"You saw the ununiformed battalion in their first maneuvers and other battalions that were trained and equipped. The transition from the duties of peace to the ways of war is rapid. Yesterday it was the citizen, to-day the soldier, to-morrow it is the hero upon the battle field, where the bugle call of liberty leads men to fight and to die. In the young American there is the making of a splendid soldier—the traits that make the captain.

"Fit to stand by Cæsar
And give direction."

"From every section there sweeps toward Atlantic ports the units of a mighty army. It is the rising tide of a great people who would have all men free as they themselves are free. It is the challenge of the Republic for a free world, for a world democratic.

"Emerson wrote, 'God is tired of kings.' The people are also weary of carrying dynasties upon their backs. Under the Divine impulse the nations of the free are arising in their might. No Alexander, no Cæsar, no Napoleon shall again aspire to world dominion. It is the Armageddon between autocracy and liberty. Under the Kaiser only vassals fight. Against him the allies of justice, liberty, and humanity. There can be no compromise. Either God or Lucifer are to reign. Justice, not the sword, must be made the master of human destiny. In this contest America gives her treasure, she gives her sons that Belgium may be vindicated and that liberty may not perish from the earth.

The Militia.

EXTENSION OF REMARKS
OF
HON. WILLIAM GORDON,
OF OHIO,

IN THE HOUSE OF REPRESENTATIVES,

Thursday, October 4, 1917.

Mr. GORDON. Mr. Speaker, at pages 6836 to 6840 of the CONGRESSIONAL RECORD, September 10, 1917, the address of Charles E. Hughes delivered at the annual meeting of the American Bar Association is printed. In that address Mr. Hughes said: "The militia, within the meaning of these provisions of the Constitution, is distinct from the Army of the United States." "Remember always," said Daniel Webster, "that the great principle of the Constitution on that subject is that the militia is the militia of the States and not of the General Government; and thus being the militia of the States there is no part of the Constitution worded with greater care and with more scrupulous jealousy than that which grants and limits the power of Congress over it." Mr. Hughes then continues:

"In order to execute the laws of the Union to suppress insurrection and to repel invasion it would be necessary to employ regular troops or to employ the militia; and the power given to Congress with respect to the militia was manifestly to make a large standing Army unnecessary. But as the service of the Organized Militia can only be required by the National Government for the limited purposes specified in the Constitution it follows (as Attorney General Wickersham advised President Taft) that the Organized Militia as such can not be employed for offensive warfare outside the limits of the United States."

By his own admission and by citing Daniel Webster and the opinions of Attorney General Wickersham, Mr. Hughes effectually disproves and discredits the very point he attempts to establish, to wit:

"That by drafting the militia, or any part of it, these men can be divested of the protection which the Constitution of the United States throws around them by limiting the use which the Federal Government may make of the militia to suppressing insurrection, repelling invasion, and executing the laws of the United States."

The term "militia" as used in the Constitution of the United States includes all able-bodied male citizens capable of bearing arms, and these have been further defined by the statutes of the United States, enacted since the adoption of the Constitution, as all "male citizens capable of bearing arms between the ages of 18 and 45 years."

After the War of 1812 with England had been in progress for two and a half years an attempt was made in Congress to pass a bill authorizing the President to draft by lot from those between 18 and 45 years 100,000 men, with whom it was proposed to invade Canada, the enemy's territory. This bill was defeated in the House by Daniel Webster upon the precise point that Congress had no such power over the militia as to authorize it to empower the President to draft them into the Regular Army and send them out of the country.

While Roosevelt was President and thought he wanted more troops for the Philippines than the Regular Army afforded, he induced Congress to pass a law which provided that when the Organized Militia or National Guard had been called into the Federal service for either of the three purposes specified in the Constitution, the President might then send them out of the country; but when this statute was submitted to Attorney General Wickersham, in the opinion which Mr. Hughes cites, it was declared by the Attorney General to be beyond the power of Congress to enlarge its power or that of the President over the militia by legislation, and this attempt to do so was adjudged to be null and void.

Mr. Hughes, in approving this opinion of Attorney General Wickersham, concedes that no member of the National Guard now in the Federal service can be sent to France or any other foreign country unless he volunteers for that service; and if he will read the argument of Daniel Webster, delivered in the House of Representatives on December 9, 1814, he will be convinced that the same rule applies to all drafted men; and if he will read all of paragraph 12, section 8 of Article I of the Constitution of the United States, the first five words of which he quotes, he will observe that the balance of the paragraph reads as follows: "But no appropriation of money to that use shall be for a longer term than two years."

