INVENTION IN THE CONGRESSIONAL AND CAMPAIGN

SPEAKING OF JOE WELDON BAILEY

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INVENTION IN THE CONGRESSIONAL AND CAMPAIGN SPEAKING OF JOE WELDON BAILEY

THESIS

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By

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CHAPTER I

INTRODUCTION

On January 2, 1913, Joseph Weldon Bailey of Texas announced his resignation from the United States Senate, bringing to an end twenty-two years of congressional service. Bailey's resignation coincided with the culmination of one of the most turbulent eras in Texas politics. From 1900 through 1912 Joe Bailey not only dominated the political scene in Texas, but was, in fact, the main issue in local as well as statewide campaigns.\(^1\) His domination ended in 1912, when against his highly vocal opposition, Texas Democrats overwhelmingly made Woodrow Wilson their choice for the Presidency.

Although Bailey retained his interest in politics and nearly won the Texas gubernatorial election in 1920, he exerted his greatest influence at both the national and state levels during the years he served in the national legislature. After entering the House of Representatives in 1891 he rose rapidly to a position of prominence in Congress and his party, his Democratic colleagues electing him their leader when he was but thirty-three years of age. Upon promotion to the Senate in 1901 he again demonstrated his ability as a leader; during the greater part of his service in that body he was the virtual

head of the Democratic minority. His leadership never went unchallenged, and when he ascertained that the majority of his colleagues no longer supported his views he tendered his resignation. Although no piece of congressional legislation bears his name, he helped to mold or alter nearly every major bill passed by Congress during that period.²

Bailey's rapid ascent to an enviable position in his state and nation is chiefly attributable to his three main assets: his youthful courage, his brilliant intellect, and his oratorical powers.³ It was a speech at a Fourth of July picnic in Gainesville, Texas, that first brought him to the attention of voters who later helped elect him to Congress.⁴ In large measure it was his speaking ability that endeared him to his colleagues and constituents and gained for him the respect of his opponents. Cullen F. Thomas, a prominent figure in Texas politics during Bailey's life and his political foe for twenty-five years, commented upon hearing of his adversary's death, "I would not know whom to name in Texas politics as his superior as a master of popular assemblies. . . . I heard him first in the days of his power that swept all before him."⁵

²Sam Hanna Acheson, Joe Bailey, The Last Democrat (New York, 1932), pp. vii-x.

³Among the many virtues Bailey's friends and enemies attributed to him, these three were by far the most frequently mentioned. For a wide range of views regarding his attributes see Gainesville Daily Register and Messenger, April 15, 1929.

⁴Gainesville Daily Register and Messenger, September 23, 1940.

⁵Gainesville Daily Register and Messenger, April 15, 1929.
Obviously, Bailey was in many ways a remarkable and significant individual in this nation's history. Yet, in comparison to many figures of similar stature, Bailey has received little attention at the hands of scholars. Sam Hanna Acheson, a Texas journalist, wrote the only biography of the Texan. Two unpublished theses make up the balance of works devoted solely to Bailey. Of these, one written in 1924 by Jesse Guy Smith at the University of Chicago, centered on "The Bailey Controversy in Texas Politics." Smith's thesis was brief, however, and its sources were noticeably limited. The other more valuable and scholarly work, written by Ruth Emmeline Parks at the University of Texas in 1940, dealt with Bailey as a "Defender of States Rights." Practically all other scholarly mention of the Texan appeared in limited degree in the pages of biographies on his contemporaries and journal articles concerning other subjects. Considering that newspapers and popular journals of his day contained numerous comments and a fair share of editorials regarding the Texan, the attention given by scholars appears scant indeed.

It seems, therefore, that a study of the speaking of one who gained state and national prominence in large measure through his oratory would be a worthy contribution to the literature of American public address. Although the journals contemporary to Bailey recorded instances in which he spoke ceremonially, it was in Congress and from political stumps that he delivered the bulk of his public speeches and exerted his greatest influence. On the basis of the preceding
statement, this study has been limited to a consideration of Bailey's congressional and campaign speaking. The purpose of this thesis is to examine what Bailey, a speaker of recognized ability, did in his congressional and campaign speeches to persuade people to his point of view.

Selection of Speeches

In order to narrow the scope of this thesis it was decided that four speeches representative of Joe Bailey's efforts in Congress and three exemplary of his campaign speaking would be chosen. In selecting the congressional speeches an attempt was made to choose those which spanned the years he spent in Congress and which dealt with the significant issues of the times. On the basis of these criteria the following congressional speeches were chosen for this study:

1. Speech before the United States House of Representatives on the repeal of the purchasing clause of the Sherman Silver Purchase Act, August 14, 1893.6

2. Speech before the United States House of Representatives in opposition to the Dingley tariff bill, July 19, 1897.7

3. Speech before the United States Senate in support of his amendments to the Hepburn railroad rate bill, April 10, 1906.8

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6 Congressional Record, 53rd Congress, 1st Session, XXV, 313-317.
7 Congressional Record, 55th Congress, 1st Session, XXX, 2735-2743.
8 Congressional Record, 59th Congress, 1st Session, XL, 4977-4991.
4. Speech before the United States Senate in support of his income tax amendment to the Payne-Aldrich tariff bill, April 26-27, 1909.  

The selection of campaign speeches was a much more difficult matter, inasmuch as Bailey's campaign oratory spanned nearly five decades. Although his experience on the stump was extensive and varied, at no time in his life did his abilities receive a greater test than during the decade following the turn of the century, when he dominated the political scene in Texas. It was decided, therefore, as one limiting factor, to confine this study to three speeches from that period. A second reason for choosing speeches from these years was that they revealed Bailey in confrontation with three different situations while speaking on basically the same topic on all three occasions: his personal integrity. In spite of the seemingly narrow limitations on the time span covered by the specific speeches selected, they reflect his campaign speaking over a range of nine years.

Another limiting factor in the choice of campaign speeches was the availability of complete texts. While Bailey's papers evidenced that he usually wrote out his announced congressional speeches and memorized them for delivery, no manuscript of any Texas campaign speech was found. Whether he carried his congressional habit of writing out announced speeches over into his campaigning seems doubtful since many speeches covered

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9*Congressional Record*, 61st Congress, 1st Session, XLIV, 1533-1566.
the same subject; evidence to substantiate this claim, however, is inconclusive.

