; and Paul Stewart, President Pro Tempore of the Senate, contracted with Sam M. Bounds, in July, 1934, to make an audit for the two previous fiscal years, (July 1, 1932 to July 1, 1934); and stipulated as directed by the law, that a copy of said audit be filed with each House of the Fifteenth Legislature, and a copy be delivered to the Governor, and a copy to the School Land Department.

During this audit, Mr. Bounds has found that certain lines of assets were not audited. He was therefore authorized by me to go back through the previous years, to assist him in an accurate audit. It is also found that it is impossible to make a complete, accurate audit in the office of the School Land Department. In other words, the audit should extend to the field and to each tract of land; and you gentlemen will have to determine whether to cut off all bad transactions and just assume that it is accurate, or provide for a field audit.

A gentleman here in the city came to me two months ago and requested that I make a contract with him to audit the School Land Department completely. I called his attention to the fact that I could not do that for the lack of funds. He replied that he would contract to audit from the beginning for nothing, provided I would make a contract to give him one-half of all funds he collected and lost to the Department, saying that he could make it pay him. My reply was that I

could not constitutionally do that for the Constitution provides these funds to be a sacred fund for the common schools, and that where a loss occurs, it is the duty of the Legislature to return the funds by appropriation; that the School Land Department is one that could not even dispense charity, but must at all times husband these resources strictly for the common school children of this State; that the Legislature alone could make a contract with him by an Act, but, even in that case, they must needs pay him out of an appropriation of the General Revenues, and not from the School Funds. He may possibly make overture for such contract. If he does, the whole question I submit to your judgment without recommendation.

When I have pointed out these matters, I shall have performed by functions and duty, notwithstanding the amount of cursing I have received because of my endeavor in the past four years to protect these funds. However, I will make this observation that may assist you:

It has come to me from sundry sources that lands where loans were foreclosed in the east half of the State, some of which lands were covered by bois d'arc, walnut, and pine timber, have been authorized to be cut off; and that the men who cut the timber paid for the privileges, but the records of the School Land Department will not disclose that that department ever received any money for such purposes; and, therefore, the truth or falsity of these statements cannot be ascertained by an office audit. It will be necessary to go into the field to discover the facts.

Numerous oil companies have with or without permission, (and the records of the School Land Department do not show any permission), nor the payment of any money therefor, constructed, under the school lands, pipe lines amounting to a vast sum, if collected. These too cannot be determined by an audit of the office.

As stated before, the whole question is yours. I have exhausted my duty and obligation as Governor of the State in these transactions; borne the abuse and slander of politicians and their newspaper friends; but I call your attention that in the speech made and printed at the time at Altus, Oklahoma, in 1910, I pointed out that if the people of the State permitted the "swapping of offices," that just such losses as have been disclosed would eventually result.

CO-OPERATING WITH OR SURRENDERING TO FEDERAL AUTHORITIES

Knowing from experience I warn you gentlemen in advance that you will be asked to destroy the State laws and

even the Constitution itself, under the plea of "co-operating with the Federal Government." To do so would also destroy the spirit and intent of the Constitution of the United States. Every governor and most public officials are sworn to uphold not only the constitution of his State but the Constitution of the United States.

I make these observations because I have been beset with the demand that I recommend to the Legislature, and even to call a Special Session for that purpose, that we "repeal our anti-trust laws;" repeal the law requiring a textbook company to sell a textbook in this State as cheaply as sold in any other State; to make it a criminal offense under the laws of this State for any citizen of the State to violate one of these "alphabetical orders" now operating in Washington. That, I have steadfastly refused to do, for, to do so, is no "cooperation," but a surrender to Bureaus and extra legal boards seeking to enact laws not made by the Constituted Law-making Body of Congress, regularly assembled, and, therefore, such so-called codes are but private wills as distinguished from public judgment, which is the only basis of law.

You have the duty incumbent upon you under your oath to maintain your own powers; to maintain the powers of the Governor; to maintain the powers of the State; and to maintain the powers authorized by the United States, under the Constitutions of the two Governments, which at once becomes veritable "Blue Prints" of State and National Governments, and you can no more depart with safety from the "Blue Print" of Government in the construction of the edifice of Government than you can depart from the "Blue Print" of a skyscraper; for, to do so would cause the skyscraper to topple over and fall; and just so with Government,—not that the "Blue Print" of either is at all sacred; or that either is the best possible to be made; but, in either case, they are the "Blue Print" of the two structures. It is unsafe not to follow them.

We are passing through a painful experience, never before sought to be done in American life; but history will disclose to us such efforts in the past and the success of these experiments in Government as distinguished from Government made from the experience of man, have invariably proven disastrous. The geologists and mechanics arrive at discoveries by experiment, but it will not do in Government. All the evils that have destroyed democracies in the past; that have done injury to our American society have not been because of adhering to the Constitution, but by departing from its spirit, through legislation in the interest of the speculator; through banking and currency laws, violative of the spirit of the Con-

stitution; through the creation of monopolies and decisions of courts that permit a corporation chartered in New Jersey to have citizenship in Oklahoma, or other States, with powers greater than a corporation chartered in the home State, ultimately resulting in a "twilight zone," in which they escape both the State and Federal laws and defeat their taxes,—This is the mother of all monopoly that has crushed labor and the citizen. When you lose your State Government you will cry to have it back again, but in vain.

We are now at the "Cross-Roads" to determine whether the old Republic shall survive; whether this last effort of democracy shall survive, or whether it shall go the way of the democracies of the Ancients,—always resulting in destruction of government of the people, for the people, by the people.

PARI-MUTUEL GAMBLING

The Fourteenth Legislature, very speedily and silently, passed a Bill, known as the "Pari-Mutuel," which was supposed to be a mere right of betting on a horse race; but, in truth, it was a legalized form of a slot machine for gambling purposes, that would not prove as fair as loaded dice in a crap game, in which, in every instance, according to the bets of the operators of the game would know which horse would win.

When I discovered this, I promptly vetoed it. They got a bill through the Legislature of Texas, and now the business people of Dallas and other places want it repealed.

I warn you that that Bill will be introduced at this session, and, by all means, it should be defeated. It will prove to be the most corrupting and debasing thing that could be imagined—as baneful as the old saloon. I learned the fact that it will be introduced through an incident of an attorney's urging me to permit two convicts to return to the State, in which they themselves said that they expected this Bill to pass, and that they wanted to "reap up" on it. They were convicted for conducting "high-powered" gambling dens; and, therefore, have connection with men who invest their money in gambling paraphernalia to be operated by some poor fellow who can take the "rap," if caught.

When this Bill is introduced, don't let them tell you that it is a "Race Horse Bill," for it proved to be one where everything will be known as soon as the bet is over, and the "managers" reap the money, and the "poor dupes" put their money on what they think will win, but never have a chance to win.

The State of Oklahoma cannot afford to enter upon the policy of legalized gambling. In truth, this form of gambling not hid from the general public and the children, is the worst possible.

THE TAX COMMISSION, OR TAX DODGING

You will likely be confronted with propositions to amend the law creating the "Oklahoma Tax Commission," under the plea that it will make it better.

Unless you are absolutely sure, do not vote for any such proposed amendment. This law was written by men who knew how to write the law, under my supervision; and six months' time was spent upon it. It is as nearly perfect as a law can be written under our Constitution, if the purpose of the law be to collect all of the taxes due, and let no one escape his taxes; and, indeed, this is the virtue of the law.

If amendments are introduced, in the end, they will prove as fatal as the Glasser Amendment, enacted in 1922 to the Income Tax Law. It will prove worse than a joker, and permit the selfish to escape.

It has been proposed by some that it ought to be a "One-Man Commission." I do not agree with them on that, because one man may be angered at a tax-payer, or have undue friendship with some big tax-payer, and, in either case, be disposed to "lean" from the "plumb-line of justice." In such cases, the other two Commissioners can aid him to escape his relationship with the tax-payer, and more nearly do justice; and, even in that particular, it would be unwise to make a change. Indeed, the Tax Commission should be made up, as it is now, of one Executive, who keeps track of the departments and of the general affairs of the Commission, like Melvin Cornish; one a great lawyer, like W. D. Humphrey, whose sympathies are in the interest of the public, because some member of the Commission must watch the testimony when larger tax-payers contest the findings of the Commission before the Tax Equalization Board; and be enabled to match shrewdness and keenness of mind with these big tax-payers' attorneys and experts; in fact, none of the laws governing the collection of taxes by the Commission, under Section 12 of Article 10 of the Constitution need amendment, except those few recommended by the Tax Commission in their latest report.

Remember, the laws for the collecting of taxes and for the control and regulation of the Commission is one thing;

and the tax laws themselves is another; that is, the rate of tax; the form of tax; the principle involved in the tax. These last are the things upon which men disagree, and which are most likely not to be written as public policy may demand; and there is room for amendments thereto; but, if you want to collect the tax; if you want to be certain to have the power to collect it; if you want to be certain to find out whether the tax is due, you had better let the Tax Commission Law stand, without a change in any particular.

It provides all powers needed, if placed under the control of honest, competent men.

STATE BOND—FIRE—INDEMNITY INSURANCE

The Fourteenth Legislature, (in 1933), passed an Act providing for an Indemnity Insurance Policy by the State to the end that all laboring men engaged in any hazardous occupation may be insured. This law has proven satisfactory, and should not be amended; at least, until it has some two or more years further trial, and then we shall be enabled to know what defects, if any, exist in the law. The amount of reserve has accumulated beyond our expectations. Up to January 1 last, or during a period of operation of one and one-half years, there was an accumulation of \$356,658.36. Under the law, this money should be invested by the Governor; but, to date, I have found little in which to invest the fund that might, in my opinion, prove beyond a doubt safe.

I have sought to purchase non-payable State Warrants because they bore a good rate of interest and were certainly safe; but these warrants are in such demand that we can get them only in "dribbles," for the banks canvass all of the institutions for these warrants.

The law, as now written, provides for its management under the Industrial Commission. This only should be amended, and that only in the event you adopt the recommendations hereinafter proposed:

RECOMMENDATIONS—I recommend that you pass a like law to bond all public officials in the State, (Let it be confined only to public officials, and not extend to private bonding enterprises). It should provide that every officer of the State, from School District to State officials requiring a bond, to be made under the law, should be insured by the State Bonding Policy. This would leave the State independent of the bond companies; and, would create a great earning and more certainty; at the same time, cause the people to realize that the loss of the bond was their loss. They would not, as they now feel, that when a public official forfeits his bond, that there is no loss, because some private bonding company paid the loss. I have had any number of people

to propose to me clemency for county officers, saying the county lost nothing, which is tantamount to saying that "if we can skin the company, it is all right." Such a provision of law would save the State, and subdivisions therein, \$1,000,000.00 a year. Moreover, there would not be required by law so many bonds to be written.

We have a number of officials required by law to be bonded that are unnecessary. The requirements of the law was put in at the instance of bonding companies to sell more of their bonds.

FIRE INSURANCE POLICIES,—I recommend that a similar law be written providing for a State Insurance Policy to insure every public building,—State, County, Municipality, and School District, by the State; but not to extend to private property in any case; and then place in the law a mandatory provision that the same is automatically insured to the amount of three-fourths of the cost of the building. This, in turn, will greatly aid the State and relieve the public officials from the connivance and "skullduggery" of fire insurance agents, and will, at the same time, cause a saving of from \$1,000,000.00 to \$2,000,000.00 now charged against the taxpayers.

