A GREAT SPEECH.

CONGRESSMAN PATTERSON OF BARNWELL TALKS PLAINLY.

He Wants the Great Power Now Exercised by Federal Judges Limited and Held Within Due Bounds.

Speech of Congressman James O. Patterson, of Barnwell, in the House of Representatives, March 2, 1908.

The House being in Committee of the Whole House on the state of the Union, and having under consideration the bill (H. R. 18347) making appropriations for the postal service—

Mr Patterson said:

Mr. Chairman: The distinguished gentlemen of this House who have indulged in speechmaking at this session of Congress have taken a very wide range and have discussed in an able, intelligent, interesting and exhaustive manner a great variety of subjects embracing legslative, judicial, executive and political. It seems to be the rule in general debate upon a bill for the Member addressing the House to speak about anything and everything except the subject-matter of the pending measure, and I will not at this time make an exception to the rule, but will take advantage of the time alloted me to address the House upon two subjects contained in separate bills which I have introduced at this session of Congress. To my mind these are very important matters, and I trust that the Members of this House will give me their attention and these measures that due and careful consideration which they deserve.

The first of these to whch I ask your attention is H. R. 1675, which provides. "That no judge of any court of the United States inferior to the Supreme Court shall issue any writ of injunction or prohibition in any case wherein the validity of a law of any State of the United States, or the act of any officer of any such State done, or required to be done, in pursuance of such law, is called in question." In view of the recent acts of Federal judges, fresh in the minds of the people, assuming powers never delegated to them, this question become of great interest and importance. Such an assumption of power by the judges of the United States courts can not be too severely criticised and condemned. It is calcu- [illegible] court of the State or of the Supreme Court of the United States.

Since the expiration of the Fifty-ninth Congress the people of the United States have witnessed many things tending to demonstrate the correctness of Jefferson's solemn declaration that Federal judges are the "sappers and miners" of despotism. We have seen Federal judges attempting to nullify the laws of a State by granting injunctions forbidding and restraining the officers of the States of Virginia, North Carolina, Alabama, and Minnesota, who are charged with the execution of the laws of those States, to execute those laws, unless and until the Supreme Court of the United States has passed upon their validity, thus making State Laws enforcible only upon a condition never contemplated by the framers of the Constitution of the United States. And we have seen this new usurpation of authority followed immediately upon the sugestion of the President, who appointed the particular judges guilty of such usurpation, that the Constitution needed to e remodeled by executive, legislative, and judicial constructions, and not b y amendments in the proper and authorized manner, in order to adapt it to the needs of the times. In this way, by the appointment to judgeships of men who are overzealous to please their benefactor, the President is seeking and securing what amounts to a veto upon all State legislation, absolutely destroying the sovereignty of the State by indirection.

While the States are bting shown of all initiative in the matter of legislation for the protection of their citizens against the oppressions and abuses of corporations, through the instrumentality of the former attorneys of those same corporations whom the President has transformed into judges, the initiative of the Federal Government, or, rather, of the President of the United States, has been correspondingly increased by means of commissions of all kinds, exercising legislative, executive, and judicial powers all at once. As the gentleman from Massachusetts (Mr. McCall) said in a speech at the Jamestown Exposition on Constitution day:

We are not all to be regarded in our business and modes of life by gentlemen sent out from Washington and the gentlemen sent out from Washington are to be regulated by one man in the White House. Would it be possible to conceive of a more ideal centralized paternalistic government?

The judges are not removable by the President, but these Commissioners are; so that, in effect, we have a new semi-judiciary system, by means of which the President may put in train whatever measures he may like through instruments dependent upon himself for their offices and emoluments; and besides this, a perverted judicial system by menas of which he may nullify all measures adopted by the States which do not please him.

Our condition in these respects is worse to-day than it was in 1798, when Jefferson and Madison aroused the nation with the Kentucky and Virginia resolutions. Federalism, or nationalism, as it is now called, had then run wild, indeed, under John Adams; but not so wild as it has run under Theodore Roosevelt. Many useless offices had been created as means of propagating the faith and perpetuating the power of the Federalist party; but the number was insignificant, and the emoluments still more insignificant, when compared with the 36,000 new offices and $36,000,000 in salaries created by the Fifty-eighth and Fifty-ninth Congresses. The alien and sedition laws had been passed by Congress under the whip and spur of the Administration in violation of the Constitution; but those were as nothing compared with the tariff bills, the subsidy bill, the financial bills, and other measures intended to benefit special interests at the expense of the public, which have passed this House in recent years. Nor were the direct usurpations of undelegated powers, committed by Adams to be compared with those which the present President has committed.