Newspapers of the period recorded many accounts of Bailey's addresses, but verbatim quotations often comprised only a small portion of the reports. In no single instance did a journal print a complete text of a speech. Fortunately, among the numerous accounts several nearly-complete texts exist. The reporters who recorded these more complete texts occasionally ceased their verbatim account and summarized brief passages. This recording procedure, while it failed to supply the entire word-for-word text, provided a high degree of continuity in the account and retained the flavor, temper, and sense of Bailey's utterances. From among those almost complete texts the following three will be analyzed.

1. Speech before the State Democratic Convention, Waco, Texas, August 8, 1900.  

Those speeches typified Bailey's efforts during the hard-fought campaigns of the early 1900's. Many of the same arguments, examples, and stories that he used in other

10 The Dallas Morning News, August 9, 1900.  
11 The Fort Worth Record, December 15, 1906.  
12 The Fort Worth Record, March 29, 1908.
speeches from the same period appeared in these speeches. The language and basic approach used by the speaker in the speeches selected varied little from what he employed on other occasions.

Method of Analysis

This study is limited to an analysis of logical, emotional, and ethical appeals, or logos, pathos, and ethos, utilized by Bailey in his speaking. The criteria used in the analysis are taken predominantly from Lester Thonssen and A. Craig Baird's *Speech Criticism*. This book is generally recognized as one of the most comprehensive studies on theories of rhetorical criticism and provides an authoritative source for guidelines in speech criticism. Within the book, Chapters 11, 12, and 13 contain discussions of the logical, emotional, and ethical elements respectively in a speech.\(^{13}\)

Although the elements of organization, style, and delivery contribute to the effectiveness of a speech, it was decided to forego detailed analysis of these elements. The fact that the accuracy and completeness of available texts is paramount to a fair evaluation of a speaker's style eliminated consideration of this element. Inasmuch as no detailed accounts of Bailey's delivery exist, verbal, pictorial, or oral, an examination of this element was necessarily excluded. What comments his contemporaries did make regarding his delivery have been noted at various points in this thesis. The

element of organization likewise received attention in the discussion of the structure of his arguments. Thus, the focus of this study will be upon invention in Joe Bailey's speeches.

This thesis is basically descriptive in nature, but an attempt has been made to evaluate Bailey's skill as a speaker when sufficient evidence permitted reasonably valid conclusions. More specifically this study attempts to answer the following questions:

1. Who was Joe Bailey, and what political, economic, and sociological conditions existed, in general, during the era in which he spoke?

2. What were the circumstances peculiar to each of the speaking situations in which Bailey delivered the speeches examined?

3. What was the basic nature of invention employed by Bailey in his speeches, logical, emotional, and ethical, and how did he adapt to each speaking situation?

4. What conclusions can be drawn about Bailey's congressional and campaign speaking in light of analysis? These questions and guidelines provided by Thonssen and Baird governed the construction of this study.

Procedure in Discussion

A chapter providing additional background on Joe Bailey and the period spanned by his congressional service precedes two chapters containing analyses of his congressional and
campaign speaking, respectively. An evaluatory chapter concludes this study.

The first part of the chapter on Bailey's congressional speaking consists of the backgrounds to each of the four speeches analyzed. Following the background statements are sections containing the analyses of his logical, emotional, and ethical appeals, respectively. Although each of the speeches received separate treatment in the background portion of the chapter, they underwent analysis as a group. The wide variance in the subject matter and dates of the four speeches studied necessitated the individual background presentations. Through a simultaneous analysis of the speeches, similarities and contrasts in Bailey's approach to the various situations he faced became more easily discernible. Further, this procedure helped eliminate repetitions that separate analyses would have produced.

In the chapter on campaign speaking this entire process underwent duplication. Since a close relationship existed between the subject matter of all three campaign speeches examined, the procedure of simultaneous analysis proved to be quite valid. Admittedly, continuity between the background and analysis of the speeches may have suffered slightly under this procedure; however, the benefits accrued through the method adopted seemed to justify its employment and provide more than adequate compensation for its shortcomings.

Criticisms of Bailey's addresses appear throughout the analytical segments of this thesis. The last chapter, however,
is devoted primarily to a recapitulation of those judgments which seemed most significant. In addition, the concluding portion contains several judgments regarding the values of this and similar studies. In short, the final chapter is intended to be a critical essay on Bailey's congressional and campaign oratory and the values inherent in a study of a speaker and his speeches.
CHAPTER II

JOE BAILEY, THE MAN AND THE TIMES

The Civil War was but half over when, on October 6, 1863, Harriet Dees Bailey gave birth to her only son at Crystal Springs, Copiah County, Mississippi. 1 The child's mother was from a family "that typified the best that two centuries in the South could produce." 2 The father, Joseph Weldon Bailey, who was born of Scotch-Irish stock and reared in Pennsylvania, had migrated with some uncles to Mississippi where he became a convert to the southern cause. Originally named Joseph Edgar Bailey, the boy discarded the middle name during his college years and replaced it with the family name of his paternal grandmother, Weldon. Young Joe was the second of five children born to the Baileys.

Joe Bailey grew up in the rough and lawless period when Mississippi was under carpetbag rule. Too, the immediate environment of the country tavern in which he was reared was anything but stifling to the recklessness that pervaded his boyhood escapades or those of his companions. 3

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In spite of such an atmosphere, Harriet Bailey undertook to instill in her son the moral lessons of her Baptist training and to encourage mental activity among her children. She, along with a "Professor" McNeill, was responsible for what schooling her son had in Copiah County. In McNeill's school Bailey reportedly excelled in debate.  

With liberal financial support from his uncles, Bailey, at sixteen, began a procession through several educational institutions. First he went to an academy at Clinton, Mississippi, to prepare for entrance into the state university at Oxford, where he enrolled the following year. At Oxford the new student was immediately attracted to the debating societies. As a member of the Phi Sigma Society, a debate organization at the university, he promptly distinguished himself as a debater and orator. He also enjoyed, along with other hero-worshiping students, personal contacts with the United States Senator from Mississippi, Lucius Quintus Cincinnatus Lamar. He remained at Oxford only a short time, however, and then following a semester at Vanderbilt University, Bailey matriculated at the University of Virginia in the fall of 1881.  

