FORAKER'S ACTIONS **AS PUBLIC SERVANT** 

8

Defends Them in a Speech Regarded as Opening of Presidential Campaign in Ohio.

# DIFFERS WITH PRESIDENT.

#### But Does Not Credit Stories of His Hostility-Will Maintain His Independence-Brownsville Affair.

Canton, O., April 10 .- in the presence or 1.200 people, Senator Joseph E. Foraker tonight delivered an address defending his actions as a public servant and declaring his willingness to abide their decision in the future. The of casion was the annual banquet of the con busing of trace, Senator Fornice was on the program for an address on "('ivie Pride," but his speech was large-Is directed to his work as senator, and is reputed as being the opening of the presidential campaign in Ohio.

THE SENATOR'S SPEECH.

Senator Foraker discussed published statements regarding the president's attitude toward the senator's speech at this time, replied to a publication mentioning him as one of an anti-Roosevelt combination, reviewed the in-vestigation of the discharge of the ne-gro soldiers on account of the trouble at Brownsville, Tex., reiterated his views regarding recent railroad legis-lation motested agains: the infringelation, protested against the infringe-ment by one branch of the government on the rights of another branch, de-clared that the representatives of the clared that the representatives of the people in Congress are accountable only to the people and are not "properly sub-ject to any other influence," denied the right of any one except his consti-tuents to call him to account, and sounded a note of warning against in-creased surveillance of business men who need "no moral regeneration."

THE "DEADLINE" REPORT.

He quoted a published report that "President Roosevelt has drawn a dead-line for Senator Foraker," and that "if he attacks President Roosevelt, Presi-dent Roosevelt will be heard from in no uncertain tones.

Senator Foraker said: "The wicked be when no man pursueth. I have not precasted the character of any forecasted the character of any speeches I am intending to make and if I had it would seem incredible to the average mind that such a story could be anything more than a mischief-makiug pipe dream of an over-ambitious correspondent.

That the president of the United ates should become personally en-States should become personally en-gaged in a political contest to determine his successor is without precedent, un-less it be the bad precedent set by An-drew Jackson as to Martin Van Buren.

less it be the bad precedent set by An-drew Jackson as to Martin Van Buren, "That he would enter noon such a struggle with a declaration that he is to set limitations upon the freedom of stucch of those who may differ from him, that they are to disregard those "limitations at their peril, is without precedent even in the case of Jackson, and is so inconsistent with the dignity of his high office and the properties of his high office and the of his high office and the properties always to be observed, that I feel it a duty toward the president himself to nter for him, on my own motion, a disof all responsibility for such publication

publication. "The time has not yet come, and no-baly knows that better than the presi-dant kiniself, when 'deadlines' can be drawn in debate for anybody to ob-serve; nor has the time come when any real mar would respect them if they were drawn. were drawn.

were drawn. "So far as I am personally concerned. I shall always speak with malice to-ward none, according to my own con-victions whenever and wherever I may have necession to speak at alw." have occasion to speak at all."



FERD, T. HOPKINS, Prop., 37 Great Jones Street, New York, this company, I never communicated with him directly or indirectly on any

with him directly or indirectly on any subject whataver. "I call attention to this with particu-iarity so that at the outset such wild, we know, crazy stories may be put into the class of campaign literature where they properly belong. "But these stories are but samples of many others, all of which, taken to-gether, seem to have for their object the dissemination of the idea that I am a with with the policies of President

war with the policies of President PRESIDENT A TIRELESS WORKER

PRESIDENT A TIRELESS WORKER. "No man ever occupied the White House who has been identified with so-many legislative measures as President Roosevelt. He is a tir-less worker. He is constantly doing, or causing to be done, something of great importance. but also as to foreign affairs. He has been president since September, 1901, almost six years. "During all that time I have Sup-ported all measures that have come be-fore the senate of the United States for consideration. The which he was in any way identified, except only three. "I differed from his as to joint state-hood for New Mexico and Arizona, in-sisting that they should not be forced into the Union as one state, unless a majority of the citizens of each terri-tory might so vole. The proposition I favored was adopted by Congress and the people of the territories voted arainst joint statehood. That was a proposition about which men angli well differ. There was no occusion for any bitterness of feeling in connection with its consideration, and there was none on my part, and I never heard the there was any on the part of the president. that there was any on the part of the presiden

DISAGREES WITH PRESIDENT.