I have not the time to go into the details of all these matters; but in respect to the juriciary system, as it was treated by the Sixth Congress under Adams and the Seventh under Jefferson, I wish to speak at length, in order to show that Congress has complete authority to destroy, as well as to create, courts inferior to the Supreme Court, and therefore to abolish judicial offices and to deprive those persons who hold them of their salaries.

After Jefferson had been elected in 1800, and before he had taken his seat in 1801, President Adams conceived the design of perpetuating his "policies"—all enemies of the Constitution have "policies"—by creating new Federal courts and filling them with judges who could be depended on to nullify any law passed by the new Congress or by any State legislature which might conflict with his monorchial policies. In his fourth annual message, November 22, 1800, he said:

It is in every point of view of such primary importance to carry the laws into prompt and faithful execution, and to render that part of the administration [illegible] service a complacent reply, he added on the 27th of November the following:

I thank you, gentlemen, for your assurance that the various subjects recommended to your consideration shall receive your deliberate attention.

The President was greatly interested in the improvement," of the judiciary system. He contended that after courts had once been created and judges appointed these courts could not be abolished or those judges removed by Congress.

In pursuance of this theory, the Sixth Congress, the last Federalist Congress, with its expiring gasp, passed "An act for the more convenient organization of the courts of the United States," which was approved by President Adams, February 13, 1801—less than a month before Jefferson was inaugurated. This act created certain new courts, called "circuit courts of the United State." In virtue of appointments made by President Adams in pursuance of this act, William Tilghman, Oliver Wolcott, Richard Bassett, Charles Magill, Samuel Hitchcock, Benjamin Bourne, Egbert Benson, Philip B. Key, William Griffith, Jeremiah Smith, and George K. Taylor became judges of said circuit courts, with salaries of $2,000 a year each. These judges were known as "John Adam's judges," and were extremely objectionable to the Democrats, then called Republicans, of whom Jefferson was the leader. In order to get rid of them, Jefferson, in his first annual message, December 8, 1801, suggested the repeal of the act. His remarks will be found in volume 1 of Richardson's Presidents' Messages, p. 331:

The judiciary system of the United States—

Said he.

and especially that portion of it recently enacted, will of course present itself to the contemplation of Congress; and, that they may be able to judge of the proportion which the institution bears to the business it has to perform, I have caused to be procured from the several States, and now lay before Congress, an exact statement of all the causes decided since the first establishment of the courts, and of those which were depending when additional courts were brought in to their aid.

And while on the judiciary organization, it will be worth your consideration whether the protecton of the inestimable institution of juries has been extended to all cases involving the security of our persons and property. Their impartial selection also being essential to their value, we ought further to consder whether that is sufficiently secured in those States where they are named by a marshal depending on Executive will, or designated by the courts, or by officers dependent on them.

In the first place, then, Jefferson showed that these Federalist courts were unnecessary and expensive. That was of itself a valid objection to them. But in the second place he raised a far more serious objection by reference to "the inestimable institution of juries in all cases involving the security of persons and property. He foresaw, even then, that these Federal courts would, in the very nature of things, resort to the government by injunction—to the decision of cases without the intervention of a jury. The Pritchards and Joneses of to-day were not hidden from his prophetic vsion. Nor were the abuses of the jury system, even when trial by jury was not dispensed with, overlooked by him. He abhorred the idea that a Federal judge should without a jury try any case whatever involving personal or property rights.

The legislature of North Carolina, on the 17th of December, 1801, instructed the Senators and requested the Representatives from that State to urge the repeal of the act of February 13, 1801. And immediately afterwards a bill to that effect was introduced in the Senate. It was entitled "A bill to repeal certain acts of Congress respecting the organization of the courts of the United States, and for other purposes." When it reached the House it was referred to the Committee of the Whole House and was debated at great length. The discussion of its constitutionality was opened by Henderson and Williams of North Carolina, on the 6th of February, 1802. (See Annals of Congress for that day.) Henderson opened the debate. He deprecated the fact that the legislature of North Carolina had instructed the Senators and requested the Representatives of that State in Congress to vote for the repeal of the act of 1801. He then made several points against the constitutionality of the repealing bill, all of which were taken up by Williams seriatim and fully answered. I regret that I can not conveniently insert this great speech in my remarks on this occasion. Those who wish to examine it will find it reported in the Annals of Congress for February 16, 1802, at pages 530-533. I would also call attention to the remarks of Philip R. Thompson, of Virginia, made in reply to Henderson on the following day (ib., p. 547).