Probably the most noted training ground of southern statesmen, the University of Virginia's debating societies and law school attracted great attention for one already

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4 Acheson, Joe Bailey, p. 7.
5 Ibid., pp. 11-13.
serious about the profession of politics. Bailey arrived at Charlottesville wearing a broad-brimmed hat and Prince Albert coat and wearing his hair "in the manner of a statesman of the old school," all of which served to distinguish him as somewhat of an oddity on the campus. As in previous schools, he achieved no remarkable academic record but shortly gained recognition as an outstanding debator. Although his marks suffered, Bailey did not withdraw from the university until he became embroiled in a dispute with school officials over the selection of a topic for the spring, 1882, debates. He immediately moved to Lebanon, Tennessee, and enrolled in the equally celebrated Cumberland University Law School. The atmosphere at Lebanon was somewhat different than the roving student had previously experienced. Activities that distracted the undergraduate from his studies on other campuses were practically nonexistent at Cumberland. In sharp contrast to performances at other schools, Bailey concentrated on his studies. In the summer of 1883 he secured a license to practice law. One writer aptly stated that at Lebanon Bailey "at last found himself."^6

His formal education completed, Bailey returned to Copiah County where he established a law practice at Hazelhurst and pursued political interests. At that time agitation was high in Mississippi for regulation of railroads.7 Although he was only nineteen Bailey won election to the position of delegate

^6Ibid., pp. 13-17.

^7Ibid., pp. 18-19.
to the state convention. His opponent was his father, an anti-regulation man and prominent Democrat in his region.8

In the fall of 1883 Bailey unfortunately became involved in some illegal political tactics in his home county. The following spring a United States Senate investigating committee reported that he and some other "rash young men" had roamed the countryside intimidating Negroes against voting the Republican ticket,9 but years later political enemies of Bailey resurrected and exaggerated the incident beyond all proportions.10 In 1884 Democrats in his district chose him for the position of presidential elector. Preceding the fall elections the young orator campaigned for many of the Democratic aspirants in Copiah County. Following the elections Bailey proudly cast a Mississippi vote for Grover Cleveland, the first Democratic President since the Civil War.11

A year later, prompted by his uncles, by letters and visits from friends in Texas, and by romantic interests, the


youthful lawyer migrated to the Lone Star State. After a short stay at Sherman, he moved to Gainesville and set up his law practice.  

Charles Willis Thompson, a New York Times Washington correspondent contemporary to Bailey, later recorded the initial appearance of Bailey in that North Texas community:

One day there dawned upon Gainesville an apparition which made that town sit up and rub its eyes. It was a tall, lank young man with an enormous slouch hat and enveloped in a tremendous coat. His hair hung down on his shoulders in a fashion to give pangs of envy to Buffalo Bill. . . . He was not at all a typical Southerner; he was the South intensified and exaggerated a hundred times. He was the stage Southerner done into real life.

As comical as Bailey must have appeared, Gainesville soon ceased laughing at the new arrival. The former Mississippian wisely denied himself the convenience of a purely local law practice. He accepted clients from surrounding counties and in five years had loyal friends in nearly all the counties of the Fifth District of Texas. During his first two years in Texas Bailey was probably too busy building a clientele to dabble in politics, but in 1887 he took to North Texas stumps on behalf of prohibition. Although he probably could have been elected to Congress, in 1888, he passed up the opportunity

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13 Thompson, Party Leaders, p. 122.
14 When Bailey entered Texas and through the period he served in the House of Representatives, the Fifth District consisted of six North Texas counties: Collin, Cooke, Denton Fannin, Grayson, and Montague. Gainesville was the county seat of Cooke County.
and settled once more for the role of presidential elector. Two years later, however, he won election to the United States House of Representatives.15

Bailey's first term in the United States House of Representatives technically began on March 4, 1891, but in reality he did not take his seat until December. Elected to four additional consecutive terms, his stay in the House extended from the Fifty-second through the Fifty-sixth Congresses, ending on March 3, 1901.16 At twenty-eight he was the youngest member of that body. One writer stated that the guides at the capitol identified him to visitors as "Mr. Bailey, of Texas, 'the Baby of the House.'"17 If the congressman's youth did not attract notice, his attire did. Dressed as "the old style politician of fifty years ago," he was immediately subjected to merciless ridicule at the hands of a number of congressmen. "[B]ut no ridicule could so much as dent the solid fact of his great ability," wrote Thompson,18 and "the Baby of the House" soon gained the respect of his Democratic colleagues. Within six years he became the chosen leader of the Democratic minority.

16Webb and others, The Handbook of Texas, I, 95.
18Thompson, Party Leaders, pp. 123-124.
During the ten years he served in the House the Texan was at the forefront of the debates on every major question that confronted Congress—free coinage of silver, the tariff, and the Cuban crisis. On most legislation he voted along party lines and nearly always voted in strict adherence to the desires of his constituents—desires which he had a large part in molding. Yet he reserved for himself a degree of independence which few congressmen dared to do. Two years after taking his seat in the House he was quoted as saying:

I am a Democrat, and as such, of course, I will be glad to support the recommendations of a Democratic President whenever I can do so consistently with my sense of duty to my constituents, but I am not ready to sacrifice my own convictions and the convictions of my people to the demands of any power on earth.\textsuperscript{19}

Bailey's elevation to minority leader in 1897 greatly increased his influence in the House. He naturally directed the struggles on major issues. Although an excellent parliamentarian, he lacked the political finesse required of a man in his position. His leadership in the House was, therefore, not as effective as it might have been. Probably his forte was his adeptness in expounding on the Constitution. He came to be recognized as the most outstanding debater and constitutional lawyer the Democrats had in Congress.\textsuperscript{20}

In 1901 and again in 1907 the Texas Legislature elected Bailey to the United States Senate. In the Senate he

\textsuperscript{19} St. Louis Republic, October 27, 1893, cited in Acheson, Joe Bailey, p. 59.

continued as a force to be reckoned with. Although political difficulties constrained him to spend an unusual amount of time in Texas mending political fences during sessions of Congress, he still managed to participate in the debates on most of the significant issues—especially those dealing with the currency and tariff questions, regulation of railroads, and the income tax. If the Texan occasionally found himself deviating from the party line when casting his votes in the House, his differences with the party were even more pronounced in the Senate. Professor Seth Shepard McKay, in one of his several works on Texas politics, noted that "after his entry into the Senate Bailey became more conservative, voting frequently with the Standpat Republicans and the Northern Democrats from the industrial states." This trend, to a large extent, spelled political disaster for the junior Senator.