"I was also unable to agree with the president as to conferring the rate-making power upon the interstate com-merce commission, as provided in the Hepburn law, passed at the first session of the Fifty-ninth Congress. I was not opposed to that proposition, however, because I did not want governmental control and supervision of railroads en-gaged in interstate commerce, for I was among the first to advocate such a among the first to advocate such a measure, but because I thought the Hepburn law in that particular was both unconstitutional and unnecessary and that it was a long and serious ste in the wrong direction as a matter of

In the wrong direction as a matter of public policy. "I did not believe either that if Con-gress had the power to make rates, if had the right to delegate that power to any administrative body. Whether I was right in entertaining this opinion will be determined when the supreme court of the United States parses on the Who be determined when the supreme court of the United States passes on the question, as sooner or later it must." Mr. Foreker said all the prosecutions against the railroads, the sugar and beef trusts and the Standard Oil com-pany and other corporations have been brought under the Elkins law, and the government secured convictions spaced.

government secured convictions speedi-y in all cases except where its own extimony failed, but that no suit of the kind has been brought under the Hepburn law.

#### BROWNSVILLE AFFAIR.

"Another session of Congress has just closed," he continued. "There were numerous measures pending and acted there will which the provident may numerous maisures pending and acted upon with which the president was prominently identified. So far as I can recall I supported everyone of them. There was one matter, however, about which I have taken a different view from him. I refer to the discharge, without honor, of the members of com-panies B, C and D of the Twenty-fifth infantry, on account of the shooting af-fray at Brownsville, Tex. This was an incident, not a policy. But it was an

negro vote. It tries the patlence to answer such charges—but that claim might be disposed of, one would think by the simple statement that for more than 30 years I have been honored with that vote almost to a man, and simply because, as on this case. I have constitution and the laws. The investigation has been in pro-freest: It has not yet been completed for the prefer not to speak of the re-sults until they have been fully deter-mined; but challenged as I am I do not hesistate to say that the testimony bet for far taken justifies the investiga-tion. I cannot here and now analyze the testimony, but It is enough to say that the evidence already taken war-bat the belief that not a man in the better any testimony can be secured that will refut any thing that has been the will refut any thing that has been the defined.

NOT ALONE IN HIS BELIEF.

"I am not alone in this belief. All the officers of that command, who, at the beginning were by circumstantial evidences made to believe some of their men were participators in the sheeting,

are now of the opinion-and have tes-tified-that all are innocent. "But, however all may be, these men have had a hearing. They have been permitted to state their defense; and whether the defense prevails or not, it has been demonstrated that this is a geovernment of law a government It has been demonstrated that this is a government of law, a government where the rights of citizens, no matter how humble they may be, shall be protected by the law, and under the law, and not a government under which, by autocratic and arbitrary or-ders and decrees, men may be dishon-ored and stripped of the most valu-able rights. If there be any place in the United States where these sentithe United States where these senti-ments should be endorsed more hearti-ly than another, it is here, in Ohlo: in the state that gave to the nation's galaxy of great men such defenders and advocates of human rights as Joshua R. Giddings, Benjamin F. Wade, Sal-mon P. Chase, John Sherman and Wil-

Harn McKinley.

OFFICE OF A SENATOR.

"But running through all this contention there is found another broad and important question. What is the office of a senator? Is he a mere agent to register the will of somebody else, or is he supposed to have opinions of his own with liberty to stand for them in

debate and when he votes? "If he is a mere agent, why have we always tried to select for this great of-fice men of ability and high character? Anybody could follow somebody else. And why, if a senator have no liberty of action, should he be held accountable for the record he makes; and, if there is to be no difference of opinion, why have any discussion, or, in fact, why have any senate or house?

"I have always understood and thought that representatives of the people are only accountable to the people; that they are not properly subject to any other influence, and for that rea-son I stand ever ready to render to my son I stand ever account of my steward-ship. It is their right to have it—it is my duty to give it, and if they are dis-satisfied they have a remedy for that dissatisfaction in their own hands. They can select another,

ACCOUNTABLE TO HIS CONSTITU-ENTS.