This limitation upon the power to raise and support armies clearly establishes the intent and purpose of the framers of the Constitution to limit the power to raise and maintain a standing army to voluntary enlistment, because if the unlimited power to draft or conscript was intended to be conferred it would have been a useless and puerile thing to limit the use of money for that purpose. Conscripted armies may be paid, but they are not required to be, and if it had been intended to confer the extraordinary power to draft the bodies of citizens and send them out of the country in direct conflict with the limitation upon the use of the militia imposed by subsequent paragraphs of the same section and article, certainly some restriction or limitation would have been imposed to restrain the unlimited use of such power.

The only time in our history that Congress has authorized the President to draft citizens into the military service prior to the present emergency was during the Civil War, and that draft act specifically recited in its title that it was resorted to for the purpose of "suppressing insurrection and rebellion," which is one of the express purposes for which the Federal Government is authorized to use the militia.

Although the above-quoted words are omitted from the present draft law, the language of the act was quite generally followed in other particulars, one of the exceptions being that the bill as presented by the War Department proposed to emulate the example of Napoleon Bonaparte and conscript the bodies of those between 19 and 25 years of age, exempting all others of military age.

In further support of the proposition that under the Constitution of the United States no troops outside of the Regular Army may lawfully be sent out of the country unless and until they volunteer for foreign service, and that the Regular Army may only be recruited by voluntary enlistment, I append hereto a petition to the Congress of the United States by Hannis Taylor, late ambassador of the United States to Spain.

A PETITION TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED.

[Presented by Hannis Taylor in behalf of himself and as next friend of the half million and more of American youths now under military duress, because conscripted under sec. 8, Art. I of the Constitution, which provides that "the Congress shall have power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions," which provision, as construed by the Supreme Court, forbids the sending of the militia, so called, forth beyond the territorial limits of the United States.]

AN APPEAL TO THE CONGRESS TO PREVENT THE SENDING OF THE CONSCRIPTED NATIONAL MILITIA TO EUROPEAN BATTLE FIELDS IN OPEN DEFIANCE OF THE CONSTITUTION OF THE UNITED STATES.

Your petitioner, Hannis Taylor, a citizen of the United States and a resident of the District of Columbia, in behalf of himself, and as the next friend of the half million or more American youths now under military duress, because conscripted under section 8, Article I of the Constitution, represents that he hereby asserts the constitutional right of petition solemnly guaranteed to him by the first article of amendment to the National Constitution, which right, as an attribute of national citizenship, entitles him to petition Congress for redress in regard to any matter of "great moment and general concern." Your petitioner avers that no matter of greater moment or more general concern was ever presented to the Congress of the United States than that

involved in the threatened transportation to European battle fields of hundreds of thousands of conscripted American youths. First, because no such thing was ever before attempted in our entire history as a Nation. In asserting that fact in his Flag Day address of June 14, President Wilson said: "We are about to bid thousands, hundreds of thousands, it may be millions, of our men, the young, the strong, the capable men of the Nation, to go forth and die beneath it [the flag] on fields of blood far away. * * * American armies were never before sent across the seas." Second, because the Congress, in enacting the legislation under which said conscription has taken place, has not only not authorized, directly or indirectly, the transportation of such conscripted youths "across the seas," but it has manifested no consciousness whatever that any such unprecedented and fateful act would be attempted by any one. Third, because the transportion of the militia, National or State, beyond our territorial limits is an act sternly forbidden by the Constitution of the United States.

EXEMPTION AS DEFINED BY THE FEDERAL CONVENTION OF 1787.

Your petitioner further represents that the Federal Convention of 1787, after long and stormy debate, so clearly and positively fixed the exemption of the militia, National and State, from military service beyond our territorial limits that it was never questioned during the century and a quarter that preceded the year 1912. In all our wars preceding that date the exemption was always frankly recognized not only by jurists but by all writers on our military system. In his recent work entitled Our Military History (1916), Gen. Leonard Wood says that we have been compelled to fight our wars with volunteers "because the militia was not available for service outside of the United States." He then adds that we had so to conduct the Mexican War, "where the militia could not be used because of the constitutional limitation upon its employment outside the United States." See to the same effect "Military Policy of the United States," by Upton (1904), and "The Military Unpreparedness of the United States" (1915), by Huidekoper. Strange indeed it is that at this late day any man calling himself a jurist should dare, even in a moment of hysterical excitement, to deny the existence of an exemption recognized from the beginning of our national life not only by all lawyers and statesmen but by the military experts.