With these three laws written with the same care as the Indemnity Law passed in the Fourteenth Legislature, and placed under a regular commissioner appointed by the Governor, said Commission to be supervised by a Board for Bond-Fire-Indemnity Insurance, to consist of the Chairman of the Industrial Commission, the State Treasurer, and the State Insurance Commissioner; if then there be invested the accumulated surpluses of each, the interest accumulating thereon will more than pay the cost of the office from the very beginning, while providing less rates for all policies on Bonds-Fire- and Indemnity. In fact, in my opinion, after two years, there will be an annual saving sufficient to provide every needy school child in the State with free textbooks.

I strenuously urge the passage of these two additional laws.

DIVERSION OF GASOLINE TAX AND PUBLIC CREDIT

It will be recalled that the Fourteenth Legislature (in 1933), diverted Forty Percent of the gasoline tax to the outstanding Non-Payable Warrants that had accumulated for many years, authorizing at the time the issuance of serial Treasury notes, payable in six months, twelve months, eighteen months, etc., with authority to call and stop interest on a note at any time, with provision that they might all be

called within three years. Experience in the collection of this tax since has proven that all of these warrants can be paid within three years from now, and that sufficient revenue will have been collected to extinguish these notes.

In writing the Bill, I insisted that not only this gas tax, but the entire credit of the State, be pledged to the payment of these notes. As a result, they are sold in Wall Street at \$1.03 to \$1.05, or a premium of three to five percent, and this is a higher rate than the United States Bonds or other State securities.

We feel that we have a right "to pat ourselves on the back," as it were, in thus providing for the financial integrity of the State.

You may be curious to know how came these outstanding warrants. I shall explain:

When I went into office, it was variously stated that there were outstanding \$5,000,000.00 of Non-Payable Warrants, and the warrants were sold at a discount from Ten to Fifteen Percent, and sometimes more; and, then, in an effort to force the issue of long-time bonds, the banks announced within two weeks after I went into office that they would not purchase the current warrants at all; but that difficulty was soon overcome.

I called in the late Robert Brewer, a native Oklahoman, who was Vice-President of one of the larger banking institutions of New York City, and proposed to him a plan of financing the State, and acting as the State Fiscal Agency. I submitted to him that although it had been the custom to compel the Fiscal Agency to have a local agent at a salary of from \$6,000.00 to \$10,000.00 a year, who was some friend of the Governor's that he need not select any such agent except and when he needed him, and that out of consideration for this benefit and others, he should undertake to purchase at par at least \$5,000,000.00 of the outstanding Non-Payable Warrants; and, within less than sixty days, he had purchased \$6,000,000.00 up to May; and, as the outstanding obligations were running at the rate of more than \$2,000,000.00 a month, it was reasonable to conclude, although we have not the figures definitely to state, there were outstanding \$8,000,000.00 of these warrants on July 1, 1931, and possibly more, at which last date, the expenses and appropriation under my administration began. This purchase in New York also relieved \$6,000,000.00 to be loaned by the banks tied up in warrants.

Then came the reduction in the price of oil to twenty cents a barrel, and the subsequent closing of the wells. That in turn produced some \$2,000,000.00 or more of outstanding Non-Payable Warrants. Then followed the abolition of the ad valorem tax by a Constitutional Amendment adopted in 1933, which would produce approximately \$4,500,000.00 a year. These transactions produced this accumulation of warrants now outstanding.

The cutting down of appropriations from nearly \$35,000,000.00 in 1929 to \$31,000,000.00 in 1931, and then to \$21,642,000.00 in 1933, coupled with the saving of \$4,000,000.00 out of the Appropriation Bills, it can be readily seen that but for this economy in appropriation and expenditures, there would be outstanding today in Treasury Notes and Non-Payable Warrants the sum of nearly \$40,000,000.00 instead of nearly \$18,000,000.00, July next.

Now, the question arises how best to liquidate and finance these outstanding obligations?

Some have proposed that the law diverting the gasoline tax be repealed. If you do that, it will leave nearly \$18,000,000.00 outstanding, and that will result in necessarily having not only these, but all, current warrants cancelled at a heavy rate of reduction, the amount of which cannot be foreseen of all future warrants of the State; because the public will lose confidence in the integrity of the State.

If I were financing the State, I should extend this diversion for eighteen months longer, and the figures in the State Treasurer's office will show you that all of the outstanding public debt can be paid within that time, and then you would only have to take care of your current operating expenses; but, by such transactions, you would show the public your good faith and integrity of purpose; and then you could issue a greater amount than that sum in Non-Payable Warrants and maintain them at par.

If it is thought that more money is needed for roads (I do not think it is half so important to provide for more roads as it is to support the schools or to pay off the public debt), in such eventuality, the Legislature could appropriate \$1,000,000.00 or so annually for public roads out of the General Revenue; and even though they were Non-Payable, your credit would be established because of the integrity of your purpose,—the basis of all credit,—and then you would only be called upon to provide revenue for the future current operations of the State Government.

This course would tend to hold your taxes down; and, in but a few years, by paying the public debt, to reduce materially the tax upon the people,—the greatest bane to private enterprise,—for no private enterprise can operate, taxed out of existence, or burdened by a heavy tax.

I call your attention to the fact that public credit is just the same as private credit; and, if you leave your old notes and other financial obligations without provision for certain payment, your current obligations will be a dreg on the market, and will be discounted heavily in order to dispose of them.

In these suggestions, I am merely pointing out from abundant of experience, what may be accomplished with this vexatious question; and this method is sound and workable; however, the responsibility is not on me as an official for the future, and I do not want to trespass on the views of others upon whom the responsibility falls; but point out one way of doing it—an honest way.

There is a view in the world that because the National Government has gone "hay-wire" on public debt, without fear, and because the surrounding States have done the same thing, some of them being obliged to repudiate their obligations, that Oklahoma might as well do the same.

I do not agree with them; and I insist that even though the United States Government and our neighboring States contract debts to such an extent that it will require repudiation, Oklahoma and Oklahoma people should face the world and say: "We have kept our financial obligations, and we have kept faith with all of our creditors." Let me urge you, do not fall into such a faulty policy.

Integrity of purpose, public credit, public honor, just as with individuals, is the basis upon which we judge State and Nations; and let Oklahoma be one State Government whose credit is always sound and whose outstanding obligations are always at par. It can be done; in fact, it has been done for more than three and one-half years of my administration, and the method is clear in my mind as to what we should do, facing the future.

Had I the power, I'd pay the debt, and then thereafter use 25 Percent of the gasoline tax in support of common schools, and further reduce the ad valorem tax for it is yet too high and should be again reduced fifty percent.

BUSINESS ADVICE TO YOUNG MEN

I observe quite a number of young men in this Legislature,—indeed, more, I believe, than in any other Legislature; and, while I realize few people will take advice—indeed they will take a cold or a cussing, or a rail off of your fence before advice—nevertheless, I am going to give you some; and, if you do not realize it now, you will perhaps later. That advice is:

Remember that the basis of all business, private and public, consists of:

First: Integrity.

Second: A knowledge and comprehension of the value of time; the value of money; and the value of interest on money.

Third: That while any man can make money, it requires much more brains to save money; and, in public business, just as in private business, integrity of purpose is the basis of all credit, and good credit is the basis of all progress and enterprise.

Fourth: Few men can handle credit; few men ought to be extended credit, because they do not know what to do with it. Credit is the basis upon which a sound financial structure, private or public, must be based; and, therefore, the person who possesses integrity, comprehends the value of money, time, and interest, and understands how to handle credit, and not abuse it, will prove successful in financial transactions. Just so with Government.

Speaking of "credit," the best illustration I know is a statement by J. P. Morgan before a Congressional Committee, when asked:

Question: "To what class of people do you extend credit?"

Morgan: "I base all credit in my loans on two things,—character and collateral."

Question: "Which is the more important?"

Morgan: "Character."

Question: "What do you mean by character?"

Morgan: "Integrity and ability,—both in the highest degree. That is character."

Question: "But do you not always consider collateral or property?"

Morgan: "No, not to the exclusion of character, for property, in the hands of fools or thieves, even with a mortgage on it, is unsafe."

Question: "Did you ever extend a loan on character alone?"

Morgan: "Yes, I loaned one man a million dollars on character alone, and did not lose a dime. We both made money."

Observation of Questioner:

"Well that is a strange case."

Morgan: "Yes, because he had a million dollars character, which few men possess."

Remember the time to economize and save is when you are prospering—when your earnings are low economy is self-operating.

If you earn \$20 a week and save nothing, you will save nothing if you get \$100 a week. If you are smart enough, shrewd enough to make \$10,000 a year by unscrupulous means, you will make ten times that in your life time, by being scrupulously honest. Moreover, if at any time you go broke your honesty will bring you credit for new enterprise to recoup your fortune; while no person will lend aid to the crook. He will remain "down and out."

All men should be selfish toward themselves and reasonably generous toward others—selfish toward their own appetites and vanity and to such in others; but reasonably generous toward the real necessities of their worthy friends and strangers who may prove to be "angels in disguise."

And I admonish you young men that in every transaction, and in every proposed piece of legislation submitted to your consideration, consider first the integrity of purpose, for you will hear men, before your Session is over, say, "We do not care about paying these bankers,—we want money for roads or the school teacher, or for some one else for the present year;" but, remember, the banker is the fellow that buys the warrant; and, if you do not make good the old paper and provide for certain payment of the old paper, the current paper will not be solvent either; but, if you will secure and make certain payment of the old paper, you can "float", without discount, ten times as much current paper as you can without providing for your old or outstanding. That is true in financing a private business; it is true in financing a Government.

You will have men tell you that this thing or that thing ought to be done, and among them will be included bankers, for the reason that the speculators do not want outstanding

public warrants and notes that are always at par, because there is no room for speculation. The greater fluctuation, the greater the speculation; and, remember, the people and the Government, and particularly those to whom the State owes money, pays his earnings on his speculation. Indeed, I never could have brought the State Warrants to par value in the market if I had followed the advice of a group of speculating bankers.

There are two ways to write financial legislation,—one in the interest of the people and the other in the interest of the speculator; and the legislator must needs discover that fact. The foundation of all our economic trouble is that, for more than fifty years, all of the financial legislation of this Government has been dictated by the great speculators in Wall Street; and, as yet, no effort to shake them loose.

For fear that somebody will discover that fact, they are now ballyhooing the return of good times. Indeed, they can bring panic when they are ready, and they are afraid of the present Congress, and will aid in restoration, and such cannot permanently last.

The Regional Reserve Bank Law that permits bankers to be on the Board have in their hands, to use the language of President Wilson to me: "The entire weal and woe of this Republic."

Perhaps, some time,—let us hope at least—the American people will be wise enough to select another Andrew Jackson that will choke the life out of the speculators and "hang" them on the "sour apple tree."

SUB-PENITENTIARY AND ITS POSSIBILITIES

You are more or less acquainted with more or less information due to the misrepresentation of the Press of the purchase of approximately 8,000 acres of land one mile south of Limestone Gap on Highway No. 73 and the M. K. & T. Ry. for the construction of a sub-prison. This land was purchased at \$9.18 an acre. That price was secured and made possible only because it was originally owned by a man by the name of "Kuykendahl", who died with a mortgage upon it, and the heirs were obliged to sell it.