"But, while conceding the right of everybody else to differ from me, I de-ay the right of anybody except my constituents to call me to account. I never have held any office except by election. I always have been proud of the confi-I always have been proud of the confi-dence in me so frequently manifested by the intelligent people of this great commonwealth. I always am ready to ablde by their judgment. I would not avoid or evade it if I could. Therefore it is that I propose to carry my cause directly to them whenever issues may arise in which I am interested. If they agree with me I shall be rejoiced; if not, I shall be satisfied. But while I will thus submit my cause to the peo-ple and abide by their judgment, I will not submit to the dictation or threats or menaces of any kind of boss, big or little, inside or outside the state. Never little, inside or outside the state. Never will I acquiesce without protest in what I do not approve, no matter by whom it

may be proposed. BELIEVES IN OUR GOVERNMENT. "I believe in our public system of government, one state and the other national; one to deal with local affairs. the other with those that are national and international. I believe that as the business of the government and the

# JEROME WAS MERCILESS TO EVELYN NESBIT THAW. (Continued from page seven.)

against the defendant and such eviagainst the defendant and such evi-dence may be presented as will offset these allegations and establish his in-sanity at the time of the commission of the act. The law presumes that sanity is the normal condition of man and wherein insanity is the plea, as the condition of mind of the defendant at the time of the act, that becomes the crucial question of the jury to decide. "If there existed in the mind of the defendant an insage illusion it is not an defendant an insane illusion it is not an excuse unless the illusion is of such a character that if true it would result in his injury. "Proof of partial or incipient insanity is not sufficient as an excuse. The set-is not sufficient as an excuse.

is not sufficient as an excuse. The set-tled law of the state is that as long as that power to appreciate the nature and quality of the act is present, no man must commit crime if he would escape the consequences. "If he cocks, aims and discharges a revolver, as it is alleged here, did he know when he cocked and fired the weapon that the act was wrong and that it would probably destroy a life, and did he know that the act was for-bidden by law? That is the question which the law must have answered. "Under the rule of evidence the story. which the law must have answered. "Under the rule of evidence the story, claimed by the defendant's wife to have been told by her to the defendant, is admitted not as affecting the character of the deceased, but that you might considering her story, her credibility as a witness is highly material, and ev-erything that she has said or done must be taken into consideration. Her admissions regarding the relations ex-isting between herself and the defend-ant prior and subsequent to this trag-edy and prior to her marriage, or any other act should be weighed in connec-tion with her story.

tion with her story. "A wide latitude was allowed on cross examination. You should give due credit to all that was developed along

eredit to all that was developed aiming with other facts. The letters, the will, and the codicli before you were not ad-mitted under any ruling as to their competency, but by consent of counsel. "There has been ne denial entered here that desth resulted from pistol shot wounds inflicted by the defendant. "The local pressumption is that the "The burden of proof is on the decement."

"Whoever denies sanity must prove "Whoever denies sanity must prove Whoever denies sanity must prove that insanity is present. The law as-sumes that all men are sane as it as-sumes all men innecent. The burden of proving a crime is on the prosecution, but the burden of overthrowing sanity is on the person claiming it. The de-fendant is entitled to the benefit of the doubt in this case.

loubt in this case. doubt in this case. "The hypothetical questions answered by the experts assumed certain facts and the answer was only the opinion of the expert on those assumed acts. You are not obligated, nor are you permitted to accept opinions as you would facts. In considering the testimony of medical experts you are to consider their experts.

experts you are to consider their experience and knowledge, and you should consider the quality of the medical tes-imeny and not its quantity. "The so-called irresistible impulse has

timony and not its quantity. "The so-called irresistible impulse has no place in the law and is not an ex-cuse, nor is every person of a disor-dered mind. While the burden of proof of insaulty is on the defendant, he also is entitled to every reasonable doubt on the subject. If the defendant knew the nature of the quality of his act, or knew the act was wrong, then he com-mitted a crime. All men differ mental-ly and physically and this makes it im-possible, as I said before, for the court to lay down a fixed rule as showing de-liberation and premeditation. "As to the distinction between reason-able doubt and a possible doubt, you were thoroughly examined when you were about to become jurors. The law does not require that the prosecution shall go beyond a reasonable doubt. A Re-cerder Smithe once charged a jury, the defendant is entitled to have his guilt established by competent evidence and beyond every doubt. It need not be es-tablished beyond all doubt, for that is an impossibility. Nothing in this world is beyond all doubt. The defendant is entitled to every reasonable doubt and that is all. entitled to every reasonable doubt and

that is all. "A reasonable doubt is such as might



RICH MEN'S CONSPIRACY.