There were great debates in both Houses of Congress on this bill repealing the act of 1801 [illegible] judges presented petitions in which they said:

That, by an act of Congress, passed on the 13th day of February, 1801, entitled "An act for the more convenient organization of the Courts of the United States," certain judicial offices were created, and courts established, called circuit courts of the United States, the petitioners became vested with the offices so created, and received commissions, authorizing them to hold the same, with the emoluments thereunto appertaining during their good behavior; that, during the last session, an act of Congress passed, by which the above-mentioned law was declared to be repealed, since which no law has been made for assigning to the petitioners the execution of any judicial function, nor has any provision been made for the payment of their stipulated compensations; that under these circumstances, and finding it expressly declared in the Constitution of the United States that "the judges both of the Supreme and inferior courts shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continnance in office," the petitioners are compelled to represent it as their opinion, that the rights secured to them by the Constitution, as members of the judicial department, have been impaired; that, "with this sincere conviction and influenced by a sense of public duty, they most respectfully request of Congress to review the existing laws, which respect the offices in question, and to define the duties to be priormed by the ptitioners, by such provision as shall be consistent with the Constitution and the convenient administration of justice;" that, "the right of the petitioners to their compensations, they sincerely believe to be secured by the Constitution, notwitnstanding and modification of the judicial department, which, in the opinion of Congress, public convenience may recommend; this right, however, involving a personal interest, will cheerfully be submitted to judicial examination and decision in such manner as the wisdom and impartiality of Congress may prescribe; that judges should not be deprived of their offices or compensations, without misbehavior, appears to the petitioners, to be among the first and and best established principles of the American Constitution; and, in the various reforms they have undergone, it has been preserved and guarded with increased solicitude; that, on this basis, the Constitution of the United States has laid the foundation of the judicial department, and expressed its meaning in terms equally plain and peremptory;" that, "this being the deliberate and solemn opinion of the petitioners, the duty of their stations requires that they should express it to the legislativs body. They regret the necessity which compels them to make the representation; and they confide that it will be attributed to a conviction that they ought not, voluntarily, to surrender rights and authorities intrusted to their protection, not for their personal advantage, but for the benefit of the community."

This matter was debated in Committee of the Whole House on the same day, and the House again decided that Congress had the right to deprive the judges of all judicial powers; and also that t had the right to deprive them of their salaries whereever the office was disestablished. In other words, the House, by a vote of 61 yeas to 37 nays, adopted a resolution declaring:

That the prayer of the petitions of William Tigiman, Oliver Wolcott, Richard Bassett, Charles Magill, Samuel Hitchcock, Benjamin Bourne, Egbert Benson, Philip B. Key, William Griffith, Jeremiah Smith, and George B. Taylor ought not to be granted, and the the petitioners have leave to withdraw their petitions.

(Annals, Seventh Congress, second session, P. 440.)

An on the same day (P. 439) the House by a vote of 57 noes to 35 ayes rejected a resolution declaring:

That provision ought to be made by law for submitting to judicial decision the right of (the same persons, naming them) late judges of the circuit courts appointed under an act entitled:

"An act for the more convenient organization of the courts of the United States, passed on the 13th day of February, 1801, which said act was repealed at the last session of Congress, to their compensation."

Now, in view of his history, I desre to call attention to a publication of the Department of Justice, issued during the present year, and entitled "A list of United States Judges, Attorneys, and Marshals." This document shows that since his accession to office in 1901 President Roosevelt has appointed Federal judges as follows:

Supreme Court of the United States, three associate judges—onethird of the membership of that great tribunal.

Circuit courts of the United States, twelve of the twenty-nine judges, or 41.7 per cent.

District courts of the United States, forty-two of the eighty [illegible] order to meet the exigencies of those corporations which contribute most liberally to the corruption fund of the Republican party.

And before his present term expires the President will probably have the opportunity of packing the courts with enough men of the same class to insure the perpetuation of his socalled "policies," by judicial action, unless we act as our predecessors did in 1802, and deprive some of these useless and time-serving judges of some or all of their judicial powers. Disregarding the fact that before March 4, 1909, there is a probability of our having seven Roosevelt judges on the Supreme Court bench, we may by that time have in office for the seventeen of the twenty-nine circuit court judges and forty-seven of the eighty district court judges. If Mr. Roosevelt should be reelected, as many of our Republican friends anticipate, we should probably have on the bench by 1913, as Roosevelt appointees, twenty of the twenty-nine circuit court judges and fifty-nine of the eighty district court judges. If this should happen the hands of Congress and of every State legislature would surely be tied hard and fast by judicial usurpation. Will the people of the Union submit to this? Will we, as the representatives of the people of the States, submit to it? I think not. I know that it ought not to be submitted to. We have the power to abolish these inferior Federal courts. Cujus est instituere ejus est abrogare. Shall we be dominated, abused, insulted, racked, and ruined by our creatures, or shall we put an end to their insolence and their usurpations by following the precedent established in 1802? In principle it is our right to abolish these inferior courts.