Prior to its purchase, we undertook to purchase land at Limestone Gap, which is the same situation and practically the same condition, with less water however than the land purchased, and that land ranged from \$10.00 to \$75.00 an acre through options secured through a private individual, without the owner's knowing that the State wanted to buy it.

I directed the Board of Affairs to refuse the offer, and secured in a few months the offer of the tract that we finally purchased. Immediately, there began a howl of these owners, who wanted to sell at Limestone Gap, and their friends.

After the purchase was made, opposition to the construction of the sub-prison arose from every imaginable quarter. The City of McAlester was hostile; the packing plants and supply houses threw in their quiet opposition and politicians objected; and finally the Attorney General made a ruling refusing the construction, obliging us to submit the matter again to the Legislature of 1933. They again made the appropriation. We began work, and the Attorney General again made one of his notorious rulings. We then went to the Court, and received a favorable judgment from the Supreme Court of the State, but this no whit stopped the opposition from all the other sources.

A very competent man (Joe L. Neely), was secured to superintend the construction, about the only one I knew who knew every detail of the work, such as clearing new land, cultivating crops, handling cattle, building fence (woven wire and otherwise), and knew men. He began the work some 18 months ago. He has completed a page-woven wire fence of approximately twenty miles around the pasture and meadow, lying just east of the "Katy" Railway, along which also runs the highway from McAlester to Durant, No. 73. Through the east part of the pasture flows the largest creek in the county,—Chickasaw Creek; in the center is another large creek of ever-flowing water. In the west part was constructed a lake with a depth of 35 feet, and nearly a mile in length. Pipe was put through the dam to irrigate 40 acres of land for vegetables. Immediately west of the railroad and highway is the location of the buildings, including the tubercular ward; and there is nearby a hill a half-mile deep and nearly a mile long of solid limestone within a quarter of a mile of the railroad track,—stone in abundance with which the State may make cement, crushed stone, et cetera. A cement plant made an overture to me to purchase this hill alone, for a price amounting to ten per cent of the total cost of the 8,000 acres.

There are some three hundred acres of fine limestone meadow land for hay, sufficient to winter cattle, with grass enough in the pasture to feed 2,000 head of cattle. The superintendent has bought steers and fattened them on the grass and furnished during 1934 all the fresh meat used by the subpen and the Penitentiary at McAlester, charging 6 cents a

bound for the meat, and has sold three cars of steers and two carloads of hogs, because he had no packing plant to cure the meat. With a packing plant at a cost of \$20,000.00 to \$25,000.00, under the present management of the Sub-Penitentiary, every institution in the State could be furnished with all of the fresh and cured meat at a cost of six cents a pound. The Superintendent, Mr. Joe Neely, informs me that he has furnished the fresh meat during the year and made a profit of \$16.00 on each steer; in fact, with a favorable State administration, this Sub-Penitentiary is capable of paying every cent of cost of these two institutions; whereas, heretofore, the McAlester Penitentiary alone purchased \$65,000.00 worth of meat a year, and they consume 1½ barrels of molasses a day, besides vegetables. All of this can be produced at the Sub-Penitentiary.

Also there is a high hill on top of which is constructed the buildings surrounded by a wall, running down the slope, permitting the south and east winds to blow over the walls and around the buildings so that it would be just as cool inside the wall as on the outside of the wall,—the only prison in the United States where such condition of air can be had.

A visit to this Sub-Penitentiary will convince any man of the truth of the foregoing statement; and, yet, through an unsympathetic management, it could be made just as expensive as in the years past; however, even then it would give the T. B. convicts room for treatment and separate them from the others, preventing the spread of the malady.

Aside from the saving in dollars, the segregation of the T. B. convicts is worth the expenditure. Also the segregation of the short-time convicts from the high-powered criminals, who would make them worse criminals by filling these fruitful sources of minds of the convicts, imprisoned with additional criminal thought, will alone save the cost in criminal courts and expense for criminals in this State; and in addition, their treatment will be more humane and more like human beings should be treated, even though convicts, as enjoined by the Master. But I warn you there is room under a sympathetic administration for five years of hard work to complete the plan outlined; and it would not be a bad idea for the committee or committees, or indeed for the entire Legislature, to visit that institution, and learn at first hand what ought to be done and its great possibilities. Such a visit would convince the Legislature of its wisdom, and they would not need to rely upon the gossip of opposition to its construction, ballyhooed through a portion of the daily press.

THE STERILIZATION LAW

For the first year in many years, there has been no increase of inmates of the Penitentiary, and I have turned out fewer men during the years of 1933 and 1934 than in the years of 1931 and 1932, when there was an increase of nine percent. This is due to a number of reasons:

First: The Sterilization Law, which caused the "repeating" convict, the habitual criminal, to avoid the Oklahoma field for his operation. Some seven months ago, an escaped convict went to Georgia; committed a crime, and plead guilty, stating to the Court that he wanted the highest penalty possible to avoid being carried back to Oklahoma where he would be sterilized.

Second. The second contributory cause is that I have been very careful about hi-jackers, or robbery with fire arms, not to grant them paroles except where double precaution indicated they could be risked.

Third. A cause which contributes to lessening the number is due to the management and the policy of clemency I have pursued in this office.

Fourth: Another cause, in a less way however, is the vigorous effort of the Federal Government. The Sterilization Law is most important because of the habitual criminal who commits most of the crimes; and, in this connection, I urge upon you gentlemen to study carefully and adopt a practical, wise, and effective Sterilization Law, or rather to amend the present law in the light of such purpose.

The Ancient Greek, under the Spartan System, left the imbecile, cripple, and so on upon a cold mountain to freeze to death, which made of the Greek a strong hearty race, with a high degree of intellectuality. That, however, was cruel. The Roman Government treated the helpless and weak as we treat them, and you can observe the difference between the strength of the Latin mind and the Greek. The Greek mind is strong whether found mixed with the Saracens, the Balkans, or the Assyrian. In other words, there is a greater proportion of mental strength, and self-sufficiency due to that fact.

Perhaps you recall the "Jukes Sisters" of New York. An accurate record of that family, descendants of the Jute Sisters, known as the "Jukes Family," costs the State of New York in one hundred years in criminal prosecutions; in cost of alm houses, poor houses, and otherwise, a total of \$1,500,000.00. What a blessing it had been to the State of New York, if they had been originally sterilized!

The "Killikuk Family" is another illustration. As stated by one genealogist, these classes become morons, breed faster, and cannot be improved materially by breeding or education.

A soldier in the Revolution, stopping at an inn-keeper's, caused his half-witted daughter to give birth to an illegitimate child; and, some three years afterwards, he married a worthy girl; and after fifty years, and again one hundred years, a trace was made of all the descendants of both. It was found that from this half-wit, there were 189 descendants. All were sub-normal mentally except five. From his marriage, there were 169—20 less. They were all prosperous, and landowners, and substantial citizens, while the others were, for the most part, wards of the State, or subjects of charity on their relatives and friends. What a pity sterilization had not been in vogue at that first birth.

I call your attention further to the fact that out of the 3,800,000 persons first called to arms by the United States in the World War, 41 percent were mentally or physically Defectives; 24 percent were thrown into the discard. These last may safely be said to be drones on society and upon the earnings of the other 76 percent of our people.

As a result of the war, with the increase of venereal diseases, at the end of one hundred years, there will be 80 percent defective, and close on to 50 per cent absolutely dependents, and the Nation will fall by the inherent weakness of its own citizenship, coupled with the tax burden on the worthy to feed the imbecilic.

To illustrate further: at Enid, there are nine children of one woman, all idiots, due to syphilitic blood.

The most honorable lawyer I ever knew, able and upright, with whom I once practiced, has two sons, and they are both in the Institution at Enid, because he, at sixteen years of age, contracted syphilis. Infection was prevented, but it did not purify the blood. I am sure he had rather been sterilized.

While I know you would not do so, yet, in my opinion, the law ought to be such; and, if we save ourselves from our own follies, it will have to be done,—every habitual criminal, every imbecile in every institution, and all persons of syphilitic blood in private life, should be sterilized.

Let me remind you that there are 6,000 children with syphilitic blood in the public schools of this State treated by the Health Department.

Some people say that we ought not thus to interfere with the decrees of the Creator, but the Creator did not bring man to this condition,—he brought himself, and he will have to

correct and restore the race and blood to its purity as given to the world by the hand of the Creator.

Somebody has to be bold enough and courageous enough to propose all of the reforms for the better of humanity, and bear the opposition and abuse of the ignorant and all opposition to any change; and I therefore devote at length this discussion to a growing evil that if left unchecked will eventually destroy the American race—so let the ignorant rave at me. Perhaps some day the warning will be heeded.

The principle of Sterilization adopts both the Roman and the Greek method. It is not so harsh or cruel as the Greek method, but just as effectually checks the blood of both the criminal and the imbecile.

Remember also that the weak mentally and physically in humanity cannot be bred out; and, at the same time, they increase in birth rate over the pure blood of our citizenship, for, alas, you cannot make brains in the human head with all the Universities in the land; and 25 or 50 percent are drones on society that eat up the substance of the other citizens and cause the difference between living in ease and squalid poverty because of necessity through humane feeling of dividing their earnings with the incapacitated. We have reached that period where the struggle for existence and for living will increase as the population further increases. You hear, because of this, much talk of Birth Control. The method which I suggest of sterilizing will not only solve that question of Birth Control and over population, but give to society a citizenship of pure blood and strong, law-abiding minds.

Of course you will not go this far. Of course the American people will not go this far, for they are prone, as it were, to "shut the door of the stable when the horse is stolen"; to ignore an impending evil until it is on them; but the real statesman is always looking towards the future, and makes an endeavor to increase the tendencies towards good and wholesome society, and to retard the bad; and whether I may be accredited with the title of a statesman, that at least has always been my effort and is my excuse for this discussion of the most potent evil of our society.

SHOULD INAUGURAL CEREMONIES BE CHARGED TO THE STATE?

I have been approached by numerous persons to lend my support to an appropriation to pay the expenses of the inauguration of our successors. I have steadfastly refused.

Finally, it was proposed that the Legislature should make an appropriation of \$500.00 to decorate the Capitol. I refused that; and, for fear that some Bill will be introduced, I make these observations:

I know that precedents have been established for such purposes, but not justifiable, at any time. A Bill was even introduced just before I was inaugurated to appropriate \$3,000.00 for my inaugural, and I sent word to the organized forces of both Houses that I should veto the Bill, if it did not pass before I went into office; and, if it passed before I went into office, I would not permit the expenditure of money for that purpose.

The urging of the expenditure of \$500.00, or even \$50.00, to decorate the Capitol, at State expense, is inexcusable, and should not be done. There is no more difference paying out money to decorate the Capitol than there would be to decorate the cars in the parade, or to buy talcum powders for "The Merry Wives of Windsor" who may infest the Capitol at the Ceremonials.

The inaugurations of C. N. Haskell, Robert L. Williams and Wm. H. Murray were not at State expense, and that did not subtract from the service of either to the State, nor did those inaugurals at the expense of the State add to their service to the State. The fact that John Quincy Adams took the oath, with grandiloquence and gusto, drawn by "coach and six," did not make him any better President; nor did the fact that Jefferson, without such display, riding his own horse, hitching him at the post, and walking in and taking the oath, detract one whit from his great service to the country and to the world.