In a time when progressivism was being transferred to the Democratic Party and reaching personification in Woodrow Wilson, Bailey opposed such measures as a postal savings bank system and federal child-labor laws, and eventually Wilson himself. The Texan was cognizant of his relationship to the times in which he lived. In a speech before the Senate in 1910 he remarked, "I realize that I am out of harmony with the spirit of my time and I am sometimes almost persuaded that I am living in an age and attempting to do a work for which my

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opinions totally unfit me." When Texans, in 1912, against the advice of their junior Senator gave Wilson a resounding victory, Bailey experienced utter dejection. Although he had announced in September, 1911, that he would not seek another term, he now felt compelled to resign his Senate post. On January 2, 1913, three months before the end of his term, Bailey delivered his final speech on the Senate floor. Six days later his resignation took effect.

Shortly after leaving the Senate, Bailey took up residence in the nation's capital and established his law practice once more. The succeeding seven years he devoted chiefly to his law practice but still found ample time to participate in Texas politics and to antagonize the Wilson administration. He openly opposed the Underwood Tariff, the foreign policy of the administration, national prohibition, woman suffrage, and the League of Nations. Convinced that it was Texas that put Wilson in the White House, Bailey became equally convinced that Texas, under his leadership, must "rescue the Democratic Party from the control of those who are destroying it." In early 1920 he announced his candidacy for the governorship of Texas. He campaigned arduously against three strong opponents,

22 Congressional Record, 61st Congress, 2nd Session, XLV, 2301.
24 Acheson, Joe Bailey, pp. 386-389.
speaking to larger crowds than he had ever before witnessed in Texas. When the votes of the August primary were counted they revealed that Bailey had a plurality of over one-third of the total vote. All three of his opponents, however, had favored measures in conflict with his views, and after the primary they combined forces behind Pat Neff, who defeated the ex-Senator from Texas in the run-off.

His last concentrated venture into political arenas behind him, Bailey resumed his law practice, but this time in Dallas in partnership with the younger of his two sons, Joe Bailey, Junior. Although he refused all encouragements from his friends to seek office again, he did not hesitate to use his oratorical powers in an effort to drive the Ku Klux Klan out of Texas. In 1928 as a figure from the past, "still impressive in the Prince Albert coat and the large statesman's hat . . ." he journeyed to Houston to witness his last Democratic National Convention. On April 13, 1929, within minutes after addressing a court in Sherman, Texas, on behalf of a client, the "last Democrat" slumped over in his seat, dead.

As an individual Joe Bailey possessed several attributes that were boons to his congressional career. His low marks in college were a reflection of his immaturity, not his

\[25\] Ibid., pp. 386-388.

\[26\] McKay, Texas Politics, pp. 390-405.

intelligence. After he once achieved prominence in the House he was regarded during his remaining years in Congress as having the brightest intellect on the Democratic side. It is doubtful that many considered the Texan to be a greater orator than William Jennings Bryan, but Republicans and Democrats alike recognized Bailey to be the most impressive orator that his party had in Congress. As a debator he may have been the Commoner's superior. Thompson succinctly observed:

There is an accent of finality about a Bailey speech. When he slowly emerges from behind his desk and begins to drop his argument into some hotly-debated question, the argument goes to the bottom of that question with a crash. After it there is nothing more to say, on the Democratic side.

Bailey was well prepared to meet the challenges he accepted. In addition to being a superb constitutional lawyer, evidence abounds that he was a profound student of the history of his country, of the Democratic Party, and more particularly, of the many words written and spoken by his political idol, Thomas Jefferson.

Such qualities as those just enumerated are not often found in one individual. Yet, the Texan had one further

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29 Ibid. Thompson, Party Leaders, p. 125.

30 Ibid.

31 Gainesville Daily Register and Messenger, April 15, 1929.
attribute that placed him beyond the orbit in which most men traveled: the ability to inspire an almost fanatical devotion and loyalty in his followers.\textsuperscript{32} In Texas such devotees frequently represented a majority of the voters.

Perhaps historians might have ranked Bailey as the most distinguished statesman Texas ever sent to Washington had it not been for four telling traits: his occasional loss of temper, an excessive degree of egotism, the unforgiving attitude he assumed toward his enemies, and several improprieties in his business dealings. While a member of the House, Bailey's infrequent bursts of temper received little attention as they were of little consequence. Such was not the case when, only a year after he entered the Senate, he had a personal confrontation with Senator Albert J. Beveridge of Indiana. Thompson, evidently an eye-witness to the scene, gave the following account of the event:

His [Bailey's] worst mistake since he came to the Senate was committed when he administered to Mr. Beveridge a course of treatment that was utterly improper but urgently invited. Those who read the colloquy which preceded this castigation were at a loss to account for it. There was nothing in Beveridge's language which called for heroics. To those who were present there was no mystery about it. Bailey was delivering a serious argument, and Beveridge was harassing him with petty pin-pricks. It was Beveridge's object to turn and twist and distort some Bailey sentence into something which would serve as an admission to the credit of the Republican party. The nature of Bailey's argument was several degrees above Beveridge. Bailey tried to avoid him and go on in the path of his argument. The pin-pricks continued, hour by hour, until persons

\textsuperscript{32}Ibid. Victor E. Martin, "The Fight Against Baileyism in Texas," \textit{Arena}, XL (July, 1908), 56.
familiar with Bailey's hot temper began to wonder how soon Beveridge would succeed in provoking a breach of the peace. . . . At last Bailey gave up trying to talk at all. He waited till the Senate had adjourned and then indulged himself in the colossal error of his career.33

Immediately following adjournment, Bailey strode to the desk of the Indiana Senator and demanded an apology. Beveridge refused to acknowledge any misconduct on his part, whereupon the irate Texan sprang at his antagonist and attempted to choke an apology from him. Two senators and a doorkeeper standing nearby quickly intervened.34 The physical attack upon Beveridge brought the junior Senator from Texas notoriety overnight and provided instant fuel for the fires of his political enemies.