EXEMPTION AFFIRMED BY ATTORNEY GENERAL WICKERSHAM IN 1912.

Your petitioner further represents that the inconvenience of the constitutional exemption in question arising out of the territorial expansion incident to the Spanish-American War, prompted certain persons more ingenious than loyal to the Constitution to attempt, by the act of January 21, 1903, as amended by the act of March 27, 1908, to circumvent and destroy such exemption by providing that "the militia, so called, shall continue to serve during the term so specified, either within or without the territory of the United States."

By that stupid device such evil-minded persons attempted to make Congress confer upon the President the power to rob the militia of its constitutional exemption from service abroad, in defiance of the elementary principle that the legislative department of the Government can not confer upon the Executive a power it is expressly forbidden to exercise itself. When that stupid device was submitted by President Taft to Attorney General Wickersham, a learned lawyer whose mind was then unclouded by prejudice and passion, he trampled upon it in an elaborate official opinion delivered under his oath of office and dated February 17, 1912, in which he said:

> The Constitution, which enumerates the exclusive purposes for which the militia may be called into the service of the United States, affords no warrant for the use of the militia by the General Government, except to suppress insurrection, repel invasions, or to execute the laws of the Union. * * * This has always been the English doctrine, and in some instances acts of Parliament have expressly forbidden the use of the militia outside of the Kingdom. Our ancestors, who framed and adopted our Constitution and early laws, got their ideas of a militia, its nature, and purposes from this, and must be taken to have intended substantially the same military body. * * * If authority is needed for the conclusion here reached, the following may suffice: In Ordronaux, Constitutional Legislation, page 501, it is said:
>
> "The Constitution distinctly enumerates the three exclusive purposes for which the militia may be called into the service of the United States. These purposes are: First, to execute the laws of the Union; second, to suppress insurrection; and, third, to repel invasions.
>
> "These three occasions, representing necessities of a strictly domestic character, plainly indicate that the services required of the militia can be rendered only upon the soil of the United States or of its Territories. * * * In the history of this provision of the Constitution there is nothing indicating that it was even contemplated that such troops should be employed for purposes of offensive warfare outside the limits of the United States. And it is but just to infer that the enumeration of the specific occasions on which alone the militia can be called into the service of the General Government was intended as a distinct limitation upon their employment." * * *
>
> And in Von Holtz, Constitutional Law, page 170, it is said, "the militia can not be taken out of the country." * * *
>
> It is true that the act of January 21, 1903, as amended by the act of March 27, 1908 (35 Stat., 399), provides:
>
> "That whenever the President calls forth the Organized Militia of any State, Territory, or of the District of Columbia to be employed in the service of the United States he may specify in his call the period for which such service is required, and the militia so called shall continue to serve during the term so specified, either within or without the territory of the United States, unless sooner relieved by order of the President."
>
> But this must be read in view of the constitutional power of Congress to call forth the militia only to suppress insurrection, repel invasions, or to execute the laws of the Union. Congress can not by its own enactment enlarge the power conferred upon it by the Constitution; and if this provision were construed to authorize Congress to use the Organized Militia for any other than the three purposes specified, it would be unconstitutional. * * *
>
> I think that the constitutional provision here considered not only affords no warrant for the use of the militia by the General Government, except to suppress insurrection, repel invasions, or to execute the laws of the Union, but, by its careful enumeration of the three occasions or purposes for which the militia may be used, it forbids such use for any other purpose; and your question is answered in the negative.
>
> Respectfully,
>
> GEORGE W. WICKERSHAM.
>
> To the SECRETARY OF WAR.

After citing in that opinion the decisions of the Supreme Court of the United States (Houston *v.* Moore, 5 Wheat., 1, and Martin *v.* Mott, 12 Wheat., 19, 27) as irrevocably settling the exemption of the militia from service abroad, the Attorney General exposed, with striking emphasis, the emptiness of the stupid contention that, although the Congress is expressly forbidden to authorize the sending of the militia, National or State, abroad, it may authorize the President to do so. Speaking of the act before him which attempted to authorize the President to use the militia "either within or without the territory of the United States," he said: "If this provision were construed to authorize Congress to use the Organized Militia for any other than the three purposes specified, it would be unconstitutional." Thus, in advance, he put the stamp of nullity upon any clause or phrase in the conscription act of May 18, 1917, which may be so construed as to express such an unconstitutional purpose.

