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**"The Gentleman Who Does Not Yield  
Hatton Sumners, Dallas Diogenes"**

*By Raymond Moley and Celeste Jedel*

A little less than a year ago, Mr. Roosevelt airily remarked that he saw no reason why the Seventy-sixth Congress shouldn't go home. It was the first of three presidential attempts to proffer the national legislature its battered hat. All Failed. Each time Congress took a deep breath, hitched itself back in its seat and stayed. And each time it did, the country gave it a rousing cheer. Clearly the people back home found the presence of its haired hands on Capitol Hill comforting. Clearly, they were determined that Congress should not be evacuated or blacked out for the duration. They still are.

Just why this should be so, in the face of Congress' traditional role as a source of innocent merriment, it's easy to fathom. Back in those pastoral days when the stock market sometimes rose, there was always a special rise on adjournment day. People said the market was selling "ex-Congress." But the tense weeks of 1940 disposed of that canard. For one and all they established the fact that the country loves the old scamp, though years have passed since it admitted it. The explanation isn't in the Constitution, the textbooks, the newspapers or the stories of congressional leaders. The answer lies in the mystery of what we loosely call character. And if it must be defined beyond that, you can do it only by unraveling the stuff out of which a congressman is made. Take Hatton W. Sumners, if you will. The mystery of Congress is the mystery of Sumners — and the power and the glory as well.

It happens that Sumners is a great many things. He represents Dallas, Texas, but he also represents the salty common sense that we like to think is peculiarly American, and our abiding faith in certain fundamentals that are at once infinitely simple and enormously sophisticated. He represents himself. He is representative government. Called by Washington correspondents "the ablest and most potent advocate in Congress," "wisest as well as smartest," he has probably received more tributes in the same vein on the floor of the House than any other man. On April 7, 1938, the House gave over the greater part of a day to a speech fest celebrating the beginning of his twenty-sixth consecutive year in Congress. As one after another of the brethren rose to sing his praises — with Sumners, in an agony of embarrassment, protesting that he didn't like to hear such things "except through the crack of the door" — it became apparent that he is also the most beloved man in the House. Affection for him transcends political allegiance or philosophic compatibility. If you doubt it, ask those who've served with him down the years — John Nance Garner and Fiorello La Guardia, north and south poles in the ideological realm; Joe Martin and Sam Rayburn, north and south poles in politics.

This would be easily enough explained if Sumners were one of those agreeable people with a faculty for mutual easements and accommodations. His widely quoted philippic against strikes in the defense industries late this March, which reached its climax with suggestions of "the electric chair" for "enemies of the nation in the factory or elsewhere" is proof enough that he is not. Sumners is sometimes uncompromising, often ornery and always ready, when need be, with disagreeable truths. The butts of such treatment take it and like

it chiefly because no part of his pungency is achieved by throwing salt in the wounds of his victims.

There was, for instance, the way he saw fit to offer condolences to a mournful conclave of Republic friends after Willkie's defeat. "You Republicans thought you were entering a horse in a horse race," he drawled, "but the horse decided he was entering a rodeo."

There was the time he broke the tension of a sizzling House debate on a bill in precisely the same way. Asked whether he knew of any first-class lawyer who thought the bill was constitutional, he said, "No, I don't. And if I heard of one who thought it was constitutional, I wouldn't think he was a first-class lawyer."

Once, single-handed, he routed the House leadership, which was unmercifully trying to whip the membership into compliance, by the simple expedient of standing up, grinning at the chief whipcracker and announcing, "When a fellow gets it into his head that he's the only honest man and the only smart man and the only patriotic man, he's the biggest fool in the country."

**The Watchdog of the House**

Again, during the court fight, he turned his wit with devastating effect on the Niagara of Administration maneuvers by remarking to a lady who asked him whether he had been called in and consulted on the court bill, "Madam, Nature does not consult; it commands."

At a conference on crime called by the Attorney General, Sumners, himself an authority on criminal-law enforcement, punctured two days of lofty rigmarole from psychiatrists and social workers by beginning his speech, "You will have to excuse me for using words that you can understand."