Although less publicized nationally than the Beveridge incident, the verbal assaults he made on his political foes in Texas in 1907 provided additional evidence of his occasional intemperateness and also revealed his unforgiving disposition regarding those who attacked his personal integrity. At the conclusion of an investigation by the Texas Legislature in 1907 exonerating him from charges of misconduct in his relations with the Waters-Pierce Oil Company, Bailey delivered a scathing denunciation of his accusers in a speech before the Legislature. He expressed his feelings in no uncertain terms:

33Thompson, Party Leaders, pp. 127-128.

34The Dallas Morning News, July 1, 1902.
In my home I intend to put the photograph of this Legislature. Two pictures will embrace the photograph. Over the one I am going to write, "The Roll of Honor," and I am going to put you men there. Over the other I am going to write "The Rogues Gallery" (applause) and I am going to put there the pictures of the men who have betrayed the Democratic party of Texas, and I am going to swear my children never to forget the one or to forgive the other.  

Fourteen years of bitter rivalry followed this "declaration of war."

One does not have to read very many of Bailey's public utterances or much of his correspondence regarding political matters to discover that he was highly egotistical. He was not satisfied to let his record speak for itself. He never failed to tell his constituents how much they had benefited from his service or to gloat "I told you so" when one of his prophecies came true. Humility was not one of his virtues. Yet, while this superlative egotism repulsed many of his political opponents, it seemed only to inspire greater confidence among his supporters.  

Bailey's infrequent displays of ill temper, his tendency to hold grudges, and even his highly egotistical nature were small liabilities when compared to his many assets. He made one mistake, however, that cut his political career short of what many considered its potential. In a time when wealth,  

35 The Dallas Morning News, February 28, 1907.  

36 "Men We Are Watching" (no author given), The Independent, LXII (January 24, 1907), 208. Martin, "The Fight Against Baileyism in Texas," p. 56. Cocke, Bailey Controversy, II, contains a number of speeches delivered by opponents of Bailey in which his egotism was ridiculed; for examples, see pp. 789, and 795.
monopoly, and trust were terms synonymous with evil, Bailey offered his legal counsel to H. Clay Pierce, president of the Waters-Pierce Oil Company, a corporation evicted from Texas in 1900 for anti-trust violations.

Under other circumstances Texas and the nation might have overlooked Bailey's relationship with Pierce, but four factors peculiar to that time made the situation abnormal. First, the expulsion of the Waters-Pierce Oil Company from Texas was a major triumph for the state. The suit filed by the state in 1896 against the company was the initial major test of a new state anti-trust law. The battle that ensued ended in the United States Supreme Court, where in March, 1900, the court handed down a decision upholding the Texas law and ousting Pierce's company from Texas.  

That the company was back in business in Texas less than three months after the March decision was a matter of concern to many people in the state.

A second significant factor was the struggle going on within the Texas Democratic Party. Bailey strived for supremacy in the party. He suffered a major setback in 1898 when his opponents, led by the powerful former Governor James Stephen Hogg, defeated Bailey's attempt to get an anti-expansion plank in the party's platform.  


\[38\] The Dallas Morning News, August 16, 1898.
hard during the two intervening years to assure that their leader would dominate in 1900.

In 1900 Representative Bailey sought a promotion to the United States Senate, the third element that raised the situation above the ordinary. With his supporters in control of the State Democratic Convention, he expected smooth sailing along the course from the House to the Senate.

The very foundation of Bailey's reputation among the people of Texas and the nation provided the fourth complicating factor. Among the many virtues attributed to the Fifth District Representative was that he was not the servant of predatory wealth, but an enemy of the trusts.

In the summer of 1900 rumors spread that Bailey and several state officials had conspired with Pierce to put the Waters-Pierce Oil Company back in business in Texas. The scandal reached its boiling point for the first time during the State Democratic Convention at Waco in August, 1900. There the Hogg forces tried to get the convention to censure Bailey for his part in the affair. In an address to the delegates Bailey admitted he had discussed re-entry with Pierce, but only after Pierce had sworn that the company was

39 The Dallas Morning News, August 16, 1898.


41 The Dallas Morning News, August 9, 1900.
not a part of the Standard Oil Trust and had undergone reor-ganization. Bailey declared, further, that he accepted no fee from Pierce or anyone else for his advice.\textsuperscript{42} What he failed to tell the convention was that he did accept a $3,300 private loan from Pierce,\textsuperscript{43} a matter which almost proved fatal to Bailey six years later. The convention rejected the motion to censure and endorsed Bailey's bid for the Senate seat.\textsuperscript{44}

After two months of peace following the convention, the Hogg camp made another assault against Bailey that threatened his election to the Senate. The attack gained sufficient momentum to warrant an investigation by the Texas Legislature after it convened in January, 1901.\textsuperscript{45} Bailey men dominated the legislature and therefore the investigating committee appointed by the House of Representatives. Concluding their investigation in a week's time, they exonerated their idol and elected him to the United States Senate.\textsuperscript{46}

Not satisfied with having escaped relatively unharmed by the scandal, Bailey proceeded to handle several other large

\textsuperscript{42}Ibid.

\textsuperscript{43}Texas Legislature, House of Representatives, \textit{Proceedings and Reports of the Bailey Investigation Committee} (Austin, 1907), pp. 805-813, 816; hereafter cited as Texas Legislature, Bailey Investigation.

\textsuperscript{44}\textit{The Dallas Morning News}, August 10, 1900.

\textsuperscript{45}\textit{The Dallas Morning News}, January 12, 1901.

\textsuperscript{46}\textit{The Dallas Morning News}, January 12 and 13, 1901.
deals for Pierce during the succeeding five years. During this period he also performed legal services for Texas millionaire John H. Kirby, whose interests extended to lumber, oil, and railroads. The fact that the Texas Senator made legal arrangements for a stock purchase that involved both Pierce and Kirby was for Bailey's enemies evidence enough that he was unfit to be a senator.

