FORAKER'S ACTIONS **AS PUBLIC SERVANT**

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

DIFFERS WITH PRESIDENT

But Does Not Credit Stories of His Rostility---Will Staintain IIIs Independence-Brownsville Affair.

Canton, O., April 10.-In the presence of 1,200 people, Senator Joseph E. Foraker tonight delivered an address defending his actions as a public servant and declaring his willingness to abide PRESIDENT A TIRELESS WORKER. their decision in the future. The of

casion was the annual banquet of the on bound of trage, Schulor Forake was on the program for an address or "Caste Pride," but his speech was large by directed to his work as senator, and is regarded as being the opening of the presidential campaign in Ohio.

THE SENATOR'S SPEECH.

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 Browneville, Tex, reiterated his views regarding recent rallocad legis-lation, protested against the infringe-ment by one branch of the government on the rights of another branch, de-clared that the representatives of the people in Congress are accountable only to the people and are not "properly subto 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 increased surveillance of business m who need "no moral regeneration."

THE "DEADLINE" REPORT.

He quoted a published report that "President Roosevelt has drawn a dead-line for Senato" Foraker," and that "if he attacks President Roosevelt, Presi-dent Roosevelt will be heard from in no uncertain tones." Senator Foraker said: "The wicked they when no man pursuely the back of

e when no man pursueth. I have not recasted the character of any ceches I am intending to make and if forecasted I had it would seem incredible to the average mind that such a story could be anything more than a mischief-mak-ing pipe dream of an over-ambitious correspondent.

"That the president of the United 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. "That he would enter upon such a struggle with a declaration that he is

struggle with a declaration that he is to set limitations upon the freedom of spatch 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 anways to be observed, that I feel it a duty loward the properties duty loward the president himself to enter for him, on my own motion, a dis-claimer of all responsibility for such multication.

enter for him, on my both interior such claimer of all responsibility for such publication. "The time has not yet come, and no-boly knows that better than the presi-dant timself, when 'deadlines' can be dravn in debate for anybody to ob-serve: nor has the time come when any real mar would respect them if they were drawn.

far as I am personally concerned. '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 occasion to speak at all,"



Removes Tan, Pinples, Freekles, Moth Patches, Rash, and thin Diseasen, and every biemish on beauty, and de-

this company, I never communicate him directly or indirectly on any It him directly of himself, bject whatever, "I call attention to this with partleu-rity so that at the outset such wild, eckess, crazy stories may be put into a class of campaign literature where

FEBD, T. HOPRINS, Prop., 37 Breat Jones Street, New York.

coperty beforg.

"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 at war with the policies of President December Roosevelt

"No man ever occupied the White ffeure who has been identified with so many tegiciative measures as President Roosevelt. He is a tirstess worker. He the constantly doing, or causing to be done, something of great importance. This is true, not only as to domestic, but also as to foreign affairs. He has been president since September, 1901, almost six years, "During all that time I have sup-

"During all that time I have sup-ported all measures that have come be-fore the senate of the United States for consideration "Sth 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 vote. The proposition I favored was adopted by Congress and the people of the territories voted against joint statehood. That was a proposition about which men might well differ. There was no occasion for any bitterness of feeling in connection with its consideration; and there was none on my part, and I never heard that there was any on the part of the president.

DISAGREES WITH PRESIDENT.

DISAGREES WITH PRESIDENT. "I was also unable to agree with the president as to conferring the rate-making power upon the intersitate com-merce commission, as provided in the Hepburn law, passed at the first session of the Fifty-inith 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 measure, but because I thought the Hepburn law in that particular was both unconstitutional and unnecessary and that it was a long and serious step 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 passes on the

question, as sooner or later it must." Mr. Foraker said all the prosecutions against the railroads, the sugar and beef trusts and the Standard Oil company and other corporations have been brought under the Elkins law, and the government secured convictions speedly in all cases except where its own testimony falled, but that no suit of the kind has been brought under the Hep-

BROWNSVILLE AFFAIR.

'Another session of Congress has just "Another session of Congress has just closed." he continued. "There were numerous measures 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 patience to answer such charges—but that claim might be disposed of, one would think, by the simple statement that for more than 36 years I have been honored with that vote almost to a man, and simply because, as on this case. I have always upheld their rights under the Constitutions and the laws

always upheld thelp rights under the Constitution and the laws. "The investigation has been in pro-gress: it has not yet been completed. I would prefer not to speak of the re-sults until they have been fully deter-mined; but challenged as I am I do not hisitate to say that the testimony so 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-cauts the belief that not a man in that ants the belief that not a man in that attalion fired a gun. I do not be-eve any testimony can be secured bat will refute anything that has been esta blished.