As to the question of expediency, it lies wholly within our legislative discretion to continue them under proper restrictions of jurisdiction and powers, or to continue them and provide a different system, to be administered by new appointees, whose antecedents prove that they respect the "inestimable institution of juries" and are not disposed to exercise usurped power in order to nullify the laws of the States and the constitutional rights of citizens by means of writs of injunction or prohibition or by punishments inflicted for constructive contempts of court. To this end I favor the complete reorganization of the Federal judiciary, and shall, in all probability, introduce a bill for that purpose, unless the evils of the present system can be remedied by milder means.

The other bill I have reference to is to H. R. 16952, which amends the act of 1887 as to removal of causes from the State courts to the United States courts and fixes the sum or value involved in any suit of which the circuit courts of the United States have original cognizance, concurrent with the courts of the several States, at $20,000 instead of $2,000 as now provided by said act.

This, too, is a matter of great importance to the citizens of this country. Under the law as it is at present, if suit between a citizen of South Carolina and a citizen of another State or a foreign corporation involves the sum or value of $2,000 or more the defendent may remove the same to the circuit court of the United States.

This law appears upon its face to be unfair, unjust, and discriminating in favor of the citizen of another State or a foreign corporation and against the citizen of the State in which the suit was brought, in that it gives to the citizen of another State, and to the foreign corporation, the choice of one or two tribunals in which to try his case, whereas the citizen who sues another citizen of his own State has no choice but to sue in the courts of his own State These removals cause great complaint and dissatisfaction, especially at this time when foreign corporations are so numerous, doing business as common carriers, express, telephone, and telegraph companies, being incorporated in one State and doing business in a dozen or more States. It works a hardship, especially upon the citizen in moderate circumstances, and often results in a denial of justice to the poor man, the widow, and the orphan, who have not the means to conduct and carry on a lawsuit with a foreign corporation in the United States circuit courts. It may be and often is many miles distant from the home of the plaintiff, owing to the very few courts established in any one State. It is against the policy and principles of our Government and of all civilized nations to place the machinery of the courts of justice beyond the reach of the poorest and humblest citizen who seeks redress for a wrong or remedy for an existing evil. (Applause.)

The act of 1875 fixed the right of the foreign corporation to remove the cause when the amount involved in the suit was $500 or more. This act was amended in 1887 and the amount of $2,000 fixed as the limit. Twenty years have elapsed since this amendment and it has been twenty years of such progress and prosperity as were never known or experienced by any nation or government in the history of the world. We have advanced in wealth and material prosperity by leaps and bounds unknown to any nation or [illegible] limit of removals from $500 to $2,000, would it not reflect greater wisdom and more justice and equity to raise the limit of removal in this year A. D. 1908 to the sum or value of $20,000? In justice, equity, and good conscience I say that it should be done at once (Applause.)

For further good and sufficient reasons why this bill should become a law I will state what you all know, what has been shown in the experience of every practicing lawyer in this country, that the Federal courts are held by the people of the country in more awe than the State courts; they are not looked upon with favor or regarded with the same degree of confidence as State courts; they are far removed from the people and frequently are presided over by judges appointed by the President from other and distant States from that in which they preside; they are personally unknown to the people, and I regret to say that the knowledge or information the people have gathered concerning some of these judges is not rassuring and not calculated to inspire confidence, respect or esteem. (Applause.)

The people value more highly than any other the right of trial by jury. That right is often ruthlessly swept aside by a Federal judge in charging a jury upon the facts or in instructing a verdict. For these and many other reasons the people and litigants generally throughout the rural districts are restless and dissatisfied under the present judicial system of the United States to look upon the Federal courts, as now established, as foreign tribunals, whose presiding officers are not in touch or sympathy with the masses of the people and who altogether ignorant of the character, habits, and customs o: the people over whom they wield judicial authority after the manner of a tyrant of the sixteenth century; under this system equity, justice, and mercy are oftentimes most conspicuous by their absence. (Applause on the Democratic side.)

Longest and Shortest Days.