Of course there are some men, I realize, who ought to have a great display in their inaugurations, for such inaugurations would be the most eventful thing in their administration, and they are in great need of such a magnificent start. They also must add all of the frills, bibs and bustles, and decorated Don Quixotes and Lords Fauntleroy's and Pompadours, with a touch of Shakespeare, having in the receiving line the "Merry Wives of Windsors"; and to add further, with a Shakespearean touch, they must be trained to understand that other play of his, "She Stoops To Conquer." Nor overlook that strident Pompous Ponderosity, that the ignorant mistake for brains.

All of which reminds me of a friend of mine who died an atheist. On his death-bed, he requested that I deliver the final oration. He was a noted lawyer and an able man. His

widow wired to his brother, a sturdy old farmer, uneducated, but very devout in religion. When all had gathered, ready, at the graveyard, the visiting brother from a distant State asked my friend's widow: "Where is the preacher?" She replied: "The Judge did not want a preacher; Mr. Murray will deliver the address." Whereupon, the old farmer took me to one side, and said: "Are you going to deliver an address over my dead brother?" I replied: "Yes". He said: "I wish you would make it strong; he shore needs it." And just as in the case of these Governors above spoken of,—a display of this kind is very appropriate, for they need it; but it ought not to be at State expense, for usually, the State has to pay enough on them before they "get over."

I trust the policy has been established definitely and for good against paying out money for inaugural "shows"; and I urge your Legislature not to "fall" for the ballyhoo that is for the purpose of decorating the Capitol. For ask yourself: "What if I had told the people I'd cast such a vote."

EXEMPTION OF HOMESTEADS FROM TAXATION

There has been filed with the Secretary of State a proposed amendment to the Constitution authorizing the Legislature to provide for exemption of Homesteads from Taxation.

Exemptions of any property from taxation is fundamentally unsound and undesirable, because any exemptions, except on the person, makes the dodging of taxes (the greatest evil in tax laws) possible and easier; and it is more objectionable when left to the Legislature or any group of individuals. Such exemptions should be fixed and certain.

All exemptions from taxation and the amount of the exemption should be specifically written into a constitutional provision, and not left to the caprice of politics and political movements.

I would therefore recommend the writing of a provision to carry that principle out in a proposed amendment. To leave uncertain what the exemption should be and the amount and the class of property would result oftentimes in the defeat of the exemption; because it would be a Legislative Act, which must be strictly construed; while, if the exemption be a constitutional provision, the Constitution must be liberally construed in favor of the right.

Moreover, the cause of the loss of homesteads does not rise out of taxes so much as subjecting them to attachment,

or execution, and the mortgaging of the homestead; and undoubtedly the homestead should be exempted from mortgage, attachment, or execution; and, if you will use the wording of the Texas Constitution on these points, and our Courts will "follow the Texas Courts in the construction," the ingenuity of man cannot defeat the exemption.

The only wrong in the Texas provision is too much property is exempt, which is 200 acres, together with all improvements thereon.

My suggestion is that the Constitutional provision should read something like this:

"There is hereby exempt from taxation, execution, or attachment, the homesteads of the people; nor shall they be mortgaged except for purchase money." (Then quote the language of the Texas Constitution); and continue as follows:

The homestead shall consist of _____ acres of land, if in the country (say 40 acres); and, if in the city _____ square feet, (say 10,000 square feet), together with all improvements thereon, provided houses and buildings do not exceed in value \$1500.00; and, in the event there are houses or buildings, or both, on such homestead, in excess of \$1500.00 in value, the same may be sold and removed by the purchaser of such improvements; but \$1500.00 of the purchase money shall be paid to the homesteader, that he may construct a home not to exceed such value.

The foregoing is merely a tentative statement in order to give the viewpoint here recommended.

I find in the Press statements, promoted by certain gentlemen, that the Constitution does not need amending to give the power to the Legislature. They base that upon a clause contained in Section 22 of Article 10 of the Constitution, which authorizes the Legislature to make "classification of property for purposes of taxation."

Their contention is that you may thus "classify" and leave out for taxation; but observe the language just quoted: The Constitution provides for "classification FOR PURPOSES OF TAXATION." It does not say "for the purpose of EXEMPTION FOR TAXATION." Language could not be plainer. Moreover, we should read all clauses of the Constitution together to get its intent and meaning. Therefore, let us look at Section 5, and we will find in the last paragraph the following:

"Taxes shall be uniform upon the same class of subjects."

Then let us turn to Section 50 of Article 5 of the Constitution, and we find the following language:

"Section 50. The Legislature shall pass no law exempting any property within this State from taxation except as otherwise provided in this Constitution."

Reading the foregoing section in connection with Article 10, Section 6 of the Constitution, you will find just such property as is "otherwise provided" for exemption.

The property named in said Section 6 of Article 10 is the only property that can be exempted by the Legislature, or otherwise except through an amendment of the Constitution.

At any rate, and whatever form of amendment is submitted to the people, you should not fail to write it specifically into the Constitution, for the initiated provision filed in the Secretary of State's Department is fundamentally, from many viewpoints, faulty, and should not be ratified by the people; and, therefore, the Legislature should submit a substituted provision.

SUPREME COURT NULLIFYING LEGISLATIVE POWER

You are more or less acquainted with a recent decision of the Supreme Court, holding that the salaries of the Judges and of all officers where the salary is fixed by law could not be reduced by the Legislature during the term for which they were elected or appointed.

So far, the Supreme Court's decision was sound; but the Court should have overruled itself where it once ruled its salaries could be raised; but further ruled that it was not necessary to make an appropriation to pay these classes of salaries, which nullifies an important constitutional provision, providing that "no money shall ever be paid out of the Treasury of the State, nor any of its funds * * * except in pursuance of an appropriation * * *." I quote the entire section, which is as follows:

"Article 5. Sec. 55. No money shall ever be paid out of the treasury of this State, nor any of its funds, nor any of the funds under its management, except in pursuance of an appropriation by law, nor unless such payments be made within two and one-half years after the passage of such appropriation act, and every such law making a new appropriation, or continuing or reviving an appropriation shall distinctly specify the sum appropriated and

the object to which it is to be applied, and it shall not be sufficient for such law to refer to any other law to fix such sum."

No plainer language could be written into a Constitution than that contained in the foregoing section; but the decision nullifies that section of the Constitution by quoting a Maryland decision, whose State Constitution does not contain that provision. The court could with the same logic assess and collect taxes to pay these salaries.

Heretofore, it has been held, and assumed, and believed, as an established truth that the Legislative Branch, to the exclusion of the Judicial and Executive Branches, has complete control over levying revenue and taxes, and providing for the expenditure of money; that, without an appropriation, no expenditure can be had unless the same is authorized by a general law like that providing for a per cent of the money collected, given to the Tax Commission. There is no general law, or special law that authorizes anybody to spend money from the Treasury of this State in payment of these salaries, without an appropriation provided therefor.

It is my hope yet that this clause shall not be destroyed by the IPSE DIXIT of a self-serving judiciary, but that some way, some how, some time, we shall have a Supreme Court that will uphold all provisions of the Constitution.

When the Legislature, in 1933, reduced these salaries, nearly every person, including some members of the Supreme Court, came before the Appropriation Committee and agreed to the reductions. Acting upon these statements, the Legislature believed that the appropriation would be accepted.

In 1932, at the State Bar Association, the then Chief Justice of the Supreme Court, departing from the ethics of the Bench, began to lay out a policy of State Government, and, among other things, said: "Salaries should be reduced and expenses cut to the bone"; and that was hurled all over the State; but, when they were "cut to the bone", the same Judge connived to secure the appointment of a Special Court, while I was in Washington City, endeavoring to aid the State in certain public matters, and this Special Court made the ruling at the suit of this same Judge. This conduct and connivance is contemptible in the extreme, inexcusable, and unpardonable on the part of a righteous citizenship.

If there had been any discrimination, there had been some reason, but the same per cent was used against all, beginning with the Governor, by cutting off \$1500.00 a year of his salary. All had their remedy, because they could have gone into

Court and sued for their salaries; and, if judgment were obtained, this Legislature would be under duty bound to make an appropriation, because it was upheld by the Supreme Court of the United States in the suit of Young Custis for General Lee's home that a citizen could sue the Government without the Government's permission, when the governing authority was pursuing a course directly in conflict with the words of the Constitution; and, hence the decision nullifying the clause requiring "an appropriation by the Legislature" was unnecessary to have been made by these PISALLERS of the Supreme Court.

WHAT I SAW AND WAS

When I retrace the steps of the past forty years of experience in Oklahoma, coming to the Chickasaw Nation when the Indian Territory had but 275,000 people, and Oklahoma Territory less; and watched it grow to a population of approximately 2,700,000; when, at the beginning of Government in the east half of the State, consisting only of the Five Civilized Tribes of Indians, with complete control over themselves, and no government for the white man except the Federal Courts, many of them arbitrary, harsh, and cruel; the citizens' rights not always respected; when it would have been intolerable to have lived as a white man in the Indian country because of the rule of these Federal Courts, had it not been the people made up the juries.

When I remember these Indian Tribes were faced with the proposition of settling their estates and preparing to enter into State Government; my own effort to assist and get for them the best possible security by aiding in the framing and in the adoption by the Indians, Treaties looking towards Statehood;

When I look back over that scene and remember that forty years ago there were neither millionaires nor paupers in the whole of the Indian Territory; that you could travel from Duncan to the Arkansas line; never miss a meal nor a horse feed, nor experience any inconvenience in loss of time except you would need to tell your host the news in the communities through which you had traveled,—all were neighbors and friends, with now and then a refugee criminal from some other State;

When I remember the Sequoyah Constitutional Convention of which I was one of the Vice Presidents, in 1905,

through the authority of the Indians, and their honest white neighbors, to give them some schooling and knowledge of the competition they must needs meet in their changed political status;

When I recall the Constitutional Convention that followed which honored me as its President, and the Constitution constructed by the Convention that has met all of the sundry divergent interests of the State,—strong enough to stand up against all anarchy and storm, preserving at all times stability and orderly society;

When I recall the numerous contests since the ratification of the Constitution; my service in Congress wherein a certain justice due to the Tribes I was enabled to assist;

When I recall the bitter campaign of 1930; slandered by all the daily papers; lied about in the campaign, with not even my family exempt;

When I recall the continuation of that abuse for four long years, my constant effort to use the power of the office of Governor to prevent abuses and frauds, and to protect the weak against the strong, met on every side by other elective hostile officers, including the Supreme Court in an attempt to hamper and to thwart every effort I undertook in the interest of public justice; but I call attention to that with that exercise of Supreme Executive and Military Power I have never once used it to oppress the citizen; never once used it to oppress labor, although experiencing three strikes in the coal mines, but always to protect the interests and liberty of the citizens and to secure public justice;

When I recall, in the first month of my administration the liberating of more than one hundred and fifty men from the jails, charged with the crime of having no money or no jobs;

When I recall the expenditure for Government in this State to such a cost greater than the worth of the Government;

When I recall my constant effort to reduce expenditures and taxes, resulting in 1933 of an actual accomplishment in such expenditure and reduction of taxes throughout the State of approximately fifty percent; when one railroad in the State was saved \$400,000.00 a year in taxes, although it was the highest valued road in the State, and all other tax-payers in like proportion;

When I recall the effort of a selfish corporation to extract from the State \$1,000,000.00 for a supposed perpetual fran-

chise on a bridge at Denison, Texas; of my opening of the State Bridge against an arbitrary injunction of an inferior Federal Court, and, ultimately, through my own attorney, being sustained in the Supreme Court of the United States, wiping out \$165,000 judgments erroneously, selfishly levied against this State;

When I recall that oil went down to 20 cents a barrel in Oklahoma and 6 cents a barrel in Texas, caused by a three-judge Federal Court tying up the Corporation Commission, and my taking charge with a Military Order and bringing oil to \$1.00 a barrel;

When I recall the creation of the Oklahoma Tax Commission and the re-writing of the Code of Laws for the collection of taxes, that prevented the escape from paying the tax due the State, and the collection under this code of nearly \$2,000,000.00 and more of taxes that had been dodged for years, but met in all of these transactions by continuous, unrelenting opposition of other public officials, including the Courts, backed, ballyhooed by the Metropolitan Press;

It almost causes me to exclaim: "Is it any use?" "Is it worth while to serve the public?"