Pious frummeries quiver and die when impaled on a Sumnerian phrase. But unlike most whose wit is barbed, Sumners would just as soon serve at the receiving end of his jokes. "When I came to Washington and came in contact with people in high places and discovered I was as smart as most of them, I lost practically all my respect for human intelligence," he once remarked. A vast comic legend has sprung up around his passion for thrift — personal and governmental. But Sumners laid its foundation stone by telling on himself the story of an old colored panhandler of his acquaintance who stopped him one day and said, "Good maw'nin', Mr. Hatton. Sure is glad to see yo'. Yo' ain't got a quarter for this ol' man, has yo'?" Sumners ran his hands through his pockets and, after completing his search, replied, "I declare I did have a quarter, but I don't seem to be able to find it right now." At which point, he insists, the man rejoined, "Mr. Hatton, please, suh, look again. 'Cause if yo' had it, yo's still got it."

Having thus established his aversion to ostentatious spending, he feels perfectly free to keep an eye on others, and there's nothing at all they can do about it. The morning that he and Fiorello La Guardia, who was then a member of his Judiciary Committee, arrived in San Francisco to conduct a preliminary examination in an impeachment preceding, he surprised La Guardia breakfasting in his room. La Guardia had order a mod-

est-enough collation — prunes, cereal and coffee — but hotel breakfasts under their silver-plated covers have a way of looking formidable. Sumners glanced at the table glumly. The next morning at 6:30 he routed La Guardia out of bed. “How about some breakfast?” he asked.

“Sure,” said La Guardia sleepily, reaching for the house telephone.

“Oh, no, you don’t,” said Sumners. “Indeed you don’t. I certify no bills for Roman feasts to my committee. You come with me.” Mr. La Guardia was forthwith conducted to a near-by cafeteria. And there he breakfasted every day under Sumners’ twinkling eye.

It is attention to matters like these that has made it possible for Sumners to break all records in the House by returning unexpended committee funds year after year. The House appropriated \$5,000 for the inquiry in San Francisco. Sumners returned all but \$1,769.75 of it — a fact which so stupefied his conferees that one of them plaintively remarked on the floor, “There is nothing in the history of this House connected with investigations that shows any other such investigation conducted at so small a cost.” Given \$10,000 to survey the personnel needs of the Federal judiciary, Sumners produced a magnificent report and turned back \$9,000.

### **The Growth of a Statesman**

This is not without its salutary effect on the business of the House. It makes it possible for Sumners to rise on the floor from time to time and denounce certain expenditures as “barbaric.” There was the time when he simultaneously convulsed and chastened the House by pointing out the item “Corkscrew — 504” on a bill submitted to the House for the official funeral of an esteemed member. “Paid setters up — \$3.00” was the theme of another discourse on state funerals. Comparisons may be odious, but as long as Sumners can make his Judiciary Committee accomplish what it does with as little money as it does, there are limits beyond which other committee chairmen cannot go. Besides, no one can take offense at lectures on thrift from a man who will deliberately carry parsimony to fabulous lengths for the sake of a laugh, as Sumners has been known to do.

Sam Rayburn once told a group of friends that Sumners had never bought him lunch. This gave him the happy thought of playing a trick on Sumners. He and his friends would drive from Bonham, Texas, Rayburn’s home, to Dallas, Sumners’ home, present themselves in time for lunch and thus compel Sumners to invite not alone Rayburn but those accompanying him.

So it was arranged. Rayburn and company rose early the next day, covered the seventy-odd miles to Dallas as fast as Rayburn’s native caution would permit, and reached the outskirts of Dallas at 11:15 A.M. Rayburn rushed to a telephone to announce to Sumners that he and some friends had come to town.

Sumners suspected the raid at once. “Welcome to Dallas, Sam,” he drawled. “A hearty welcome to you and your friends, but it sure is too bad you couldn’t get here earlier. In time for lunch, I mean. You see,” he chuckled, “I’ve just finished mine.”

Unlike those political hucksters whose youthful vicissitudes are perpetually on display, Hatton Sumners scarcely ever refers to his. But their assembled history goes far toward explaining his poignant awareness of a dollar’s value. His early years were not, in a personal sense, borrow-spend-lend years. The

Sumners family, which moved from Tennessee to Texas, had all the economic provocation of the Joads without their moral corrosion. Its hegira was less a retreat than a quest. And its leader was a boy of eighteen.

There were no education technicians to provide projects to teach young Hatton how to think. Nature and a rickety economic system did the needful. Hatton wasn’t more than eight when he perceived the outlines of a losing struggle to make a living on a farm near Pulaski, Tennessee. When his parents first took him on the wagon to Pulaski, he asked how all the folks in the town could live without growing anything. As the representative of a great city, he’s still trying to find a final answer.