EXEMPTION AFFIRMED BY PRESIDENT WILSON IN 1916.

Your petitioner further represents that after the foregoing opinion of Attorney General Wickersham had become the law of the Department of Justice, and as such binding in this vital matter upon President Wilson, he affirmed it, with great emphasis, in four speeches delivered in January and February, 1916, when he was called upon to explain why he could do no more for the development of the State militia, now euphoniously called the National Guard.

In an address delivered at New York, January 27, 1916, he said: "I believe that it is the duty of Congress to do very much more for the National Guard than it has ever done heretofore.

"I believe that that great arm of our national defense should be built up and encouraged to the utmost; but you know, gentlemen, that under the Constitution of the United States the National Guard is under the direction of more than twoscore States; that it is not permitted to the National Government directly to have a voice in its development and organization; and that only upon occasions of actual invasion has the President of the United States the right to ask those men to leave their respective States."

In an address delivered at Cleveland, Ohio, January 29, 1916, he said: "The President of the United States has not the right to call on these men—the National Guard—except in the case of actual invasion, and, therefore, no matter how skillful they are, no matter how ready they are, they are not the instruments for immediate national use."

In an address delivered at Milwaukee January 31, 1916, he said: "The National Guard, fine as it, is not subject to the orders of the President of the United States. It is subject to the orders of the governors of the several States, and the Constitution itself says that the President has no right to withdraw them from their States even, except in the case of actual invasion of the soil of the United States."

In an address delivered at Topeka, Kans., February 2, 1916, he said: "The Constitution of the United States puts them—the National Guard—under the direct command and control of the governors of the States, not of the President of the United States, and the national authority has no right to call upon them for any service outside their States unless the territory of the Nation is actually invaded."

Here we have conclusive documentary evidence of the fact that long before the conscription act of May 18, 1917, was passed President Wilson had complete knowledge of this entire subject, as expounded by Attorney General Wickersham in his official opinion of February 17, 1912, now binding on the President as the law of the Department of Justice. No one knows quite so well as President Wilson that the sending of our National Militia abroad by the Executive will constitute a fla-

grantly unconstitutional act, and as such an impeachable high crime and misdemeanor.

NATIONAL MILITIA CREATED BY FEDERAL CONVENTION OF 1787.

Your petitioner further represents that when the convention of 1787 met those who may be called Nationalists, with Washington at their head, contending that the State Militia had proven to be "inefficient under the Confederation," demanded the creation of a new militia system, entirely apart from the State systems, which should be under the exclusive control of the new Federal Government. (See Madison papers, p. 730 and p. clxxxii; Gilpin ed.) That proposal was so bitterly opposed by the State rights faction that a deadlock arose, which was broken at last by a compromise arranged by a grand committee of the States. (Elliot, v. 445.) The State rights faction was told that the ancient systems of State Militia might continue to exist, subject to the following limitations now embodied in section 8, Article I: "The Congress shall have power * * * to provide for organizing, arming, and disciplining the—State—militia and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress." In return for that concession the State rights faction agreed to the creation of a new National or Federal Militia—entirely distinct from the State systems—subject, however, to the three severe limitations now embodied in section 8, Article I: "The Congress shall have power * * * to provide for calling forth the—national—militia to execute the laws of the Union, suppress insurrections, and repel invasions."

Every student of English constitutional history knows that the last limitation, "and repel invasions," was simply a transplanting into the new American Constitution of the exemption of the English militia from service abroad, which had been a vital part of the English constitution for a thousand years prior to our severance from the mother country. In order to make it possible to take the English militia over the Channel into France during the present war, it became necessary to change the English Constitution in that respect.

Mr. Dicey, one of the most eminent modern commentators on the English Constitution, said in his edition of 1908: "The militia is the constitutional force existing under the law of the land for the defense of the country. * * * Embodiment indeed converts the militia for the time being into a regular army, though an army which can not be required to serve abroad." (Law of the Constitution, pp. 287–288.) And so, even if it could be claimed that our National Militia, called forth by conscription, constitutes a regular army, it is an army which can not be required to serve abroad.