Following the investigation of 1901 a period of relative calm characterized the Texas political scene. Bailey ruled supreme at home, and following the Hepburn rate bill debates in the spring of 1906 his popularity across the nation reached its peak. In June, 1906, Cosmopolitan Magazine, in one of several muckraking articles, "detailed" how Bailey was getting rich from helping Standard Oil, Waters-Pierce, and Kirby trusts. The storm broke afresh, and reached hurricane force long before the Texas Legislature met in January, 1907. The investigation that followed the convening of the Legislature was inevitable. The investigation was more thorough than the one conducted in 1901. Little doubt exists that the Senator's friends dominated it, too, and in the end, like its predecessor, the committee exonerated Bailey from all charges. Before

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47 Texas Legislature, Bailey Investigation, pp. 8-11.
the investigation could be completed, Bailey's friends forced a vote in the Legislature that returned their leader to the United States Senate for another six years.\(^{51}\)

In view of the "evidence" gathered by the committee and the "evidence" withheld from the committee, and taking into consideration the motives propelling the opposing forces, it is probable that the innocence or guilt of Bailey could never have been satisfactorily determined. That Bailey acted with impropriety in accepting the employ of Pierce and possibly Kirby, after the investigation of 1901 is beyond doubt. More important, the events of 1906 and early 1907 ushered in one of the most bitter political feuds ever to occur in Texas. McKay accurately remarked:

Old friends had fallen out and fought over the issue. Approximately one-half of the voters considered Bailey a sort of "political saint" who could do no wrong; while the other half thought of him as a representative of "predatory wealth" in a legal capacity, who had used the office of United States Senator to bolster and maintain his reputation as a lawyer and enable him to secure more and larger legal fees. For many years thereafter Texas voters were inclined to judge candidates' qualifications for every office on the basis of whether the aspirants were "Bailey men" or opposed to Bailey and Baileyism in politics.\(^{52}\)

While the preceding verbal sketch of Joe Bailey contains a few indications of the times in which he lived, perhaps a clearer picture of the man can be achieved by placing him in a setting more complete in its make-up. No attempt will be


\(^{52}\)Ibid., pp. 23-24.
made here to present a detailed discussion of the period in which he lived. Rather, what follows is intended to be a general overview of the years during which he performed his congressional services since all of the speeches to be examined lie within that period. Too, because Bailey's activities were largely of a political nature, this overview will deal predominantly with the political questions of those years.

During his years in Congress Bailey witnessed the final decade of the nineteenth century and the initial years of the "Progressive Era" that followed. The 1890's began with a declaration that the frontier no longer existed; they ended with the United States bursting from isolationism into a position of world power. Reconstruction issues no longer attracted majority votes. The southern electorate was winding up the process of reducing the Negroes to political impotency, and William McKinley was the last Civil War veteran to hold the Presidency. The steady advancement of the Industrial Revolution made a return to the simpler agrarian life an impossibility. Social and economic problems of a magnitude and character never before experienced by the nation plagued and confused it. "The American people," commented Harold U. Faulkner, "in their uncertainty . . . looked to their past for guidance and reassurance, but the past was of little assistance in confronting the problems of a new era." 53

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The social and economic inequalities were indeed more pronounced than ever before. The nation's wealth was in the hands of the few. In 1890 only one-eighth of the population held seven-eighths of the wealth, and in 1900 four-fifths of the American people still existed on the margin of subsistence.\(^{54}\) Huge financial and industrial combines emerged in increasing number and wielded staggering power. In 1900, the railroad interests alone controlled one-tenth of the country's wealth.\(^{55}\)

The rapid growth of cities and the instability of a diminishing agrarian society registered the significance of the over-concentration of economic power. Millions of European immigrants and thousands of youths from rural communities, in addition to natural growth, brought to the cities new and complex problems with which they could not deal adequately. Rural America was unstable and on the decline. The instability of the farmer could in part be blamed on overproduction, a fluctuating market he did not control, growing indebtedness and a deflated dollar, and exorbitant prices he paid the railroads in order to get his products to markets. While the farmer might have improved his condition somewhat had he adopted scientific methods of farming and other measures, the problems just enumerated were nonetheless real and the ones from which he sought relief.\(^{56}\)

\(^{54}\)ibid., p. 91.
\(^{55}\)ibid., p. 75.
\(^{56}\)ibid., pp. 24-25, 55-60, 66-67.
If a growing discontent existed among the farmers, an equal or even greater dissatisfaction was evident among industrial workers. Long hours, hazardous working conditions, and extremely low wages characterized their plight. The Panic of 1893, which resulted in the worst depression the nation had yet suffered, intensified the situation. In 1894 and 1896 unemployment affected from 15 to 20 per cent of the industrial laborers. A relatively small proportion of the labor force was to be found in recognized labor unions. Many unions were struggling desperately for bargaining power, while others were still seeking the right to organize. In an effort to attain their goals they initiated over 7,000 labor strikes between 1893 and 1898. Believing that laborers had in no way contributed to their wealth, the industrialists refused to bargain with unions. Violence frequently erupted in such situations, but aided by a press and government predominantly unsympathetic with the unions, the industrialists continued to thwart union efforts to improve the laborers' lot.57

Although the discontented gained some relief through the actions of state legislatures, the federal government, dominated by conservative forces and much of the time crippled by strife among political parties, barely addressed itself to the nation's problems. Consequently, little significant legislation survived both houses of Congress, the President and the Supreme Court. During the 1890's Congress debated major

issues left over from the preceding era. Faulkner described the situation in the following terms by stating:

The fantastically high tariff rates imposed during the Civil War had continued with slight alleviation; efforts to reduce them revived in the eighties and the battle continued during the nineties. The problems of currency and the demand for inflation had been continuous since the war. . . . Federal control of interstate railroad transportation was theoretically established in the Interstate Commerce Act of 1887, but it was sixteen years before new legislation made the act effective. The movement toward . . . monopoly had begun in railroads with various pooling devices, and in manufacturing with "trusts" in oil, whisky, sugar, and lead. By the end of the eighties the problem of monopoly had moved from the state to federal legislation. The problems of the tariff, currency, railroads, and monopoly, which had pressed upon the nation in the eighties and earlier, had not, of course, been solved by the end of that decade, but persisted through the following years as urgent issues.58

To these four issues, the 1890's witnessed the addition of another: expansionism, or imperialism. Without detailing the events giving rise to expansion sentiments, it is enough to say that expanding commercial interests, a noisy, clamorous, sensationalistic press, and the heightening effect of an easy victory in the Spanish-American War created the climate that sent America headlong on a course of involvement in world affairs.