At London and Bremen the longest day has sixteen and one-half hours. At Stockholm it is eighteen and one-half hours in length. At Hamburg and Dantzig the longest day has seventeen hours. At St. Petersburg and Tobolsk, Siberia, the longest day is nineteen hours and the shortest five hours. At Tornea, Finland, June 21 brings a day nearly 22 hours long and Dec. 25 one less than three hours in length. At Wardbury, Norway, the longest day lasts from May 21 to July 22 without interruption and in Spitzbergen the longest day is three and one-half months.

TESTIMONY GIVER OUT.

Suppressed Dispensary Matter Made Public by Charman Murray.

Chairman W. J. Murray, of the dispensary commission Wednesday made public the testimony taken in regard to the exense and per diem accounts of Mr. B. F. Arthur, one of the members of the commission who was appointed receiver by Judge Pritchard. This testimony was taken in October and was transmitted to Governor Ansel but the governor has taken no acton and all nformation in regard to the matter has been withheld from the press.

Mr. Arthur has not since attended a meeting of the commission. In fact, all inquiries were met with the answer that there "is nothing in it."

The investigation of Mr. Arthur was caused by a report to the commission by its attorney, Mr. W. F. Stevenson, in which he said.

"Voucher No. 211, the Hon. B. F. Arthur, for March, shows 13 days' service in March, $65. The record shows that he attended meetings of the board on March 12 and 13, and he doubtless came down to sign checks which could not have taken more than two days, which would leave nine days to be accounted for, which I don't understand, and if allowed to stand as it will subject the board to grave criticism, and constructive per diem cannot be allowed It contains items of mileage to Richmond which should be explained fully in the vocher or mileage could not be charged from Rehmond to meet the board here.

"His account for April is for eight days, and the record shows only one day at a meeting, and if we allow one day to go and come and one trip for signing checks, allowing two days, making four possible days for the month and I cannot approve the voucher as it stands."

It seems that whenever Mr. Arthur came from Union to Columbia to sign checks be charged up three days, although he was not engaged more than fifteen minutes in signing the checks. On one occaison he charged mileage from Richmond, Va.

MILLS SHUTTING DOWN.

Thousands of Operatives Are Affected by the Curtailment.

Thousands of employees of New England Mills and factories went on a short time basis following several months of depression. In some places reports come of several factories resuming work after the shut down or increasing their running time. [illegible] Parker mills in Fall River went on a four days a week basis. The [illegible] Manufacturing Company's cotton mills, at [illegible], Mass., employing 700 [illegible] down until Monday. The [illegible] mills, at [illegible], with 800 hands, went on a schedule of four days a week.

Cotton mills in several towns owned by B. B. and R. Knight, and employing six thousand operatives, went on a three quarters time schedule.

The Putnam Manufacturing Company's mills went on three and a half time schedule and the Nightingale and Powhattan mills, of Putnam, Conn., have reduced to four days a week, affecting 700 hands.

The Edwards cotton mills, at Augusta, Maine, employing 1,000 hands, adopted a half schedule, and the Whitin machine shops, at Whitinville, Mass., making cotton mill machinery, with 1,800 men, reduced time to forty-five hours a week.

Curtailment of production is also approved by the Chicopee cotton mills, of Chicopee Falls, 1,300 hands, the Dwight mills, of Chicopee, 500 operatives, Salmon Falls mills, Salmon Falls, N. H., 700 operatives, Naumbeag cotton mills, of Salem, 1,500 hands, and other concerns.

Had Been Paid.

Walter L. Freeman, colored, was up before United States Commissioner Robt. Lide last Tuesday on a very serious charge. Freeman was formerly a student at the State Colored College and is charged with unlawfully attempting to collect a money order by forging the endorsement of the rightful payee, Isabella Cauthen, at present a student at the State College.

It seems that the order was sent to the Cauthen girl, who never received it, but had a duplicate issued instead, which was paid by the Orangeburg postoffice. In some manner the original order fell into the hands of Freeman, who was teaching school in Adabell, Ga. Freeman endorsed the order by signing the girl's name and forwarding it to John Shell, a friend of his who lives in Rowesville, instructing him to come to Orangeburg and collect the amount, five dollars, and remit the proceeds to Freeman by express money order.

When the order was presented at this office it was discovered that payment had already been made of the duplicate, whereupon Shell was questioned with the result that information leading to the arrest of Freeman was secured. Postoffice Inspector S. W. Kingsmore was put in charge of the case and it was not long before he had Freeman, who will have to stand trial in the Federal Court. In default of bail Freeman was lodged in jail to await trial. The Government was represented by Assistant District Attorney A. Lathrop and the defence by President Thos. E. Miller, of the State Colored College—Orangeburg Times and Democrat.