Mr. Foraker characterized as a "sort of companion piece" a published state-ment of the president to his friends, naming as members of the combination to "do him up" for his attitude toward Wall street, E. H. Harriman, J. E. Foraker and John D. Rockefeller." "In view of this publication," said Mr. Foraker, "I trust that I may without impropriety say that until it was given but at Washington a few days ago I never heard tell of any combination or trust or conspiracy to oppose the pres-Mr. Foraker characterized as a

trust or conspiracy to oppose the pres-ident in anything; much less did I ever hear of the so-called \$5.000,000 conspir-acy of which we have heard so much during the hear much during the last week.

"I trust I may be pardoned for going rther and saying I never saw John D.

further and saying I never saw John D. Rockefeller but once in my life, and that was 29 years ago or more, while I was governor of Obio. "I had the pleasure of meeting him in connection with the ceremonies con-nected with the laying of the corner-stone of the Young Men's Christian as-sociation building at Cleveland. With that single exception, I never saw him, never spoke to him and never com-municated with him in any way, direct-ly or indirectly. or indirectly. "Mr. Harriman I have seen oftener, I

have seen him three times-twice at the White House; the last time as an hon-ored guest at the wedding ceremonies of the president's daughter. On neither of these occasions did I have any con-versations with him. "The only other time I ever saw him

was to meet him at a dinner party giv-on by Senator and Mrs. Depew. where Speaker Cannon and his daughter. Son-tor Spooner and his wife, Senator Elkins and his wife, and many others were.

Exapt only the brief conversation of the evening in the presence of all



icident, not a policy. But it was an icident of such character that I felt my duty as a representative of the copie of Ohio to do with respect to it what I have don "It was charged-and the president

"It was charged—and the president was made to believe—that certain men of the Twenty-fifth infantry had made a murderous midnight assault upon the sleeping men, women and children of Brownsville; that they had 'shot up' the lown as the expression goes, and that they had sliled one man, and wounded another, and put in jeopardy the lives of many. He believed that this was done by a few, but that others of the battalion knew and refused to disclose the identity of the men who did it. "As a result he ordered that the

"As a result he ordered that the whole battolion should be distrissed without honor, the innocent and the guilty alker the guilty because they were guilty, the innocent because they ould not be distinguished from the

### INJUSTICE TO OLD SOLDIERS.

## MEN GIVEN NO SHOW.

"These men had been given no op-portunity to be heard. It seemed to me that no man in this country was so humble that he should not be given a day in court somewhere, or some time or some place, to make his defense, confront his accusers, and refute their testimony against him; and especially should soldiers have the benefit of such a bearing. aich a hearing. "I bolieved that this was their right

"I believed that this was their right inder the Constitution. I did not be-lieve that even the president, as com-mander-in-chief of the army had power to deprive them of this right. "But without regard to that question I felt that they should have this op-portunity. I secured it for them. It was a long, hard contest in the secure which resulted in the adoption of a resolution ordering an investigation. I spoke repeatedly in favor of the pro-portion, but the record will be searched in value to flad one word of disrespect doward anybody" from the president down to the humblest man figuring in any way in connection with the mat-ter.

ter. "It was with me simply a great, broad que on hand and constitutional power on the on hand and constitutional right on red other. It hus been said that it was an effort to secure the

duties of the government multiply it will become more and more strikingly manifest that our fathers were wise in providing such a system, and that, instead of talking about the obliteration of state lines, we should now more than ever be careful to preserve to the states their proper rights and functions, just as we always have been zealous to pro-tect the federal government in the ex-

as we always have been zealous to pro-tect the federal government in the ex-ercise of all the powers delegated to it, either expressly or by implication. "I believe also that our fathers were wise when they created three depart-ments of government and made them separate, independent and co-ordinate, and that the rights of each should be feedowsky protected against infingree

and that the rights of each should be jealously protected against infringe-ment by either of the others. "This provision is of such vital char-acter and has such direct relation to the public welfare and the rights and liberties of individual citizens, that no while diamor no allored existence no public clamor, no alleged exigency, no party considerations, no personal ad-vantage of any kind, can justify or ex-cuse any man who, in the discharge of public duty, consciously disregards or violates it." Concluding, the senator

said "We can be proud also of the honor "We can be proud also of the honor and integrity of the business men of this country. What they most need today is not so much an increased sur-veillance and guardianship of law as that liberty of action and trust and con-fidence in protection under the law which they always have heretofore en-toyed joyed.

BAD CORPORATIONS.