We at once wonder the reason for that Divine economy that causes the sincere man to fight to serve the people and then be required to double his fight to carry out his promise.

When I review all of these forty years with painful experiences in the development of great educational institutions; with the system of law under which business of every kind has prospered, and labor tolerably protected; the citizen's life and liberty made secure; and review my own experiences through this period, I am reminded of the story in Vergil when he recounts the return of Aeneas from the Siege of Troy, to Carthage in search of homes for his followers. He, the old experienced statesman and constructive force of Carthage, met Queen Dido, who sought his story of the great achievements in the past in the little, miniature city Republic, of Carthage; and, after relating to Queen Dido the story, with a swing of his arm, he exclaimed:

"Queaque ipso miserrima vidi et quorum pars magna fui," meaning,

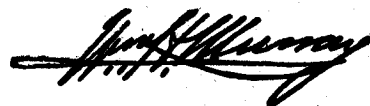
"All I saw and a part of which I was."

As truly as Aeneas said to Queen Dido, I can say to you gentlemen, of the past forty years of Oklahoma: "ALL THAT I SAW AND PART OF WHICH I WAS."

This and much more,—You have seen during the past four years the credit of the State restored, and all State and County Warrants, for more than three and a half years, at par; there has been no serious mob violence, and no one lynched; public justice has been maintained, and the laws tolerably enforced; the poor, needy, and indigent have been cared for, and the Governor has not been impeached.

The Office of Governor, at all times, has been where the Constitution placed it,—in the State Capitol,—and all knew where to locate it; and no one has ever doubted who was—

THE Governor

A handwritten signature in dark ink, appearing to read "J. B. Murray". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

The Hills of Albemarle

By LUTHER HARRISON

Speech Delivered at Medicine Park Before the
League of Young Democrats of Oklahoma,
August 31, 1929

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*"Nor did he loathe the sire to laud the son,
But ended the tyrant hater he begun."*



LUTHER HARRISON

Ladies and Gentlemen:

We democrats tonight enjoy our usual love feast between biennial throat-cuttings. We are far enough removed from past disasters and future differences to discuss the state of the party with comparative safety. Whatever the past has done to us and whatever the future promises for us, it is safe tonight at least for us to meet around the festal board and sing the glories of American democracy.

As I pause in this presence tonight I somehow feel the inspiration that comes from a contemplation of democracy as it was in the days of its prime. A little while ago I climbed a mountain peak amid the hills of Albemarle and rested for an hour at the tomb wherein repose the ashes of the world's greatest friend of freedom. From the shaded sod that covers the pulseless form of Jefferson there came to me a vibrant whisper which bore me back to the formative days of the republic—days when the charter of our liberties was being written—days when the Sage of Monticello was teaching the sons of freedom that to be an American was greater than to be a king.

From that spot forever sacred to all who bear the democratic name one can look out beyond the hills of Albemarle where lived at one time in a single state the greatest array of statesmanship the world has seen since Peloponnesian flutes sounded the doom of Athens. Hard by the grave of Jefferson is the grave of Dabney Carr, who took the first concrete step toward the foundation of the union when he wrote his resolution providing for a "committee on correspondence." Not far away is the old home of the democrat who proclaimed the Monroe Doctrine and thereby delivered a hemisphere from the fear of European domination. Farther still is the home and grave of Madison, "father of the constitution," and engineer of our second war for independence.

Yonder in Louisa county is the old courthouse where Patrick Henry, the forest born Demosthenes first defied an arbitrary power. To the eastward in the churchyard of Old St. John's is the grave of George Wythe, first teacher of law in America, and who signed a declaration of independence written by his own pupil. Nor shall we forget the grave of Richard Henry Lee, the Cicero of the Revolution. And as we journey onward in imagina-

tion to Potomac's banks we stand at last at the tomb of the father of his country and renew our fidelity and faith on the hillside where Washington sleeps in eternal peace.

No one can stand in Albemarle and forget the name of Mason, less known than many a mediocrity despite the Virginia bill of rights which came white hot from his inspired pen. Of all the men who have travailed that Americans might be free none save Jefferson has rendered sublimer service than George Mason of Gundston Hall.

As I stood on the holy ground of that sacred mountain summit I was supremely proud that I was born and have always lived a democrat. I was proud also that I am an Oklahoman. For the solemn silences that surrounded me and the sacred memories that inspired me could not bring forgetfulness of the truth that it was Thomas Jefferson, founder of our party and paladin of our faith, who purchased Louisiana from the first Napoleon and made the very soil on which we meet tonight the dowry of the American union.

Nor did I for very long forget the contribution of Oklahoma democracy to the cause of Jeffersonian principles and the glory of a virgin commonwealth. Insistent memory drives me to remind you of things so many are prone to forget. When statehood came to our territories it found the party of the people prepared to do battle for the people. It saw giants of our faith write the most liberal of all the American constitutions. Statehood found our prisoners rotting in the mines of Kansas: democracy brought those friendless men to Oklahoma and provided for them one of the greatest of American penitentiaries. It found Oklahoma University with 400 students instead of the 5,000 enrolled last year. It found the Oklahoma A. & M. College a struggling academy: it made it the mighty institution it is today. It doubled the number of teachers' colleges and enrolled 10,000 students in those colleges to take the place of a few hundred pioneers.

We found the orphan, the deaf, and the blind, forgotten by republican administration and left without a hope, a home, or a friend. We heard the call of mercy, and at Pryor and Sulphur and Muskogee we maintain today homes for the unfortunate equal to any in our country. We found the girlhood of broken homesteads walking the streets in want or knocking at the door of brothels. We have established and we maintain at Tecumseh a harbor for these unfortunate waifs of life, where character may be builded,

where souls may be saved from wreckage, and where the promise of home and bairns and motherhood is always open to what the brothel otherwise would have received.

We found the helpless pickaninny—child of our old southern mammy—neglected by the hand of government, forgotten by the country that gave him birth. We maintain for him a home at Taft, wherein he may develop a faith in humanity and learn of Him who said, "Suffer little children to come unto Me." We found the bent and broken bodies of those who had borne the burden of embattled sections. We opened on the hills at Ardmore a home for those who followed Stonewall Jackson into a thousand infernos and added luster to the stainless laurels of Robert Lee. Moreover, we were not weary in well doing, but maintain today at our state capital a refuge for those who marched with Grant from the Rapidan to Richmond and followed Sherman from Dalton to the sea.

These, my friends, are the jewels of democracy. Like the melodies of an archangel's trumpet they call us to a greater faith and a grander harmony—they call us to renewed efforts to keep the torch of democracy lighted—they call us to face the future, united, harmonious, and unafraid.

The days of our party's supreme achievement in Oklahoma were the days of party unity. When our ranks were closed we never lost a battle. We marched to continued triumph under Haskell, under Cruce, under Williams, under Robertson, under Ferris, under Owen, and under Gore. Not until we forgot the common enemy and undertook to destroy our own brethren did the black pennon of disaster hover above our democratic lines.

Far be it from me to criticise any who in days of trial may have forsaken democratic paths. I am too much of a Jeffersonian to deny to any freeman the right to cast the ballot of his choice. In a land where men have died to establish liberty of conscience, in the land where Jefferson fought for freedom and where his soul stands guard at the temple gates, there can be no criticism of the citizen who places his conscience behind his ballot and votes for some other party than his own. I never have criticised those who have deserted us and I never shall.

But without criticising any independent soul, we may with courtesy inquire of those who quit the ranks in the day of trial what they have

profited by their course. Is there anything in the six year record of Senator Harreld to stir the pride of the democrat who deserted his legitimate party nominee and cast his ballot against Scott Ferris?

Have the democrats who supported Senator Pine (however conscientious their ballot was) forgotten the regret he expressed at the Lincoln Day banquet—even before he had served a year—that the rules of the civil service made it impossible to fire Washington janitors who revere the name of Woodrow Wilson.

The present administration is in its formative days and we cannot as yet forecast the good or evil of the Hoover regime. We can understand how party ties lay lightly when a champion entered the lists who as late as 1918 hardly knew his own party affiliation. Entering the World War period a comparative stranger to the American people he profited mightily from the fame he won in dispensing charity amid the flames of war. It was easy enough for a man with such a record, both as an administrator and as an independent, to appeal to men and women of the democratic faith.

But what is the profit of it all? We are informed by reliable authority that Oklahoma's part of the tariff tribute to be wrung from the people by the Hawley bill will approximate \$14,000,000 annually, or quite \$5.00 for every soul beneath Oklahoma skies.

Instead of the speedy solution of the prohibition problem, promised during the campaign days, we have a committee of experts with two years time to ascertain whether or not a prohibition problem actually exists.

To all southern democrats and many northern democrats no principle is more sacred than the complete social segregation of the races. Yet that sacred principle was prostituted within ninety days of the inauguration by the admission into White House society of a negro woman from gang ridden Chicago.

Let none who have borne the battle and kept the faith inviolate be overmuch discouraged by the charge of nullification so ardently pressed against us. Nullification is not the suspension or violation of one constitutional principle only. It is not reserved in its entirety to the eighteenth amendment. It may assert itself in the suspension of jury trial, the abroga-

tion of habeas corpus, the incarceration of citizens for failure to pay alimony, or the denial of public office to an American citizen because of his religious conviction. Or it might possibly manifest itself in the election to the presidency of a man who has not resided "within the United States" the number of years specified by the constitution.

Today I have heard happy predictions of party victory in 1930. May I say that I am less interested in winning than I am in deserving to win. We cannot win—we do not deserve to win—unless victory means better government along the lines of Jefferson's creed of service and liberty. In order to win we must present a ticket of law-loving, law-abiding, God-fearing nominees. We must present a progressive platform of specific promises. We must convince the people of our ability and determination to complete Oklahoma's highway system. We must present a definite and effective plan for keeping every grammar school open nine months each year. But we can have no hope for winning if we have on our ticket a single man who would be willing to take advantage of his official position to place a personal mistress on the payroll of the state.