But back there in the 80’s on the farm, Hatton discovered a small part of that answer. Before he was ten he managed to contribute cash to the family income. Pleas Smith, an old neighbor, used to tell the story of how he launched Hatton on his first financial venture. Hearing of some hogs that could be bought for seven dollars, Hatton borrowed three dollars from Pleas to supplement his savings, bought the hogs, fattened them with corn got by swapping a double-barreled shotgun and a jack-knife, and ultimately sold them for forty dollars. Part of this money was then used to buy clay peas, for which, Hatton heard, there was a brisk demand in Fayetteville. A neighbor who owned a team and wagon agreed to take the peas to town and sell them on shares. Hatton’s split of the profit was thirty dollars. From then on, Hatton was in the swapping business, trading livestock, land or whatever came to hand, and doing astoundingly well at it.

By the time he was eighteen, and the depression of the early 90’s was in full swing, he realized that the odds were hopeless. He went off to Texas to look over the prospects there, found them to his liking and returned to help sell out the farm and move the family. The Sumnerses arrived in Garland, Texas, in 1894 with a few hundred dollars, some of it in horses. By a series of swaps this eventually became the deed to a home.

Meantime Hatton, who had a yearning to become a lawyer, had somehow squeezed in a year of formal schooling and had read, on his own, Blackstone and two volumes of Kent. The family settled, he presented himself at the private law office of a Mr. Wozencraft, the city attorney of Dallas, described his circumstances and asked for a job. Wozencraft was interested and touched. He agreed to supervise Sumners’ reading and give him work. For good measure he fixed him up with a cot in the office. Sumners never forgot his kindness. He’s been repaying it for years the way he thinks Wozencraft would have liked best — by helping scores of poor boys and girls get through college.

With Wozencraft’s help, Sumners studied the books listed in the curriculum of the University of Texas Law School, took his bar examinations and began to practice. Three years later, in 1900, he was elected prosecuting attorney.

He soon found plenty of outlets for his energy in that job. Dallas was a city of 42,000 in 1900, but it still bore the marks of its frontier beginnings. It’s about the Dallas of that era that Sumners tells the story of the gambling house where “there’d been too many folks killed.” So the proprietor posted a rule, he says, “that there couldn’t be ‘any personalities.’ In a poker game one fellow caught another cheating. He drew back his chair, put his six-shooter on the table and said, ‘I’m not going to call no personalities. I’m not talking about nobody. But if I catch that red-headed, one-eyed son-of-a-gun cheating again, I’m going to shoot t’other eye out.’”

## **An Angry Prophet**

It seems superfluous to add that the town was infested by gambling houses or that their proprietors had established a flourishing entente cordiale with the local political potentates. Occasionally the houses were raided, but not unless the proprietors knew in advance when the raids were coming and who was to do the raiding. To a young man of Sumners' mettle, the situation was insupportable. Nature had given him no warnings when it chose to strike, and even then Sumners believed that human government must follow the laws of Nature and God.

There was something Elijah-like in Sumners' attack. Armed with a six-shooter and assisted by a few dependable officials, he burst unannounced into the roaring dives. The proprietors gave bond, of course, but Sumners put an end to the time-honored custom of carrying bonds in blank to the raids. He insisted that the defendants endure the shame of marching in custody through the streets to the courthouse before bonds were made and accepted.

For two years they did. Then the mobilized underworld of politics defeated him at the polls — fraudulently, he believed and claimed. The remaining weeks of his tenure he used to prosecute the frauds. He got thrown out of court for his pains. Appeal to the legislature brought better results — a primary law. Under it he was re-elected prosecutor in 1904.

The raids were resumed, but the cases lingered on the court calendars. So Sumners decided there was nothing left to do but raid the houses to death, drive them out of business by the sheer repetition of raids and court appearances. A court promptly cited him for contempt. Now nearly at his wit's end, Sumners marched into a "businessmen's prayer meeting" attended by many of the "best" people of Dallas. He listened for a while to a choice selection of pious irrelevancies and then rose, an angry prophet, to scourge his respectable audience.

## **Friend of the Court**

"Here you are," he shouted, "chasing God around! Yet you won't lift a finger to help me, or Dallas, or yourselves!" One of the repentant brethren thereupon moved that he be endorsed. Sumners came out of the meeting with an embattled array of influential people behind him, beat the contempt charge and finished the job of cleaning up the town.