"Bad men and bad corporations and in the state and a bid to point outs who trusts there are and always have been and always will be, but also there is a law for their prevention and punish-ment, and with respect to all such let the law take its course. We are now enjoying the most unexampled prosper-ity we ever have known. That it is a sound ord scentific prosperity is evisound and genuine prosperity is evi-denced by the fact that the recent pan-les and heavy losses in stocks and se-curities have not caused the failure of single banking or mercantile house in the whole country.

> CUTICURA SOAP SHAMPOOS And light dressings of Cuticura at once stop failling hair and dandruff.

# HERMANN GOT GOOD BERTHS FOR HIS RELATIVES

Washington, April 10. - The principal developments in the cross-examination of Binger Hormann were his admissions that. while he was commissioner of the general land office he gave positions to six of his relatives. Reference again was made to the "tip" which Mr. Hermann is

made to the "lip" which Mr. Hermann is alleged to have given F. P. Mays re-sarding the Blue Mountain forest re-wave, but Mr. Hermann, while admitting that he dictated the relegram could not remember its details. It was also brought out that Rermann had received a part of the government compensation of his brother is payment on a mortgage, and that he received some of the compensation of Cy L. Miller, a son-in-law, but declared that it was in payment for advances he had made Mil-ler.

Mr. Hermann admitted that he wanted to become United States senator in 1943, but denied that it was his plan to have his resignation as commissioner of the land effice held up until after the sena-torial election.

n the mind of an intelligent man

"A recoonside doubt is such as might arise in the mind of an intelligent man who, if called upon to give a reason for such doubt, would not be at a loss to do zo. A reasonable doubt is not an imaginary thing. It is such a doubt as arises from the evidence. It is such a doubt as a painstaking man might have after a full, fair and impartial weigh-ing of the evidence. To all such doubts the defendant is entitled. "If any of you have a reasonable doubt that this defendant is guilty of-murder in the first degree, but have no doubt any in this case, let me say once more, find the defendant guilty of murder in the first degree, or the stound of insanity, you may state that stround of insanity, you may state that stround in your verdict. "You must be guided, gentlemen, en-tirely on the evidence. Clamor, preju-dice or sympathy must not prevail. You must be guided by your reason and your judgment. "The case has been fully tried and

your judgment. "The case has been fully tried, and

The case has been tuny thee, and I have not attempted to make any epi-tome of the evidence. If in any alu-sion I have made to the facts my statement does not agree with your recol-lection, you should take your own recollection.

lection, you should take your own recollection. "It is the duty of each juror to con-sider the evidence, all the pertinent statements of counsel and the sugges-tions of your fellow-jurors. "I have endeavored faithfully te guard the rights of the defendant as well as the rights of the people in the many rulings I have had to make, and I have tried with clearness and fairness to instruct you in the law. "The facts must carefully be weighed. Remember the oaths you took 'to well and truly try' this issue. Weigh the evidence carefully, consider it and discuss it and return your ver-dict according to your oaths." Justice Flizgerald supplemented his charge by again clearly defining the leard definition of reasonable doubt and saying no man should vote for a verdict as long as a reasonable doubt existed in his mind. He did this by request of Mr. Jerome. The defense also requested a special charge on sev-eral points, but Justice Flizgerald said that he had practically dwelf on all of them, with the exception of a few on which he declined to say anything. He granied the defense an exception to his ruling. The jury then retired, at 5.11 p. m. Under the statutes of New York.mur-der in the first degree is punishable with death; murder in the second de-

Under the statutes of New York.mur-der in the first degree is punishable with death: murder in the second de-gree, by imprisonment for life: and mansialighter, in the first degree, by imprisonment not to exceed 29 years. If the verdict should be one of ac-quittal on the ground of insanity, the disposition of the prisoner would rest with Justice Fitzgerald. Thaw having already been declared same by the re-port of a commission which Justice Fitzgerald has approved and com-firmeds it would seem that the prisoner must be released.

# THE RICHEST MAN IN THE WORLD.

WORLD. The richest main in the world can not have his kidneys replaced nor live with-out them, so it is important not to neg-lect these organs. If Foley's Kidney Cure is taken at the first sign of danger, the will be restored, as is strengthen and builds up these organs as nothing eise will Ocear Bowman, Lebanon Ky, will be restored to be a stating if cor-ad take great pleasure in stating if cor-ed me permanently of kidney disease which certainly would have cost mo mo-tife" path y if g 1911 Prove to