ONLY TWO CONSCRIPTION LAWS EVER ENACTED BY CONGRESS.

Your petitioner further represents that it is a notable fact that the National Militia as such, as a national force entirely distinct from the militia of the States, has only been called forth on two occasions and on each by conscription. The first conscription act was approved March 3, 1863; the second, on May 18, 1917. As the first was enacted during the Civil War, it declares with great emphasis in the preamble that it was enacted under section 8, Article I, of the Constitution, which provides that "the Congress shall have power to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions." The words of the preamble are these: "Whereas there now exist in the United States an insurrection and rebellion against the authority thereof, and it is, under the Constitution of the United States, the duty of the Government to suppress insurrection and rebellion, * * * and whereas, for these high purposes a military force is indispensable," etc. After the lapse of half a century the National Militia, as such, was called out a second time by the act of May 18, 1917, which is simply a reproduction, in every material particular, of the original act of March 3, 1863. In order to put that vital fact beyond all question your petitioner has had the two acts printed in parallel columns in a pamphlet inclosed with this petition.

Here the fact must be kept steadily in view that the conscription act of May 18, 1917, under which the National Militia is now being drafted, is not an original measure; as appears upon its face it is simply an extension or supplement to carry into effect the national defense act of June 3, 1916. By section 57 of that act the National Militia is thus defined:

Composition of the militia.—The militia of the United States shall consist of all able-bodied male citizens of the United States and all other able-bodied males who have or shall have declared their intention to become citizens of the United States, who shall be more than 18 years of age and, except as hereinafter provided, not more than 45 years of age, and said militia shall be divided into three classes, the National Guard, the Naval Militia, and the Unorganized Militia.

The primary and avowed purpose of the conscription act of May 18, 1917, is to organize "the Unorganized Militia" of the United States by extending its provisions to "all male citizens or male persons not alien enemies * * * between the ages of 21 and 30 years." Thus the fact is fixed with mathematical certainty that the act of May 18, 1917, was passed in order to call out the National Militia, as such, "to execute the laws of the Union, suppress insurrections, and repel invasions," first, because it is really little more than a copy of the first conscription act of March 3, 1863; second, because its avowed purpose is to organize the "Unorganized Militia" of the United States by extending its provisions to "all male citizens or male persons not alien enemies * * * between the ages of 21 and 30 years. Of all the shallow pretences devised with the view of confusing this very simple subject the most pitiful is that which attempts to deny that the conscription act of May 18, 1917, was passed under that part of section 8, Article I, which authorizes Congress to call out the National Militia to "execute the laws of the Union, suppress insurrections, and repel invasions."

DESPERATE EFFORT TO GIVE RESPECTABILITY TO A RIDICULOUS CONTENTION.

Your petitioner further represents that the history of our Constitution, taken as a whole, is made up of a series of efforts to evade it whenever its provisions become inconvenient to a particular class at a particular moment.

But never has the struggle to find a loophole been so desperate as that involved in the present attempt to invent a pretext for denying the immunity of the militia, National and State, from service abroad; first, because such immunity was a thousand years old before our severance from the mother country took place; second, because the language in which it was embedded in our Federal Constitution is too plain for cavil or question; third, because the immunity was expressly affirmed by the Supreme Court of the United States in 1827; fourth, because, after an exhaustive review of the whole subject, it was reaffirmed by Attorney General Wickersham in 1912 in an opinion accepted by President Taft as final; fifth, because it was again solemnly reaffirmed by President Wilson in four speeches delivered in 1916. And yet, as some kind of a pretext is indispensable to those who are now proposing to send the National Militia, conscripted under the act of May 18, 1917, to European battle fields, in open defiance of the Constitution, a ridiculous claim is being made in certain quarters that such act was really passed under that part of section 8, Article I, which authorizes Congress "to raise and support [volunteer] armies, but no appropriation of money to that use shall be for a longer term than two years" [the English mutiny act by which the volunteer army of Great Britain can be dissolved by Parliament].