Thus are statesmen made in America. A youthful, ambitious prosecutor; a mass of unenforced laws; cynical politics; slumbering burghers. Mix, and you have a hell-raising row. But the by-product's the thing. A public quick to applaud a fighter and inordinately interested in anything relating to crime will cry lusty approval and vote and vote and vote the enforcer into office. Congress is full of these promoted reformers. Some graduate there from the short-pants-Sir-Galahad class; some never do.

Elected to Congress in 1912, Sumners came to Washington hoping to get on the Committee on Agriculture. Once in Congress, he found himself fascinated by the work of the Judiciary Committee. One of the most powerful in the House, that committee deals with constitutional amendments, impeachments, Federal crimes, the procedure of the Federal courts, antitrust legislation, the relation of the courts to labor and corporations, and a half dozen other great questions. It's always had the reputation of drawing the best legal talent in the House. On it have served Edward Livingston, Daniel Webster, Stephen A. Douglas, not to mention three Presidents and a daz-

zling array of governors, Supreme Court justices, senators, Cabinet members and state chief justices.

It's a measure of Sumners' capacities that, given the kind of legal training he had when he came to the House, he's been able to add distinction to the committee's record. He is the first and only member to have appeared in the Supreme Court in its behalf as "friend of the Court," and he's done this not once but three times. When the new Philippine government was looking for the best legal help it could get in drafting its constitution, it asked for Sumners. Of the nine times in American history when managers from the House Judiciary Committee have solemnly appeared at the bar of the Senate to demand an impeachment "in the name of the House of Representatives and of all the people of the United States," Sumners alone has been present three times. More important is the cold record of results. These nine impeachment trials have ended in three removals, one resignation and five acquittals, but of the trials in which Sumners was a manager, one ended in removal, one in a resignation and only one in an acquittal. As a prosecutor in such proceedings Sumners is uniquely skillful in tracking down and presenting evidence. Incidentally, he has made history by changing the basic nature of the impeachment process.

The House proudly calls Sumners "the only man who ever overruled the Supreme Court." He got that title in the 20's. Chief Justice Taft had sent the Judiciary Committee a request for a bill making some change or other in court procedure. Sumners told the committee that no legislation was needed; the change could be made without it. When that word reached Taft, he asked Sumners to call. Would Sumners explain, Taft asked severely, on what he based conclusions that differed from those of the court? Sumners did. Taft's ineffable good nature, as always, transcended pride.

"Well," he roared, "I can't deny it! You're right. We don't need the bill." And then, shaking with laughter, "I guess that makes you the only man who ever overruled this court."

That was the beginning of a warm friendship between Sumners, Taft and most of the other members of the court. Taft used to call Sumners the best lawyer in Congress. He had a habit of dropping in on Sumners in the House Office Building with Sutherland, Van Devanter or one of the other justices in tow — a disregard of social precedent so monumental in a city of precedents that bug-eyed congressional clerks would congregate from all over the building to witness the justices' departure. The relationship does not persist with some of the newer justices. Significantly, the decision to skip it was Sumners'. "There are lots of people who feel kind of bad that that DeLeon fellow never found the fountain he was looking for."

## **A Child of Nature**

It is quite possible to discover him in the act of distinguishing between the ministers of a living tradition and the ministers of a living President.

But Sumners' authority doesn't come from his associates, his achievements, or his eminent position among the leaders of the House. Her personal weight derives from something deep within himself — a reserve force that doesn't need the conduits of office or title. He's no leader in the formal sense; no field marshal of party groups; no dispenser of rewards or executor of punishments. Yet there have been moments on the floor when, single-handed, he's persuaded the House to defy its appointed leaders; moments when he has stood armed, it seemed, with the

force of Nature itself; moments when the lawgiver stood transfigured as a prophet.

The essential thing about a prophet is, as Carlyle once remarked, his conformity with Nature — with the Nature which “bursts up in fire flames . . . proclaiming with terrible veracity that gorged notes are forged.” Counterfeit reform produces a comparable reaction from Sumners. For Sumners, too, goes back to first sources for his judgments. Field glasses and stout boots — his equipment for long tramps through the countryside — are always ready in his office and hotel room. Whenever he wants to think hard he goes off “to commune with the ways of Nature.” “I don’t see how you town-raised and town-ridden folks ever do get any real information,” he once told a colleague from New York City.