NOT ALONE IN HIS BELIEF.

"I am not alone in this belief. All "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 shooting, 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 government of law, a government

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 protected by the law, and under the law, and not a government under which, by autocrafte 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 south-ments should be endorsed more hearth-ly than another, it is here, in Ohlo, in the state that gave to the nation's gal-axy 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-llatn McKinley.

OFFICE OF A SENATOR.

"But running through all this conten-lon 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 clsc, or is he supposed to have ophilors 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-Anyways then to select for this great of free 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 discussion, or, in fact, why have any senate or house? "I have always understood and

thought that representatives of the peo-ple 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 constituents an account of my steward-ship. It is their right to have it—it is ship, it is including the interval of the 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-ny the right of anybody except my con-stituents to call me to account. I never have held any office except by election. 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 abide by their judgment. I would not avoid or evade it if I could. Therefore it is that I prouse to carry my cause avoid or evade if it i could. Indente 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 shide by their judgment, I will not will be the dictation or threats not submit to the dictation or threats or menaces of any kind of boss, big or 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.

RELIEVES 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

JEROME WAS MERCILESS TO EVELYN NESBIT THAW.

(Continued from page seven.)

against the defendant and such evi against 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 pecomes the crucial exertise of the inv to decide. che time of the act, that pecomes the crucial question of the jury to decide. "If there existed in the mind of the defendant an insane illusion it is not an c...tuse unless the Illusion is of such a character that if true it would result in his infure.

c.cuse 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-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 except the consequences. "If he cocks, alms 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 if 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, 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 ating 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. "A wide latitude was allowed on credit to all that wou should give due or with her story.

cross examination. You should give due credit to all that was developed along with other facts. The letters, the will, and the codicil before you were not ad-mitted under any ruling as to their competency, but by consent of counsel. "There has been no denial entered here that death resulted from pistol shot wounds infloted by the defendant. "The legal presumption is that the defendant was same when he committed the act. It was not incumbent on the prosecution to introduce preliminary testimony to show that he was same. "The burden of proof is on the de-fense.

fense. "Whoever denies sanity must prove that insanity is present. The law as-sumes that all men are same as it as-sumes all men innocent. 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. "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.

to accept opinions as you would facts

to accept opinions as you would facts. In considering the testimony of medical experts you are to consider their experi-ence and knowledge, and you should consider the quality of the medical tes-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 insanity is on the defendant, he also is entitled to every reasonable doubt on the subject. If the defendant knew the nature or 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 imly 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.

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 efface every possible doubt. It only requires that the prosecution shall so 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

in impossibility. Nothing in this world s beyond all doubt. The defendant is initited to every reasonable doubt and hat is all. "A reasonable doubt is such as might ise in the mind of an intelligent mar



RICH MEN'S CONSPIRACY

Mr. Foraker characterized as a "sor of companion piece" a published state-ment of the president to his friends. naming as members of the combinatio 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 out at Washington a few down impropriety say that until it was given out at Washington a few days ago I never heard tell of any combination or 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 last week.

"I trust I may be pardoned for going further and saying I never saw John D. Rockefeller but once in my life, and that was 20 years ago or more, while I

that was 20 years ago or more, while I was governor of Ohio. "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 ballding at Cleveland. With that single exception, I never saw him, never spoke to him and never cem-municated with him in any way, direct-ly or indirectly.

ly or indirectly. "Mr. Harriman I have seen oftener, I and Harrison 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 coremonies 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-in by Senator and Mrs. Depew, where Speaker Cannon and his daughter, Son-tor Spooner and his wife, Senator El-kins and his wife, and many others, were present.

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 ople of Ohio to do with respect to it what I have done.

"It was charged-and the president was made to believe-that certain men of the Twenty-fifth infantry had made of the Twenty-fifth infanity 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 killed 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 battallon knew and refused to disclose the identity of the men who did it.

battalion knew and refused to disclose the identity of the men who did it. "As a result he ordered that the whole battalion should be dismissed without honor, the innocent and the guilty allke; the guilty because they were guilty, the innocent because they could not be distinguished from the guilty. guilty.

INJUSTICE TO OLD SOLDIERS.