That provision made, as the records of the Federal Convention show, for the exclusive purpose of authorizing the raising of our Regular or standing Army, through the volunteer system, has no more connection with the subject matter before us than an extract from the Talmud or Pentateuch. That fact is made certain, not only by the records of the convention but by a century and a quarter of congressional legislation affirming that construction. In speaking of the provision in question, Upton (Military Policy of the United States, p. 79) says: "Here was laid the foundation of the volunteer system, which attained its fullest development during our long Civil War. The 'levies,' known later as 'volunteers,' were authorized under the plenary power of Congress to 'raise and support armies,' and the power of appointing these officers was given the President, to whom it obviously belonged, as the 'levies' were wholly distinct from the militia or State troops." But far more important is the fact that the ranks of the Regular Army, which can only be composed of volunteers, can not be filled up by conscription. When a proposal to swell the ranks of the Regular or Volunteer Army in that way was embodied in the conscription act offered in Congress in 1814 Daniel Webster so trampled it under foot in a masterful speech that it was never afterwards revived in any form. No one should for a moment lose sight of the fact that the constitutionality of a Federal conscription act can not be defended for a moment unless such act is based upon that clause of the Constitution which authorizes Congress to call forth the National Militia "to execute the laws of the Union, suppress insurrections, and repel invasions." There is but one precedent to support conscription in our entire history, and that is the conscription act of March 3, 1863, which declares in express terms in its preamble that Congress enacted it to suppress "an insurrection and rebellion." Your petitioner, who earnestly maintains the constitutionality of the conscription act of May 18, 1917, sternly protests against a theory which, if sound, destroys its constitutionality.

In order to influence the Federal judiciary and to give some sort of respectability or plausibility to a ridiculous contention—refuted by the records of the Federal Convention, by a century and a quarter of congressional legislation, trampled under foot by Daniel Webster in 1814, and repudiated by a great military authority like Upton in 1904—ex-Justice Hughes was induced to appear before the American Bar Association, where he professed to believe that the conscription act of May 18, 1917, was enacted under that clause of the Constitution which relates exclusively to the raising of Regular Armies by the volunteer system. The sole and practical purpose of his discourse was to prove by that device that the conscripted National Militia can be sent to the battle fields of Europe in open defiance of their long-settled constitutional exemption from service abroad.

Was there ever such a dreadful spectacle? There stood an ex-justice of the Supreme Court as the prosecutor of half a million of American youths, under military duress and on trial for their lives, with no one to defend them. The idea was that in that star-chamber proceeding the mere ipse dixit of a great legal functionary would deprive our sons of the protection guaranteed by a thousand years of English and American constitutional law. The undertaking was too great for any one man. It would have been too great for Lord Bacon or Chief Justice Marshall. The solemn guaranties of the American Constitution can not be destroyed in that way.

Nor florid prose nor honeyed lines of rime
Can blazon evil deeds or consecrate a crime.

A CENSORED PRESS DISLOYAL TO THE PEOPLE.

Your petitioner further represents that the cruel and remorseless conspiracy against the lives of half a million of defenseless American youths, which opened with ex-Justice Hughes's prosecuting speech, is being carried on by a censored and disloyal press, that spread it broadcast throughout the land under a compact that no one was to be permitted to reply to it. Your petitioner says "compact," because when he applied to nearly a hundred and fifty American newspapers for leave to expose its atrocious fallacies and misrepresentations, without a single exception the door was brutally closed in his face. A very distinguished editor who refused him the right to be heard in the Capital of the Nation said with perfect frankness, "No matter if he is correct, a resolve has been reached to send the National Militia abroad in any event, even in defiance of the Constitution!" That is the clean-cut and fateful issue that now confronts the American Congress and the American people in this land, once known as the land of liberty and fair play. Upon its solution the life of this Republic depends.

THE MOST INDEFENSIBLE AND DEADLY ASSAULT EVER MADE ON THE CONSTITUTION.

After 40 years of patient study of our constitutional history, petitioner solemnly avers that, in his humble judgment, the attempt to destory the express and explicit exemption of the militia, National and State, from service abroad is the most indefensible and deadly assault ever made on the Constitution; indefensible because it has been solemnly affirmed not only by the Supreme Court of the United States but by the Executive power, in an opinion now the law of the Department of Justice; deadly because if the militia, a body of troops strictly for home defense, can be transported to European battle fields in this war, it can be so transported in all the European wars that are yet to come. In that way the Monroe doctrine, based on the solemn declaration of the fathers that we must not "entangle ourselves in the broils of Europe," will be completely overthrown without one word of authorization, either from the American electorate or from the Congress of the United States. If such a revolution can be wrought solely by the fiat of the Executive, without a word of authorization, either from the American people or the American Congress, then surely our constitutional democracy, based on the threefold division of power, is as an end.