Observations about the birds, trees and clouds are the fruits of Sumners’ communings — items that sharpen his analysis when he speaks of statecraft. “No people who failed to use their capacity for self-government,” he will say, “were ever able to retain it. No people who lost their capacity to govern themselves were ever able to remain free. Why? Because Nature will not permit strength to remain where it is not used. The fish in the Mammoth Cave have become blind. The athlete who ceases to use his muscles becomes incapable of using them. In such situation Nature has no delicacy in the choice of its instrumentalities. People learn to govern by governing; retain the ability to govern by using it; lose the ability to govern by not using it. That is the plan of Almighty God, and no man under the dome of this Capitol can overrule that plan.”

### Dallas Crusader

More than once Sumners’ Thoreau tendencies have stood him in good stead. When he first became prosecutor of Dallas they helped him convict a gang of professional chicken thieves. This gang had gone free repeatedly because juries were not convinced that the feathered evidence was stolen. Finally, three farms were stripped clean of chickens and the gang was apprehended again. Sumners laid the facts before the court and asked the indulgence of the jury. “Friends,” he said, “I’d like to try a little experiment. After you’ve heard the defense, along around sundown will you come out with me and the chickens to a spot close on to the three henhouses?”

The jury could. Promptly at sundown Sumners ordered the release of the chickens. To the astonishment of witnesses, defendants and jurors, the flock, after flurrying around, divided itself into three parts, each of which made off in the direction of its own henhouse.

“Gentlemen,” Sumners said softly, “you have just had the testimony of these chickens. Chickens don’t lie. The prosecution rests.”

A Sumners grown mellow finds uses more subtle for his awareness of Nature. Late one night when he and two members of his judiciary Committee were working in the committee room overlooking The Plaza, they got into an angry argument over some detail of procedure. Suddenly it began to rain. Sumners held up his hand for silence and sat looking out into the streaming blackness for a moment. Then he said, “Boys, aren’t we funny? Here we are, getting all het up over such little things! And when you come right down to it, we’re nothing but microbes strutting around on a clod of dirt. We’re such fools that we’d be tickled pink if we knew that after we passed on they were going to put us out there in that rain, astride of a bronze horse.”

Sumners’ devotion isn’t to the Nature that’s good for propelling steamships and turning turbines: the rains and the trees are important to him because they teach him “the laws of Almighty God.” God is his “Big Boss,” he says, and “He operates through Nature to enlighten men.” “It’s the weeds that make good farmers,” Sumners is apt to remind the House. “In God’s economy there’s no attempt to protect men against difficulties. In fact, He creates difficulties. The difficulties which we observe in operating a free system of government constitute the gymnastic paraphernalia provided by God Almighty.

Sumners goes on to tell the House that the men who wrote the fundamental law were successful because they relied upon verities proved by Nature and experience. They were “not creators but discoverers; not founding fathers but finding fathers.” Madison, Hamilton, Jefferson and Marshall merely gave eternal truths a local habitation and a name.

Whenever Sumners thinks that his colleagues are being pushed around too much in the name of “The Chief,” he rehearses these beliefs. The “finding fathers” become his allies at such moments. He speaks of them as if they were his pals, his contemporaries, and as if he had left them, not five minutes earlier, commiserating over the evil days on which Congress had fallen. Profoundly religious “in a rugged sort of way,” as he puts it, he invokes the name of the Lord only in moments so portentous that the “finding fathers” themselves need reinforcement.

Standing before the House with God as his “Big Boss,” Nature his handbook, and the nation’s great dead his intimates, Sumners can laugh at the Administration’s demands for a puny conformity. Whenever anyone shakes a minatory finger at last reform, the New Deal strikes back with the “look-what-company-you-are-in” argument. Sumners has the perfect counter argument. He simply answers, “You may well look,” and lo! Providence and the ancients are at his side.

An Executive who judges members of Congress by the speed with which they respond to “suggestions” is not impressed by Sumners’ ability “to get things done.” Which is simply another way of saying that Sumners won’t obey Administration orders blindly. Still the Administration limits its complaints to deprecating mutterings. It has been burned so deeply in its attempts to put pressure on Sumners that it risks no purges and tries, for the most part, to avoid a direct issue with him.

Very early in the New Deal Sumners began to teach the Administration that the Constitution vests the power to legislate in Congress. In December, 1932, President-elect Roosevelt decided to dispatch some Brain Trusters to Washington to tell the lame-duck Congress what he wanted by way of farm legislation. One of the Roosevelt emissaries met with the congressional leaders, among them Sumners, and proceeded to tell them about the cause and history of the farm problem, the remedies theretofore tried, the reasons for their failure, the intricacies and virtues of the domestic-allotment plan and the imperative need for its enactment.