"Among these men were old soldiers who had seen many years of service. Their services had been honest, faith-ful, gallant and distinguished. One of them had served continuously for 25 years. In 15 months he could have re-tired on a pension for life. His serv-ice had been rendered not only on the frontier of this country, but in Cuba and in the Philippines. It had covered both war and peace. In all the long been registered against him. He never had been court-martialed: he had never been punished. He had never been even reprimanded. On every one of his numerous discharges it was recorded that his services had been efficient. "His case is but an illustration, in a little stronger degree, of many others. Among these men were old soldiers

A number had served more than 4 years; many of them almost 20 years; all had acquired distinct and vahiable all had acquired distinct and valuable rights, and all these rights were swept away from them in an instant by an executive order, which put them all alke is common disgrace, and sent them adrift with their countrymen, whom they had done so much to de-fend, branded as criminals who had either participated in the shooting or who had become accessories after the fact, by protecting criminals who had.

MEN GIVEN NO SHOW.

MEN GIVEN NO SHOW. "These men had been given no op-pertunity to be heard. It seemed to the that no main 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 hearing. "I believed that this was their right under 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 did that the some beat of the accused."

to deprive them of this right. "But without regard to that question 1 felt that they should have this op-portunity. I secured it for them. It was a long, hard contest in the senate which resulted in the adoption of a resolution ordering an investigation. I spoke repeatedly in favor of the pro-position, but the record will be searched in value to find one word of divergence. in value to find one word of discepted toward anyhody from the president down to the humblest man figuring in acy way in connection with the mat-

"It was with me simply a great, bread question of constitutional power on the one hand and constitutional right on the alber. It has been said the one band and constitutional (on the other. If has been sati it was an effort to secure the day. 18 West Third South Street.

business of the government and 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, in-stead 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 protect the federal government in the ex-ercise of all the powers delegated to it, either expressly or by implication.

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 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

liberties of individual citizens, that no public clamor, no alleged exigency, no party considerations, no personal adparty 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

"We can be proud also of the henor 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-ioyed

BAD CORPORATIONS. "Bad men and bad corporations and 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 and genuine prosperity is evi-denced by the fact that the recent pandenced by the fact that the recent pan-ics and heavy losses in stocks and se-curities have not caused the failure of a 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 16.-The principal deelopments in the cross-examination Binger Hermann were his admissions that while he was commissioner of the general land office he gave positions to six his relatives. Reference again was made to the "tip" which Mr. Hermann is

made to the "tip which Mr, Hermann is alleged to have given F. P. Mays re-garding the Rike Mountain forest re-verve, but Mr. Hermann, while admitting that he dictated the telegram could not remember its details. It was also brought out that Hermann had received a part of the government compensation of his brother as payment on a mortgage, and that he received some of the compensation of Cy Ls Miller, a son-halaw, but declared that it was in payment for advances he had made Mil-ier.

Mr. Hermann admitted that he wanted to become United States senator in 1965, but denied that it was his plan to have his resignation as commissioner of the hand office held up until after the sena-torial election.

The in the mind of an intelligent m who, if called upon to give a reason f such doubt, would not be at a loss to ∞ . A reasonable doubt is not maginary thing. It is such a doubt traces from the evidence. It is such the such a doubt as a such a doubt as a painstaking man might have er a full, fair and impartial weigh-of the evidence. To all such doubts detendant is entitled.

the defendant is entitled. "If any of you have a reasonable doubt that this defendant is guility of murder in the first degree, but have no doubt that this defendant is guility of murder in the first degree, but have no doubt that he is guilty of murder in the second degree, you may find in the sec-ond degree. And so with manslaughter. "You may in this case, let me say once more, find the defendant guilty of murder in the first degree, guilty of murder in the second degree, or guilty of manslaughter in the first degree. "If you vote for acquittal on the ground of insanity, you may state that

of mansiaughter in the first degree. "If you vote for acquiital on the ground of insanity, you may state that ground 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 I have not attempted to make any epi-

I have not attempted to make any epi-tome of the evidence. If in any allu-sion I have made to the facts my statement does not agree with your recol-lection, you should take your own recollection.

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.

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." Jusdee Fitzgerald supplemented his charge by again clearly defining the legal definition of reasonable doubt and saying no man should vote for a verdict as long as a 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 Fitzgerald said that he had practically dwelt on all of them, with the exception of a few on which he declined to say anything. He granted the defense an exception to his ruling. The jury then retired, at 5:17 p. m. Under the statutes of New York news

p. m. nder the statutes of New York.murder in the first degree is punishable with death: murder in the second de-gree, by imprisonment for life; and manslaughter. In the first degree, by

mansualighter, in the first deglee, by imprisonment not to exceed 20 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. Thay having already been declared same by the re-port of a commission which Justice Fitzgerald has approved and con-firmed it would seem that the mission firmed, it would seem that the prisoner must be released,

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