PETITIONER EARNESTLY IN FAVOR OF VIGOROUS PROSECUTION OF THE WAR BY ALL CONSTITUTIONAL MEANS.

As your petitioner earnestly advocated the embargo of all German ships in our ports before war was declared, and as he is now and has ever been aggressively in favor of the prosecution of the war by all constitutional and sane means, he implores the Congress to suppress, so far as it can, the present riot of illegality by which the initial resolve of the American people to prosecute the war with all their might is being rapidly undermined. The American people are deeply imbued with what the great historian Grote calls "constitutional morality," meaning thereby a deep-seated love of liberty under law which refuses to submit, under any circumstances, to flagrant breaches of the Constitution, such as the unlawful transportation of a half million of the National Militia to European battle fields would involve.

Such a project of illegality is too stupendous to be undertaken by practical men in a land of liberty under law. The shock of it will not only impel the people to draw their purse strings—a matter far more important to the allies than the presence of unwilling and undisciplined troops—but it will certainly excite grave popular commotion in our midst the moment these young men, unlawfully transported, begin to die far from home.

AN APPEAL TO CONGRESS FOR AFFIRMATIVE ACTION.

In consideration of the premises and of the fateful consequences sure to result from them your petitioner, with the profoundest humility and respect, represents to the Congress that it can no longer close its eyes to the gravest responsibility, perhaps, that ever devolved upon it. The Congress can not fold its hands and permit half a million of American youths to be silently transported over the sea under an unconstitutional and void Executive order, upon the theory that the Congress knows nothing about it, because it has said absolutely nothing on the subject. The Congress can not thus abdicate its high functions as the representative of the American people and the guardian of the Republic in this matter of supreme national concern. The Congress should not permit our conscripted National Militia to be forced to seek the protection of the courts.

Therefore your petitioner humbly prays: First, that the two Houses of Congress appoint a joint committee, to be composed of the ablest jurists in Congress, who shall be directed to consider and report whether or no—admitting the constitutionality of the conscription act of May 18, 1917—there is any doubt or question whatever of the exemption of the National Militia conscripted under it from service abroad, as declared by the Supreme Court of the United States in 1827, by Attorney General Wickersham in 1912, and by President Wilson in 1916. Your petitioner prays that he be permitted to appear before such joint committee in order to demonstrate that the opinion recently pronounced by ex-Justice Hughes against such exemption is foundationless in every particular. Second, that if the Congress shall ascertain that such exemption is a valid and subsisting constitutional right it will employ every part of the constitutional machinery at its command, including the power of impeachment, against any and every magistrate who shall dare to violate it. Third, that if the Congress shall ascertain that such constitutional exemption does not exist, that it will pass a joint resolution expressly authorizing the Executive to transport such militia to European battle fields, so that the electorate at the next election may be able to express their approval or disapproval thereof. Fourth, that said joint committee be directed to ascertain and report whether or no there is now or has been a conspiracy existing between the leading newspapers of the United States, including some owned by foreigners in this country, to the end that false and foundationless statements should be circulated as to the nonexistence of the ancient and undoubted constitutional exemption in question, under a compact or agreement that no one should be permitted to controvert or explain to the people the falsity of such statements.

For this your petitioner does ever pray.

Very respectfully, your obedient servant,

HANNIS TAYLOR.

Reducing Soldiers' Expenses.

EXTENSION OF REMARKS

OF

HON. J. HAMPTON MOORE,

OF PENNSYLVANIA,

IN THE HOUSE OF REPRESENTATIVES,

Monday, October 1, 1917.

Mr. MOORE of Pennsylvania. Mr. Speaker, under leave granted me to extend my remarks in the RECORD I respectfully submit for the information of Members of the House and others interested in the welfare of our soldiers and sailors now in camp awaiting further orders for service the following correspondence relating to the appeals of certain enlisted men for a reduction of car fare in certain cases:

AUGUST 25, 1917.

Hon. NEWTON D. BAKER,
Secretary of War, Washington, D. C.

DEAR MR. SECRETARY: It has been suggested to me that some of the boys in the various camps could save money in car fare, and would to that extent be made happier, if instead of paying individual railroad fares a combination rate could be effected where they move on their own account in large numbers, as