When he had finished, Sumners looked at him and smiled. “You know,” he said, “you put me in mind of a story they tell in my part of the country. It’s about a city lady that came out to a country school to inspect the teaching. Came the arithmetic lesson and she broke in to ask a little boy, ‘If there were twelve sheep in a field and one jumped over the fence, how many would there be left?’ ‘None,’ the little boy said. ‘Shame on you,’ said she. ‘There’d be eleven.’ ‘Lady,’ the little boy answered, ‘you know arithmetic, but you don’t know sheep.’”

No warning was ever given more gently. Perhaps it was given

too gently. Suffice it to say that the incoming Administration didn't get the kind of farm legislation it wanted from the lame-duck session.

A year or so later, in 1934, Joe Keenan, then an Assistant Attorney General who had a sort of permanent assignment as legislative liaison man for the Department of Justice, planked down a batch of racket and kidnapping bills on Sumners' desk, with the word that the Administration wanted them passed. Sumners examined the bills and found some of them so loosely drawn that they would have called perfectly legitimate activities rackets, and others so sweeping that they would have superseded local government completely in the field of criminal-law enforcement. He acted accordingly. His Judiciary Committee began to consider the bills on their merits.

Before long, Keenan reappeared to make his message unmistakable. The Administration wanted those bills reported out without further delay. Sumners' face grew red. Holding on to the edge of his desk, he counted ten. And then he said quietly, "I see I need to remind you that the American Constitution makes certain provisions for the separation of powers. The Executive is dealing with a co-ordinate body when it deals with Congress. The Judiciary Committee is a part of Congress."

Keenan left. But the story didn't end there. From another Administration sector came the threat that it might be necessary to take Sumners' committee away from him.

"I'd just like to see anybody try." Sumners rumbled ominously.

Nobody did try. Whatever the Administration's impulses may have been, the leaders in Congress knew better. As the canny Rayburn explains it, "A chairman controls his committee because the bull is sixty percent of the herd." Sumners and his committee went on about their business in their own way.

"Once bitten, twice shy" not being one of its mottoes, the Administration three years later blundered into precisely the same situation, but this time at a frightful cost to itself. Perhaps it happened because the Administration strategists had been lulled into forgetfulness of Sumners' basic independence by his over-all record — a record of general Administration support. If so, they made the inexcusable error of interpreting Sumners' normal going along with much of his party's program as a disposition to obey commands. But probably the mistake was made because at the moment of its making — the moment the court bill was unveiled — the Administration was so flushed with victory, so confident of its ability to rush the bill through Congress that it never occurred to it that a Hatton Sumners might knock its plans into a cocked hat.

Whenever the Administration wants a controversial measure passed, it tries to get it through the House first. The controls are tighter there than in the Senate, and passage by the House gives a measure momentum because it presents the Senate with a fait accompli. This was the plan on the morning of February 5, 1937, when the President announced his court proposal to the Vice President, the Speaker, the majority leaders, the members of the Cabinet and Hatton Sumners and Henry Ashurst, chairmen of the two Judiciary Committees which the bill would be referred. He did it by handing them the bill, reading a few snatches from his message and leaving, without discussion.

### Potomac Parable

Sumners sat through that ordeal with a growing sense of dev-

astation. Silently he filed out with the other leaders, joining a group of them in a taxi. A very few minutes passed. Then his decision, his choice between party allegiance and the convictions of forty years, was made.

"Boys," he said, "here's where I cash in my chips."

Any other decision was impossible. A mind that for decades had found order under the swirling events of the moment could not repudiate that order. Intimates heard him discuss the issues involved in quaint allegorical terms. "The Almighty first decides what kind of a creature He wants to create and then He gives it appropriate organs. If it is a mammal, He gives it lungs. If it is a fish, He gives it gills. We, in America, decided upon a republic. Then we created three divisions of government. We must decide whether we shall keep a republic. And if we do, we must keep the organs necessary to it."

Beyond any member of the Senate or House, Hatton Sumners had reason to object to the bill. For he had long since recognized the need for new blood in the court, and was well on the way toward doing something about it. He had prepared a bill permitting Supreme Court justices to retire with pay, as other Federal judges were permitted to do, and was about to get it through the House. Sumners knew that, had Congress been given the time to pass the bill, the President would have had two Supreme Court resignations; the rejuvenation of the court could have begun in an orderly way. And it was in an orderly way that Sumners wanted the court to be rebuilt. As he put it to the House, "If you went to a mechanic with the gas line of your car stopped up, he wouldn't put dynamite under the car and blow it up. He'd open up that line and see if he couldn't get the engine working. He might do something more radical later, if that did not work. But that's what he'd do first." In a quiet, respectful way, "without hollering its head off about it," Sumners went on to explain, the Judiciary Committee had been exercising "its pressure upon the court to try to get it moving out of the field where governmental policy is fixed . . . ."