By the turn of the century prosperity returned to the nation and continued with few interruptions during the remainder of the period in which Bailey was in Congress. The polarization of the nation's wealth into the hands of the few continued. In spite of the aggressive prosecution of anti-trust suits during the Roosevelt and Taft administrations,

58Ibid., p. 13.
industrial America remained under the domination of a few leviathan concerns.\textsuperscript{59} With the advent of the muckraking, yellow journals shortly after the turn of the century, the cry for reform reached a crescendo and resulted in an increase in progressive legislation and progressive victories at the polls between 1904 and 1912.

An examination of Joe Bailey's political philosophy explains to a large extent his reaction to his times. Bailey considered himself a Jeffersonian Democrat.\textsuperscript{60} A speech delivered in Copiah County, Mississippi, in 1884 revealed Bailey to be an expounder of his interpretation of Jeffersonian doctrine even before he arrived in Texas.\textsuperscript{61} In Texas and the rest of the South such a position automatically made him an ardent supporter of states' rights.\textsuperscript{62} Since Bailey frequently found himself opposing other states' righters on important issues, it is important to note that Bailey held the view that a domineering, paternalistic, central government was contrary to the intent of the nation's founders. It was in this belief


\textsuperscript{60}Gainesville Daily Register and Messenger, April 15, 1929.

\textsuperscript{61}Joseph W. Bailey, An address delivered in Copiah County, Mississippi, in 1884, manuscript in Bailey Papers.

\textsuperscript{62}With one exception, occurring in 1898, all platforms of the Texas Democratic Party from 1890 to 1910 contained planks emphasizing the states' rights doctrine; see Ernest William Winkler, editor, Platforms of Political Parties in Texas, Bulletin of the University of Texas, No. 53 (Austin, September 20, 1916).
that, while in Congress, he disapproved of attempts by the federal government to legislate such matters as voter qualifications, child labor, prohibition, aid to education, and food and drug laws; he considered these matters to be in the purview of state control. Bailey opposed a centralized national bank because too much power would be placed with a single unit of government. He believed the doctrine of government ownership of the railroad, telegraph, and telephone systems to be foreign to Democratic principles, but he did concede the right of the federal government to regulate interstate commerce. It was in recognition of this function of government that he heartily supported measures strengthening the Interstate Commerce Commission and the regulation of railroads.

On the subject of a tariff Bailey upheld the traditional view of the Democratic Party that a tariff should be levied for the purposes of revenue only. He earlier had broken with President Grover Cleveland over this issue when Cleveland urged that raw materials coming into the country be placed on the "free list." Instead, Bailey insisted the tariff base should be broad so that duties might be lowered on manufactured products. In his opinion, it was inconsistent to pass a tariff base that was so narrow.

63 Congressional Record, 61st Congress, 2nd Session, XLV, 2298-2300.
65 Congressional Record, 55th Congress, 1st Session, XXX, 2739-2740.
66 Ibid., pp. 2740-2743.
that protected the manufacturing interests and at the same time ignored the welfare of the producers of raw materials. Bailey felt the need for a high tariff might have been eliminated altogether if another means of securing revenue could be found. For this reason, and because he believed those who had materially benefited the most under the government should bear the greater burden of the government's expenses, he advocated a graduated income tax.67

Until 1900 the issue of "Free Silver" and the currency problem were inextricably bound. Bailey's approach to the silver question was again somewhat traditional. He maintained that until "the crime of 1873" the nation recognized silver as a medium of exchange and minted the metal freely.68 The restoration of silver to its rightful place in the currency system of the nation, he believed, would go far toward remedying the nation's currency problems.69 Since agrarians and laborers, as opposed to the powerful monied interests of the East, advocated "Free Silver," the Texan placed himself in the position of championing the cause of the underdog.

67 Congressional Record, 61st Congress, 1st Session, XLIV, 1533-1542, 1558-1566.

68 The silverites referred to a law passed by Congress in 1873 dropping the silver dollar from the list of coins to be struck by the mint as "the crime of 1873." A. Barton Hepburn, A History of Currency in the United States, rev. ed. (New York, 1924), pp. 271-273. U. S. Statutes at Large, XVII (1873), 424.

69 Congressional Record, 53rd Congress, 1st Session, XXV, 313-317.
On the subject of expansion Bailey assumed a position of unequivocal opposition. The policy proposed by the expansionists, he contended, would cast the United States in the role of a colonial power, a position contrary to the principles upon which the country was founded. America would be taking for herself the part that England played in 1776. It would not be long, the Texan asserted, before his country would be doing the very thing against which she had been warned by both Washington and Jefferson: entangling herself in the affairs of other nations. The advice of "the fathers" should be followed. 70

The last issue with which Bailey dealt in Congress gave him occasion to call upon the testimony of the sages in support of his stand. In his final address before Congress, Bailey concentrated on proving that the ideas of initiative, referendum, and recall were contrary to the form of government instituted by the founders. After quoting the words of Jefferson, Washington, Madison, and others, Bailey turned on those who ridiculed his position, defending his beliefs regarding "the doctrines of the fathers" and the Constitution:

They [the Progressives] tell us that the doctrines of the fathers were good enough for the time of the fathers, but that we have outgrown them, and this cunning appeal to the pride of an age has flattered many weak-minded men into scoffing at what they irreverently call "the wisdom of the dead." Mr. President, that the growth of a nation may call for the adoption of new

70 Congressional Record, 56th Congress, 1st Session, XXXIII, 2337-2342. The Austin Daily Statesman, August 7, 1898.
policies, and that it may even call for either a lesser or larger application of old principles, is undoubtedly true, and no man could be more ready to recognize and act upon that truth than I am. But, sir, I utterly deny that the growth of a nation in area or population or wealth can ever alter the fundamental principles of a free government. Policies must change with changed conditions, but principles are as eternal as the stars; they are as immutable as God's law. . . .