In principle and deep conviction the people of Oklahoma are democratic by 100,000 majority. If we nominate a ticket and present a program which satisfy those principles and convictions, we shall win by 100,000 majority, for then the very stars in their courses will fight for democracy. But if we fail to keep faith with the people and with our historic principles, we shall be defeated and we shall deserve defeat.

—(Finis)—

ISAAC C. PARKER

President's Address Read by
HARRY P. DAILY
at the Thirty-fifth Annual Meeting of the
Bar Association of Arkansas.

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7

ISAAC C. PARKER

"One of the Greatest American Trial Judges!"

The words which I have just read are not my words. They were not lightly spoken. They will be found in Volume I, page 69, note 25, of the famous Sixteenth Edition of *Greenleaf on Evidence*. They represent the calm, deliberate judgment and commentary of John Henry Wigmore, then Professor of Law at Northwestern University Law School, and editor of the above edition.

Isaac C. Parker was born in 1838, in Belmont County, Ohio. In 1859 he began the practice of law in St. Joseph, Missouri, and became city attorney in the following year. He held this position until he was elected prosecuting attorney for Buchanan County, and upon his retirement from that office became circuit judge for the Twelfth Judicial Circuit of Missouri, serving two years. Thereafter he was elected to Congress twice, his second term expiring in 1875. He was a Democrat in his early manhood, and was president of the first Stephen A. Douglas Club organized in Missouri. With the outbreak of the Civil War he joined the Republican party and was one of the presidential electors for Missouri who cast that state's vote for Lincoln in 1864.

This, in brief, was the professional and public life of Parker down to his appointment as judge of the most unique tribunal which has ever functioned in these United States.

In 1875 President Grant appointed Parker Chief Justice of the newly created Territory of Utah. Before the Senate could act on the appointment Grant withdrew it, and appointed Parker United States District Judge for the Western District of Arkansas. This second appointment was promptly confirmed.

The appointment was unusual. Parker, at the time, was a citizen of Missouri, and had just completed his second term as congressman from that state. The times were unusual. Arkansas was passing through the throes of reconstruction. It had witnessed, only a short time before, the split in the Republican ranks in the state which resulted in the so-called Brooks-Baxter War. It was doubtless this factional split in the Republican party which led President Grant to select a man from without the state, not identified with either wing.

No man ever came to judicial office under more trying or unfortunate circumstances. A triumphant and righteously indignant Democracy had

secured control of the state government, which had been denied to it by force of arms through a period of years. The term "carpet-bagger" was anathema in the ears and hearts of the majority of the white inhabitants of the district. The fact that Parker had been selected from without the state, coupled with the fact that he had received the endorsement of the Senators from Arkansas, both of whom were "radical" Republicans, and the further fact that his predecessor had been forced to resign, was enough to make thinking men pause and wonder if another mere "carpet-bagger" had been foisted upon them.

Parker's predecessor had been a weak, vacillating judge. There had been much criticism of his regime and of the wasteful and inefficient methods of his court. Prisoners languished in jail, trials were few and far between, and the expense of the court, and incident thereto, was terrific. It is a matter of tradition, perhaps of record, that the bar was either sullen or openly rebellious.

It was under these unpropitious circumstances that this young lawyer, barely thirty-seven years old, assumed the duties of judge of a trial court with the most extraordinary jurisdiction which this country has ever known.

This was the immediate background. We must go further back than this, however, if we are to appreciate and appraise the career of this man and the functions which he was called upon to perform.

A conflict had arisen in the early history of the nation between certain of the southeastern states and those five tribes of Indians which, collectively, came to be known as the Five Civilized Tribes—Creeks, Cherokees, Choctaws, Chickasaws, and Seminoles. These Indians had built up a semi-civilization which was of as high an order as that of the whites with whom they came in immediate contact. By treaty, chicanery, and coercion, these Indian tribes were persuaded, or forced, to remove from their homes in Georgia, Tennessee, the Carolinas and Florida, and to trek to that land beyond the Mississippi which lay just west of the western border of Arkansas. Here they set up anew their homes and their tribal governments, in a section which was destined to become known, first, as the Indian country, and finally as the Indian Territory. This movement was completed in the thirties. From that time until the outbreak of the Civil War these Indians went their own way, bothering no one, and largely undisturbed in working out their own peculiar problems. There were garrisons of soldiers on the outskirts of the region at Fort Smith, Fort Towson, and elsewhere. There may have been grandiose schemes of individuals in connection with these Indians, and some threats and rumors of wars among the civilized tribes, and with the more savage Indians to the west, but, by and large, it was a peaceful region.

The great conflict drew these people into the maelstrom. The Creeks

sided with the Union, freed their negro slaves, and accepted a perfect equality with them, resulting in a racial admixture with very evil propensities. Most of these halfbreeds seemed to inherit all of the vices of both races and none of the virtues of either. The Choctaws embraced the side of the South, and raised a regiment or two of soldiers. Chief Ross, of the Cherokees, attempted to preserve neutrality, and he carried on diplomatic correspondence with both sides. His efforts were only partially successful. The young Cherokee bucks would not be restrained, and for years following the end of the war there was a Ross faction and a Ridge faction. This resulted in at least one notable trial in Parker's court. At the close of the war all of the five civilized tribes again became wards of the nation, but the peace and quietude of their territory had been disturbed.

The states which bordered on this region were the scene of much fighting and reprisals of a guerilla nature. Some of those engaged on both sides of this irregular warfare were mere pillagers and robbers. With the close of hostilities the worst of these, as well as some who were merely adventurers, sought refuge or habitation with the Indians. This was the beginning of that movement which brought about the conditions that produced the great court.

A few years after the close of the war, the cattle trail from Texas up to the new railroad towns in Kansas was crossing the western edge of the Indian country. The movement was epic. It has been celebrated in song and story, but it produced, along with its glory and its glamour, a fringe of parasites—cattle rustler, bad man, murderer. These, in turn, sought refuge in the Indian country to the east.

Then came the railroads across the Territory itself. With them came another influx of whites, some good, some very bad, all a possible source of conflict with the Indians, to whom the country belonged.

The Indians had their own tribal customs, laws, and courts. The customs and laws had no binding force upon the whites, and the Indian courts had no jurisdiction over them. It was a condition which grew more and more aggravated and fed upon itself. The knowledge spread that here was a sanctuary for the lawless whites, a place where the red man's law was inoperative as to the whites, and a place where the white man's law was not enforced—a sort of no man's land.

The freedmen, or former slaves, added to the problem. For a number of years these various races—red, black, white, and mixed—were coming into constant contact with no law actually functioning in case of disputes, except the law of the tooth and the talon. Mixed and mingled in this mass was a very large proportion of what Parker was ultimately to term "criminal intruders."

Years before Parker's appointment the Congress had provided that the

Western District of Arkansas should include, in addition to designated counties in Arkansas, "the country lying west of Missouri and Arkansas known as the Indian Territory." (Sec. 533, Revised Statutes.) The Congress had also conferred upon the District Court for the Western District of Arkansas the jurisdiction elsewhere exercised by the circuit courts. (Sec. 571, Revised Statutes.) Other federal statutes provided, in substance, that the general laws of the United States providing for the punishment of crimes committed in any place within the sole and exclusive jurisdiction of the United States should extend to the Indian country, provided that same should not be construed to extend to crimes committed by one Indian against the person or property of another Indian. (Revised Statutes, 2145, 2146. Also *ex-parte Mayfield*, 141 U. S., 107, and *Lucas vs. United States*, 163 U. S., 612.)

A mere reading of the above does not quite convey the significance of these statutes. This federal district court, with federal jurisdiction over approximately one-half of the State of Arkansas, exercised over that half of Arkansas the same jurisdiction ordinarily exercised by federal district and circuit courts throughout the nation. It was a strictly limited jurisdiction. Cases which arose under it, in those days, were comparatively few in number, and the criminal cases were of minor importance. But over that wide expanse of territory which extended from the western boundary of Arkansas to the shadow of the Rocky Mountains, this court exercised in criminal cases all of the jurisdiction ordinarily possessed by all the courts of a state, except where the crime had been committed by an Indian against the person or property of another Indian. Here was a territory greater in extent than the entire area of the State of Arkansas, over which a single court, presided over by a single judge, was to exercise all of the jurisdiction over crimes which is now exercised by the seventy-five, or more, district courts of the State of Oklahoma. This was not all; by a peculiar quirk of the federal law the judgments of this court in these cases were final.* During the first fourteen years of Parker's reign there was no appeal from a judgment of conviction in his court. This was true even in capital cases. When once Parker had pronounced the sentence of death upon a convicted murderer or ravisher, there was no hope for the condemned man, unless the President of the United States granted executive clemency. One is reminded of that famous argument between the Judge and the Bishop. The Bishop asserted that his power was the greater because, while the Judge could merely say, "You be hanged", the Bishop could say, "You be damned." The Judge's retort, "Yes, but when I say 'You be hanged' you are hanged", has lost much of its force in this country in modern times. When Parker said that a man should hang, usually he was hanged.

**Cross vs. United States*, 145 U. S., 571; *United States vs. Sanges*, 144 U. S., 310; *Yarbrough vs. United States*, 110 U. S., 651; *ex-parte Kearney*, 7 Wheaton, 38-42.

Parker assumed the duties of judge of this unusual court on the 10th day of May, 1875, and for more than twenty-one years he continued to preside over its daily sessions. When he commenced his Gargantuan task he was barely thirty-seven years old. He died in the full vigor of manhood at the age of fifty-eight. Naturally, the twenty-one years spent in the arduous tasks of such a tribunal made its impression and mark upon the man, and upon the judge. Yet, from a few things which have come down to us from the early years of his service, we know that always here was a man. We have seen that the community and the bar were naturally critical at the time of his appointment. Before the end of a year the editor of a Democratic newspaper had commented upon the great change which had come over this court since an industrious, upright and courageous judge had taken charge. From that day until the day of his death the respect and admiration of the community in which he lived grew until it amounted almost to veneration.

Parker seemed to realize, from the very first, that justice delayed is justice denied. He recognized, as few judges have ever recognized, that just as the Sixth Amendment to the Constitution of the United States guarantees to the innocent accused "the right to a speedy and public trial by an impartial jury," so common sense dictates that the guilty accused should be subjected to the same character of speedy trial.

At the beginning of his service there were but two terms of court, the May and the November terms. One term merged into the other with no apparent break. The court was never at recess until all business had been disposed of. Court opened at eight in the morning and closed when dark came. The only recognized holidays were Christmas and Sundays. In no other manner could Parker have disposed of the tremendous volume of cases which was constantly pressing upon him. The law's delays were simply non-existent in his court.

The conditions which first confronted him doubtless seemed exceptional at the time. It was necessary to dispose of the cases which had accumulated during the effortless years which preceded his appointment. As term succeeded term, however, it became increasingly evident that his was an endless task that grew, instead of diminishing, with the years. This was partly due to a constantly increasing influx of whites into the territory, but the major reason was the very effectiveness of the court, itself, and the high example of energy, tirelessness and courage set by its judge. More and more often, the criminal was detected, arrested and brought to the bar of justice. Under his tutelage a public conscience was gradually aroused, witnesses became less timid, officers more diligent and effective, juries more prone to convict. A man with less energy than Parker would have tired and then slowed down. A man without his rugged constitution would have broken under the physical strain. A man with less courage would have been more circumspect and less effective.