### The Court Fight

So Sumners, facing a presidential command which not only violated some of his deepest principles but threatened to tear down the results of years of quiet, shrewd labor, squared himself for the fight. He determined to do his utmost to keep the court bill suspended in the limbo of his committee; knowing as well as he knew the laces in his shoes what the effect of this would be. It meant that the bill could only come before the House in one of two unlikely events: first, that the bill's proponents in the House could get 218 signatures to a petition to discharge Sumners' committee from consideration of the bill; or, second, that the bill's proponents could prevail upon the chairman of the Rules Committee, an implacable enemy of the court plan, to put through a rule reporting the bill. Beyond this, it would consign the bill to months of relentless debate in the Senate.

The Administration strategists never fully recovered from that blow. They shifted camp to the Senate, but things went badly there from the first. Spring came and went while the Administration attempted to overwhelm the most stubborn and articulate group in the world. Meantime Congress passed Sumners' retirement bill and, just as he had predicted, the justices began to take advantage of its provisions. Van Devanter retired. The fight in the Senate grew increasingly bitter. The Administration was obviously losing ground. In desperation, it

began to look for an opening in the House again. Perhaps it was still not too late to get the bill away from Sumners' committee and through the House.

Sumners met the attack head-on. On July thirteenth he rose in his place to speak. Mountains of oratory had piled up during the long debate; history had been ransacked; precedents endlessly invoked. It was no part of Sumners' strategy to heap Pelion on Ossa. He spoke seemingly without preparation, in homely phrases. "There is not enough left in the Supreme Court controversy to justify the hurt resulting from its continuance," he said. The retirement plan was working. The fight was won. And as to saving face for the Administration, "if these advisers who are counseling the President to force that bill into this House under pressure which they may be able to command, when we are trying to preserve strength and unity required to do the nation's work, if they force that bill into this House for the sake of saving their faces or their hides, they ought not to have hide enough left to be worth bothering about."

When he had finished, the House rose, cheering and applauding as it had not done for years. There was not the slightest doubt that Sumners had carried the day. That was the end of the battle in the House. Coupled with the death of faithful Senate Leader Joe Robinson that very night, it was the effective end of the battle altogether.

Incredible as it may seem, that pattern may repeat itself this year, although the ostensible issue this time involves something new — labor in the defense industries. Alarmed by the number of strikes in defense industries, fearful that they would increase disastrously, and outraged by reports that some unions were charging defense workers fabulous "permit fees" for the privilege of working, Sumners' committee went to work late this winter on remedial legislation. Perhaps because it now conceives of itself as a kind of "labor government," the Administration seemed to resist such legislation.

Officials first wrote Sumners that none was needed. When he proceeded to hold hearings anyway, Sidney Hillman, William Knudsen and others testified that the Administration had the situation well in hand. Congressional action providing for "cooling-off" periods and the like would only be a "handicap," making labor "less cooperative," it appeared.

Newspaper comment on this testimony was filled with sarcastic references to serious strikes then current. Mr. Knudsen and Under Secretary of War Patterson then offered suggestions for legislation.

### **The "Electric Chair" Speech**

But it was made very clear that these suggestions were personal, and not Administration-backed. Administration leaders in the House were apathetic when the subject of labor and defense were mentioned. Sumners was suddenly discovered to be not only a "labor-baiter" but a "dangerous Fascist." These attacks, combined with a general pooh-poohing by Administration spokesmen and the establishment of a mediation board by Executive order, were relied on to block Sumners.

But it has all been about as effective as an attempt to plug up Vesuvius with a wad of paper. The eruption began on March twenty-seventh, when Sumners stunned Washington by an hour's extemporaneous speech which ended with a standing ovation from the House. "We have had for some time now practically a labor government," he said. "Labor has been denied and has been deprived of the restraining influence of government . .

. . . Agencies of the Government have aided labor in strengthening its organization at a time when labor was probably moving just a little faster than it could safely move.

"What is our responsibility? How are we answering to it? My God! Statesmen of America, how are you answering the challenge of the hour now? . . . Things have been drifting along probably without those in responsibility being conscious of how far they have gone. . . . When the time comes when it is necessary to deal with the enemies of this nation, whether they be in the factory or elsewhere, I believe the sentiment of the Committee on the Judiciary is to bring in whatever legislation is necessary. And if it is necessary to send them to the electric chair in order to preserve liberty in this country I do not believe there is a member of the committee who would hesitate one split second to do it."

It's not that Sumners glories in such battles. The fact is that he hates them. He hates the shouting and the maneuvering they involve. Most of all, he hates having to set himself against fellow Democrats. He will fight only when his sense of duty leaves him no alternative.

### **Democratic Nature**

Judged by the lofty standard of "conformity to Nature's laws," the long record of Sumners' votes presents some anomalies. Pretty plainly Mother Nature most often appears to Sumners wearing the ears and tail of the Democratic donkey. In the fifteen outstanding roll calls of each congressional session of the past eight years, Sumners hasn't voted against his party more than once or twice per session. He voted against the second Hatch bill on the ground that it would invade state rights and increase the centralization of power in Washington. Yet he apparently saw no contradiction in having voted for the AAA and the Wage-Hour bill.

During the past two and a half years Sumners has been vice chairman of Senator O'Mahoney's so-called Monopoly Committee (the TNEC). The hearings of that committee show infrequent attendance by Sumners, not altogether to be explained by an illness in 1939. This is unfortunate, for the committee could well have profited by some of Sumners' lectures on state responsibility — particularly those of its Administration members who continuously championed increased Federal power.

Sometimes Sumners has criticized Administration measures and subsequently voted for them. Unquestionably, one explanation for this is practical political necessity. In the wage-hour fight, for instance, Sumners was one of the 216 representatives who voted to recommit the bill to committee in December, 1937, and one of the 314 representatives who voted for the bill only five months later. That reversal of House sentiment — more sweeping than any since the advent of the New Deal — was produced in part by the promises and reprisal threats of the Administration leaders and in part by the victory of a strong supporter of the bill in a Southern primary election.

Yet political expediency is not the sole or even the chief reason for Sumners going along. The fact is that Sumners isn't a Borah or an elder La Follette, perpetually defying anyone who asks him, for the sake of harmony, to yield a little here or there. He believes heart and soul in the wisdom of collective judgments. He respects representative government because it is co-operative government. He does his level best

to go along with his party because he thinks that's the way to make representative government work.

But the bent of his mind is against Executive dictation to Congress. He resists it because, he says, "the aggregate wisdom of the people is the only safe guide of a republic." "It is no disrespect to the President that we shall do the business for which the people have selected us," he told the House this February. "You are part of the Government, the policy-fixing agency of the Government . . . Whoever is President, in the nature of things, needs the counsel of you as an independent, vital organ. Your counsel, mind you. And who are you? You are the American people."

Perhaps in those few words Sumners has come closer than anyone else to explaining why it is that his colleagues feel as they do about him and why it is that the American people feel as they do about Congress. Service in the House is like nothing else in the world. The House isn't a body to sing its heroes or, as the Senate is, a place to let its heroes sing. It isn't a place for the merely brilliant man. But for the same reason it isn't a place where exhibitionists or blatherskites go undiscovered for long. There are phonies in it — dozens of them. But their colleagues ticket them for what they are because the House proceeds under as inexorable a series of unwritten rules as does the Nature with which Sumners communes. It seizes upon its new members, sorts them out and then begins to labor over those that it finds good. Those it bends to its necessities, educates, disciplines and, in the long years, consumes. The men who have served in it best have almost always been, as Bourke Cocran said, "lost in the mists," unknown outside Washington and their own districts; aspiring to no office beyond the House; content to spend their days obscurely, learning enough in committee about taxation or court procedure or banking to become experts at it, keeping informed enough about everything else under the sun to pass judgment on general legislation and remembering that they have been elected to represent and "do for" their constituents. Modesty, honesty, independence, diligence, sound judgment — all these are part of the picture. But beyond them is the consciousness that the House, and the majority who live in its tradition, are nothing more or less than "the American people, as nearly as the American people can assemble on this continent."

Thus Sumners has defined it. Why do we trust Congress? Why, though we respect the President, are we determined to keep Congress in Washington? Because we trust ourselves. Because we trust our own composite judgment, however fallible, more than the judgment of any single man, however wise, however good. And because we human beings have never been able to devise a better way of registering and enforcing our judgments.

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