Parker had all these qualities to a marked degree. There was one other thing which sustained him and held him to his task throughout the years—a very high sense of duty to those Indians, whom he felt his court had been created to protect. He knew the history of the tribes and was familiar with the events which had led to their forcible removal to the Indian Territory. He knew that before their removal they had been compelled to yield to mass aggression. Indeed, that story had been written in the early opinions of the Supreme Court of the United States. Parker was determined that in their new home they should not be cowed, intimidated, robbed, or murdered by individual ruffians. On his death bed he had this to say on that subject:*

"Don't understand that what I say about these ruffians is directed against the Indians. Twenty-one years' experience with them has taught me that they are a religiously inclined, law abiding, authority respecting people. The Indian race is not one of criminals. There have been sporadic cases of crime among them, it is true, but as a people they are good citizens."

He also said on that occasion:

"The territory was set apart for the Indians in 1828. The government at that time promised them protection. That promise has always been ignored. The only protection that has ever been afforded them is through the courts. To us who have been located on this borderland has fallen the task of acting as protectors."

These words shed light upon the judge as well as upon the man; they make plain what otherwise might be obscure. If the executive officials had been lax, the judge was determined that this should not be true of his court and its enforcement officers.

This brings into view another body of men—the two hundred deputy marshals of his court whose duty it was to find and arrest the desperate criminals who lurked in the Indian country. These deputies became a distinctive body of men. Their task was no light one. In the north of the Territory were the Boston Mountains, and to the south were the Winding Stair and the Kiamichi, while scattered between were many hills and canebrakes, which gave ready refuge to those "on scout." Game was still plentiful, and water and firewood could be found in every hollow. There was a border class of confederates who gave assistance and warning to the criminals, even though they were not active members of the gang. Fear made all timid citizens hesitant to give information or assistance. Many a wanton, unprovoked, and unpunished murder had shown that there was a real basis for that fear. As time went on it became more and more apparent that these officers solved the crimes and brought in their man. A certain esprit de corps grew up, and it is clear that this was due

**Fort Smith Elevator*, September 18, 1896.

to the fact that these officers realized that their efforts were not in vain. If they took desperate risks, at least they were rewarded by seeing that the men whom they arrested were promptly tried, with a large percentage of convictions. Nothing so destroys the morale of this class of officers as the futility of ferreting out crime, followed by its going unwhipped of justice. Sixty-five of these marshals died in desperate conflicts with outlaws while Parker was on the bench, but there was always a live comrade to take up the search and to bring the murderer to trial in Parker's court. It is a significant fact that these men, in their own minds, ceased to be mere deputy marshals. To this day the few survivors speak of themselves as "Men who rode for Parker."

Statistics are tiresome things, yet the statistics of Parker's court have been much paraded in print, and have given rise to the view among the unthinking that here, perhaps, was another bloody Jeffreys. It is true, that during the twenty years from 1875 to 1895, over thirteen thousand criminal cases were docketed in his court. Seventy per cent, or more than nine thousand of the defendants in these cases, were convicted by a jury or entered pleas of guilty. Three hundred and forty-four of those accused were tried for capital offenses. One hundred and fifty-one were convicted and sentenced to be hanged. Eighty-three of these were actually executed, while the sentences of the majority of the balance were commuted by the President, usually to life imprisonment. We have already seen the conditions which brought about this tremendous array of cases. The really striking thing about these statistics is how any one man could have disposed of this vast volume of business.

Eighty-three men whom Parker sentenced to die paid that extreme penalty, or four for every year of his judicial life. Yet Parker was not wedded to the idea that capital punishment was the proper thing. His views on that subject were expressed in the following words:

"I favor the abolition of capital punishment, provided there is a certainty of punishment, whatever that punishment may be. In the uncertainty of punishment following crime lies the weakness."

What manner of man was this, who for so many years was a veritable ogre to the vicious and criminal elements of the Territory? Was he a harsh, cruel man, who, because of his judicial contact with crime, had lost all of the finer sensibilities? Had he no milk of human kindness in him?

We can best judge by the impression which he made on his fellow townsmen at the time, and particularly the impression which he made toward the close of his career, when his reputation as an inflexible, indeed, as a "hanging," judge had spread far beyond the limits of his jurisdiction.

A lawyer now prominent at the bar, who was a young lawyer in Par-

ker's court, had this to say: "He was the kindest and most considerate judge to the young lawyer whom I have ever seen upon the bench."*

To the children of that day he was the very embodiment of that patron saint of childhood made famous by the "Night Before Christmas." White of hair and beard, with pink cheeks, and slightly rotund, he had a twinkle in his eye and a little contagious chuckle, which always made them think of Santa Claus.

Parker meticulously observed the proprieties of his judicial position with regard to politics. Yet during the last four years of his life, and while he sat upon the federal bench, he held an office given to him by the voters of the little city in which he lived. There was no politics in this. The community was overwhelmingly Democratic, still Parker, a Republican, was twice nominated, and twice elected without opposition, to the school board of the City of Fort Smith. The tribute was to the man and not to the position he held. It was a recognition not only of his sterling qualities, but also of his affectionate interest in the children of the town.

A St. Louis reporter, who came to interview him and to write his story, took away this verdict of his fellow townsmen: "He is a good man." Everything they had to say about him, boiled down to that.

The truth is that Parker was stern and inflexible on the bench, because he was convinced that in that way, and in that way alone, could crimes of violence be stamped out. He did not lack sympathy. He simply refused to waste it on the murderer. Instead, his heart went out to the family of the victim.

He was a companionable man. The merchants up and down the main street knew him, and he was interested in their business and in the gossip of the day of the small border town. He liked people and they liked him. The cases which came to his court were so largely from the Indian Territory that he felt that the proprieties did not require him to live aloof. On the contrary, he led a social life in a simple fashion. He loved to visit his neighbors, to have them visit him, and to attend the civic and social functions of the town.

In 1889, and again in 1891, the Congress passed Acts which had a profound effect on Parker's court. The first of these Acts is cited as the Act of Feb. 6th, 1889; 25 Statutes at Large, 655. Section six of this Act authorized the granting of a writ of error to the Supreme Court of the United States in all criminal cases tried before any United States trial court, where there had been a conviction carrying a death sentence. The language used in the Act was general. It was universally recognized, however, that the primary purpose of this Act was to provide an opportunity for a review of the numerous capital cases being tried in Parker's court.

*Henry L. Fitzhugh, a member of the Fort Smith bar.

This Act was followed by the Act of March 3rd, 1891; 26 Statutes at Large, 826. Section Five of this second Act authorized a direct review by the Supreme Court of the United States in all cases tried in the district or circuit courts of the United States where there had been a conviction for a capital, or otherwise infamous, crime. These two Acts made it possible, for the first time, to secure a review of that vast number of homicide cases, and cases involving other crimes of violence tried in Parker's court.

Notwithstanding these Acts, his court continued to be unique in its vast territorial jurisdiction,* and unique because of its jurisdiction to try what, for a better term, might be called "State" crimes, as opposed to "Federal" crimes. As a result of the two Acts mentioned, we find the Supreme Court of the United States, during a period of five years, writing opinions upon a great number of questions of criminal law which never before, and never afterward, did or could reach that court. Except for those opinions, the picture of Parker's court and the conditions with which he dealt, would largely have come down to us through word of mouth.

On February 2nd, 1891, the Supreme Court of the United States handed down the first two opinions in cases reaching it from Parker's court under the Act of 1889. Both of these were murder cases. They are reported as *Alexander vs. United States*, 138 U. S., 353, and *Crampton vs. United States*, 138 U. S., 361. In one case the judgment was reversed, and in the other case the judgment was affirmed. The defendant in each case was represented in that court by Augustus H. Garland, former Governor and Senator from the State of Arkansas, and former Attorney General of the United States in Cleveland's cabinet. The government was represented by Solicitor General Taft, afterward Judge of the Court of Appeals for the Sixth Circuit, President of the United States, and Chief Justice of the Supreme Court. Certainly, both the defendants and the government were ably represented.

During this period of five years, fifty written opinions were delivered by the Supreme Court of the United States in criminal cases which had been appealed from Parker's court. In all of these cases the defendant had been convicted of a crime committed in the Indian country. Only one of these cases involved what might be termed a "Federal" crime. The defendant in one of the remaining cases had been convicted of assault with intent to kill, in another of rape, and, in the remaining forty-seven, of murder.

The bad man of the West has often been portrayed in fiction as a picturesque figure—a sort of Rob Roy or Robin Hood. Even Theodore Roosevelt, who saw deeper than this, has written that the environment of the western bandit was such that he was not as degenerate as the modern

*The territorial jurisdiction was reduced by the Act of January 6th, 1883. (22 Statutes at Large, 400.)

city gangster.* Neither of these thoughts is borne out by a scrutiny of these cases appealed from Parker's court. In a few instances the homicide was the result of a quarrel or of an enmity more or less justified, and the accused was an ordinary citizen led astray by grievances, real or fancied. But in the great majority of instances the murderer was the member of a gang, and robbery or larceny was his motive, and apparently murder was his sport. The real truth is that gang murder is always sordid, and the characters involved depraved. There is little to choose between the thugs of India, the Apaches of Paris, the banditti of Sicily, the modern gangster and racketeer, and those desperadoes who were brought to bay in Parker's court. Wherever such gangs have been permitted to flourish, they have become a menace to life and property, and, when not controlled and stamped out, to civilization itself.

The thought has been suggested that Parker regarded his court as having been established for the protection of the innocent, unoffending Indian, and this was true. An examination of these cases shows that he held no maudlin sympathy for the criminal Indians. They received exactly the same treatment at his hands as other criminals. But he was fair, and the Indians came to know that he was fair, and acted accordingly.

One of the most notorious gangs finally brought to justice in his court was the Buck gang. It was led by a renegade Indian. Robbery was its avocation, mass rape its recreation. Its members were finally overpowered after a desperate battle with deputy marshals. Its latest victim was a white woman. It took all of the cool courage of the deputies to prevent the neighboring Creek Indians from hanging the captured men to the nearest trees. They were peculiarly wrought up because the chief offender was an Indian. That the Indians desisted from mob violence was due, in part, to the statement made to them by the marshal in charge, that Parker's court was always in session and that it functioned. The members of the Buck gang were promptly indicted, promptly convicted and sentenced to hang. The conviction was affirmed without opinion by the Supreme Court of the United States under the style of *Buck et al. vs. United States*, 163 U. S., 678. On a day fixed by Parker, all five members of the gang paid the extreme penalty from the same gallows—a sordid, gruesome story, but a more fitting sequence than that to the recent Massie episode.

Many of Parker's criminal cases were reversed after the right of appeal was given; and this fact, coupled with an intemperate outburst of his, gave rise to the impression among some that he was either unversed in criminal law, or that he had become a judicial tyrant because of his long uncontrolled power. Neither view was correct.

The outburst should be analyzed first. A defendant had been tried in

**Camp Life and the Hunting Trail.*

his court whose real name was Goldsby. Under the alias of Cherokee Bill this desperate character had become the leader of a gang of outlaws. He was finally captured and brought to trial for an unprovoked and wanton murder, which he and a companion in crime, Verdigris Kid, had committed while engaged in the daylight robbery of a store. This man was a fiend incarnate. He described himself as half Indian, half negro, and half white. At the time of his sentence it developed that he was many times a murderer. After his conviction the case was taken by writ of error to the Supreme Court of the United States. Pending the appeal, Cherokee Bill was in confinement in the federal jail at Fort Smith, along with a score of other convicted murderers. In some manner unknown, he secured a pistol and a hatful of cartridges. A jail delivery was averted by the courage of one of the deputies, whom Cherokee Bill shot down in cold blood when the deputy refused to surrender the keys to the jail. A riot in the jail and a mob outside were only prevented by courage and coolness of officers and citizens. Parker was in St. Louis at the time, on one of his very rare vacations. When the news reached him, he was reported by a St. Louis newspaper to have railed at the law's delays, and to have commented adversely on the failure of the Supreme Court of the United States to expedite criminal cases in that court. His remarks on this occasion should never have been made, but they represented the natural reaction of the man to a delay which had allowed this known fiend to add one more victim to his slaughter house.

Once more Cherokee Bill was tried and convicted for murder, and, once more, he appealed. The conviction in the first case was finally affirmed by the Supreme Court of the United States, and is reported as *Goldsby, alias Cherokee Bill, vs. United States*, 160 U. S., 70. The opinion discloses a fiendish murder followed by a fair and impartial trial, in which there was no error. Parker's outburst was, indeed, not becoming his judicial position, but certainly it can be forgiven, if not justified.

Was Parker well versed in criminal law? In measuring his knowledge in the light of reversals it is necessary to bear in mind that most of the criminal cases from his court were cases of first impression in the Supreme Court of the United States. That court had hitherto dealt with but few murder cases, and, on many of the questions involved, the highest courts of the states had differed. This is aptly illustrated by the opinion in the case of *Davis vs. United States*, 160 U. S., 469, where the conflicting state authorities on the question of the burden of proof, where insanity is a defense, are cited and reviewed. The case was reversed, but a second conviction was affirmed in *Davis vs. United States*, 165 U. S., 373.

Candor compels the statement that Parker's charges to the jury were too long. He was prone to emphasize first the government's and then the defendant's theory of the case. His affirmances illustrate that he often

used strong statements favorable to the prosecution which would have been error except for the fact that they were cured by equally vigorous statements favorable to the accused. It was difficult for Parker to frame his charges in colorless language. In *Allen vs. United States*, 164 U. S., 492, Parker charged the jury that the flight of a defendant after a killing was an evidentiary fact which the jury might consider as tending to establish guilt. This charge was approved. In *Hickory vs. United States*, 160 U. S., 480; in *Alberty vs. United States*, 162 U. S., 499; and in *Starr vs. United States*, 164 U. S., 627, an almost identical charge brought about reversals, because in each of these cases Parker added the expressive Biblical quotation, "The wicked flee when no man pursueth, but the innocent are as bold as a lion."

A number of Parker's reversals by the Supreme Court called forth vigorous dissents by Justices Brewer, Peckham, and Brown. The truth is that Parker was in advance of his time. He sized up situations in criminal cases which some of the cloistered members of that august tribunal could not appreciate. For instance, in *Brown vs. United States*, 164 U. S., 221, Parker had admitted testimony of defendant's witnesses touching the reputation for bad character of a government witness. There was proof of the good reputation of this witness, and cross-examination had developed that the reputation of the witness for bad character might have been inspired by the very desperadoes of the neighborhood. In his charge Parker said:

"This reputation must grow out of the dispassionate judgment of men who are honest men and good men, able and competent to make a judgment of that kind. It is not the judgment of the bad people, the criminal element, the man of crime, that is to fasten upon a man and blacken his name."

The majority of the Supreme Court thought that this, and similar comments, constituted reversible error.

Mr. Justice Brewer wrote a vigorous and caustic dissent, in the course of which he said:

"I dissent. * * * Because this part of the charge is, as a whole, unobjectionable. The testimony referred to was admitted, and therefore held to be competent. The rule of law in reference to impeachment was correctly stated, and the objectionable matter was prefaced by a declaration of the court that it gives a matter of admonition. That admonition was just and sound. Reputation is the general judgment of the community in respect to the witnesses whose reputation is challenged, and is not made up by the flippant talk of a few outlaws."

Mr. Justice Brown and Mr. Justice Peckham concurred in this dissent.

The case in Parker's favor does not rest alone upon dissenting opinions. That he was in advance of the thought of his time in criminal cases is

clearly shown by his reversal in *Crain vs. United States*, 162 U. S., 625, and the subsequent history of that case. In the Crain case the same three justices, mentioned above, dissented, but the majority opinion, written by Mr. Justice Harlan, used this strong language in reversing Parker:

"Neither sound reason nor public policy justifies any departure from settled principles applicable in criminal prosecutions for infamous crimes. Even if there were a wide divergence among the authorities upon this subject, safety lies in adhering to established modes of procedure devised for the security of life and liberty."

This language would lead one to believe that there had been some serious infringement of the rights of the defendant in the trial of the cause; some serious departure from settled principles which had probably resulted in an unjust conviction. Thus spoke the Supreme Court of the United States in April, 1896, only a few months before Parker was stricken with his last illness.

In 1914, or eighteen years after Parker's death, the same identical question of law again reached the Supreme Court of the United States in *Garland vs. State of Washington*, 232 U. S., 642. In this latter case that high court said, with reference to its own previous decision in the Crain case:

"It is insisted, however, that this Court in the case of *Crain vs. United States*, 162 U. S., 625, held to the contrary." * * *

"Technical objections of this character were undoubtedly given much more weight formerly than they are now." * * *

"Holding this view, notwithstanding our reluctance to overrule former decisions of this court, we are now constrained to hold that the technical enforcement of formal rights in criminal procedure sustained in the Crain case is no longer required in the prosecution of offenses under present systems of law, and so far as that case is not in accord with the views herein expressed, it is necessarily overruled."

The Act of Congress of March 1, 1889, 25 Statutes at Large, 783, had created a United States Court in the Indian Territory with jurisdiction over minor offenses, but not over those punishable by death or imprisonment at hard labor. Six years later, by the Act of March 1, 1895, 28 Statutes at Large, 693, it was provided that this Territorial Court should, after September 1, 1896, have jurisdiction of all offenses committed in the Indian Territory, thus depriving Parker's Court of its unusual jurisdiction. This latter Act was passed in the spring of 1895, and, a few months later, Parker was stricken with his first and last serious illness. The law became effective in September and Parker died in November. Thus, in the fall of 1896, Parker and his Court passed out together. The coincidence was so striking that gossip had it that he died of a broken heart because he had been shorn of his power. The truth was different.

From a personal standpoint Parker looked forward with relief to the respite from his arduous toil. The strain, the confinement, and the labor of the years had been too much, even for his iron constitution. Like the runner at Marathon, he finished the race, but he collapsed at the end.

It was a state funeral, as nearly as the little city where he had lived knew how to make it. Notable personages came from far and near. Public and private business was suspended. Flags stood at half mast. The National Cemetery, where he was buried, was too small for the thousands who accompanied his body to its last resting place. The most fitting and appropriate tribute of all came when Chief Pleasant Porter, of the Choc-taws, placed upon his grave a simple garland of wild flowers.

My story is ended. I should quit. An epilogue is always didactic, and apt to be tiresome. But we have recently seen an arrogant overlord of crime attempt to dictate from a prison cell the politics of the second city of the nation. Satisfaction at his final incarceration in the penitentiary is tempered by the thought that this enemy of society was almost successful in bargaining with the government as to his punishment. It is further tempered by the thought that he was not convicted for his major crimes, but only for failing to share the fruits of them with the government.

The less said about the horrible Massie incident the better. An assistant attorney general of the United States, after an exhaustive investigation, has pointed out that that incident, which had in it all the elements of a Greek tragedy, and which may yet wreck the prosperity of an island as it has already wrecked many lives, had its roots in a lax, inefficient, cowardly administration of the criminal law, long continued.

Our most famous humorist has laid aside his mirth, and has cast a challenge in the teeth of the American people, by asking them the question, whether Lindbergh, in his sorrow, might not allow "a thought to creep into his mind, that it might have been different if he had flown the ocean under somebody's colors with a real obligation to law and order."

A Justice of the Supreme Court of the United States* in an opinion delivered on April 20th, 1931, used this striking language:

"Unhappily the enforcement of our criminal laws is scandalously ineffective. Crimes of violence multiply; punishment walks lamely. Courts ought not to increase the difficulties by magnifying possibilities."

Taken as a general indictment of present conditions, the statement of the learned Justice is too true, regardless of the merits of the particular case which called forth his remarks.

*Mr. Justice McReynolds in his dissenting opinion in *Aldridge vs. United States*, 283 U. S., 308, 318.

It may be, as Dean Roscoe Pound has said, that the fault does not lie with the courts alone; that there is no specific, and no general, panacea; that there must be a change all along the line in constitutions, statutes, courts, prosecutors, the police, and in the public conscience.

We read history for its precedent and background, and biography for the example and accomplishment of lives which have gone before. With due respect for Mr. Pound's judgment, one wonders if Parker, in a measure, did not point the way out.

Be sure & refer to case of Hickory vs U.S.
 40 L. ed - 160 U.S. page 474 reciting instructions,
 The very caustic language of Supreme Court in
 reviewing instructions & reversing case
 By Justice White.

Second appeal
 Allison vs U.S. 160 U.S. 315 - reversed - see instructions
 Starr vs U.S. 153 U.S. 626 - 38:845 reversed
 Hickory vs U.S. 151 U.S. 303 Reversed - see Instructions
 Gurnaby vs U.S. 160 U.S. 344 affirmed
 Carver vs U.S. 160 U.S. 532 this where Maledon's Reversed
 daughter was killed
 Demas vs U.S. 159 U.S. 229 affirmed
 Smith vs U.S. 161 U.S. 626 - Reversed on Ins. & expectation
 Hicks vs U.S. 150 U.S. 442 - Reversed
 Albert vs U.S. 162 U.S. 1052 Reversed
 Wilson vs U.S. 162 U.S. 1090 affirmed
 Crain vs U.S. 162 U.S. 1097 Reversed because no arraignment
 Brown vs U.S. 159 U.S. 91 shown in transcript -
 vigorous dissenting opinion
 Brown vs U.S. 150 U.S. 93 - Reversed -
 Pierce vs U.S. 160 U.S. 454 affirmed
 Davis vs U.S. 160 U.S. 499 - Reversed as to Ins. &
 Smith vs U.S. 151 U.S. 68 Reversed - write about the
 problem of moving not all Indians
 Jackson vs U.S. 151 U.S. 112 add the statutes
 Hickory vs U.S. 151 U.S. 175 defense is placing flowers of
 Porter vs U.S. 151 U.S. 208 Judge - jury & marched in deep banks
 Sarlls vs U.S. 152 U.S. 556 - R. Jury - see the mode of selecting the
 Guillo vs U.S. 153 U.S. 680 - Reversed
 Stone vs U.S. 153 U.S. 842 Reversed - see facts

See "Oklahoma" page 492 -

page 486

page 479

page 419 no man's land -

page 386 Judge Parker

page 388 Maledon

page 607 - on old time travel & transportation

page 602 on the navigation of Ark