It is just as foolish to discard one proposition because it is old as it is to reject another because it is new. The men who made our Constitution realized that their great work was not so perfect as to permit no change. Absolutely confident of their patriotism, and reasonably confident of their wisdom, they could still foresee that time might disclose some defects in the Constitution, and therefore they solemnly provided in that instrument for its amendment. Devoutly as I cherish the spirit of it, and faithfully as I strive to live up to the letter of it, I do not hold it in any superstitious reverence. . . . I have twice voted to amend it. But, sir, while I have been willing to amend it, I am not willing to destroy it. That Constitution is definite enough to protect the humblest citizen in his every right, and it is elastic enough to punish the mightiest corporation for its every wrong. Through more than a century's trial it has been sufficient for every emergency.  

Bailey's strict interpretation of the Constitution prompted many Progressives to dub him a reactionary. The term was a misnomer. That Bailey was often conservative can hardly be disputed, but he voiced no desire to return to bygone days. He pleaded only for a strict adherence to the fundamental principles of government as set forth in the Constitution. His consistent support of legislation for railroad regulation and an income tax amply demonstrated his amenability to change. The Texan was a staunch Democrat, and yet he exerted considerable independence within that discipline. In his last speech in Congress he said:

71 Congressional Record, 62nd Congress, 3rd Session, XLIX, 922.
I am a Democrat purely because I want to preserve the principles of that party and not because I am anxious to elect some man to an office. I believe, too, in party organization, and my record for party loyalty is unarded. I have never scratched a single name from a Democratic ticket, and my vote has not been given grudgingly to the nominees of my party. But, sir, while I am a partisan, I am not an intellectual slave, and I have always reserved the right to think for myself, and I have always held it to be my duty to vote according to my own judgment on every great question.72

Such were the characteristics of Bailey: intensely loyal to his party and friends, while retaining for himself a degree of independence, and capable of inspiring a loyalty akin to idolatry; highly egotistical, yet possessing a magnetic personality; intemperate and unforgiving toward those who attacked his integrity and perhaps imprudent at times in his private business dealings, but recognized for his brilliant intellect and ability as a constitutional lawyer; basically conservative in his philosophy, yet not deaf to change. Added to these characteristics was an oratorical ability that permitted him to express his beliefs with ease to attentive audiences. It is to an analysis of this latter ability that the remainder of this study is devoted.

72 Ibid., pp. 924-925.
CHAPTER III

CONGRESSIONAL SPEAKING OF JOE BAILEY

Joe Bailey spent much of his twenty-two years in Congress on his feet, addressing himself to the affairs of the nation. As a fledgling in the House of Representatives, Bailey began modestly, but less than two years after arriving in Washington he plunged headlong into the fray over free silver. ¹ From that point until his resignation from the Senate in 1913 a Bailey speech in Congress was a special event in itself.

The frequency with which the Texan spoke while in Congress prohibits a detailed examination of all his congressional speeches. As stated in the introduction to this study the four speeches analyzed in this chapter were chosen because they are representative of his utterances in Congress. Moreover, they exemplify his views on four of the dominant issues during his congressional career and his speaking over a period of sixteen years.

According to Lester Thonssen and A. Craig Baird, a prerequisite to the analysis of any public speech is a careful reconstruction of the events which give rise to the speech.² In compliance with this axiom the first portion of this chapter

¹Congressional Record, 53rd Congress, 1st Session, XXV, 313-317. The Dallas Morning News, August 15, 1893.

contains a presentation of the background of each of the four speeches. The balance of this chapter consists of an analysis of the speeches.

Background

Speech on the Repeal of the Sherman Silver Purchase Act, August 14, 1893

When the United States Congress met in special session on August 8, 1892, the nation suffered in the throes of an economic crisis. No one knew for certain what produced the Panic of 1893 or what measures should be taken to arrest it, but many believed they had the answer. On this subject two schools of thought predominated among the nation's lawmakers. One group, labeled "Goldbugs" by the opposing school, blamed existing conditions on the actions of the "silver heretics." More specifically, the "Goldbugs" sought the repeal of the Sherman Silver Purchase Act of 1890 and the maintenance of a gold standard in support of the country's financial obligations. The silverites agreed that the Sherman Act was a poor law, but they claimed it was poor because it did not go far enough, that is, it did not provide for the free coinage of silver at a sixteen-to-one ratio.

Free silver was hardly a new topic among congressmen. At the insistence of western silver mining interests, Congress began discussing the subject shortly after it completed the
demonitization of silver in 1873. The free silver movement had bipartisan support in Congress for more than two decades after its origination. Between 1873 and 1893 the "friends of silver" in Congress frequently attempted to restore the bi-metallic standard to which the nation subscribed before the demonitization of silver. The nearest the silverites ever came to success was the Bland-Allison Act of 1878 and the Sherman act which superseded the former.

A strictly Republican measure, the Sherman law markedly increased the government's purchases of silver and coinage of silver dollars. It further provided the issuance of United States treasury notes, bearing full legal-tender privileges, redeemable in gold or silver (at the government's option) and reissueable against the silver purchases. The government's subsequent refusal to exercise its option to redeem the notes in silver led, in part, to a rapid depletion of the country's gold reserves and to the ensuing panic.

3In 1853 Congress reduced the amount of silver minted into each fractional coin. In 1873 Congress dropped the silver dollar from the list of coins to be minted. The unproclaimed effect was that the United States, in practice, began operating on a gold standard. Anatol Murad, The Paradox of a Metal Standard, A Case History of Silver (Washington, 1939), pp. 40-41, 60, and 80. A. Barton Hepburn, History of Currency in the United States, rev. ed. (New York, 1924), pp. 271-273. U. S. Statutes at Large, X, 160 (1853); XVIII, 424 (1873).

4The Bland-Allison Act directed the Treasury to make monthly purchases of from two to four million dollars of silver at commercial rates and mint the same into silver dollars. Congressional Record, 45th Congress, 2nd Session, VII, 1410-1411, and 1420.

5Congressional Record, 51st Congress, 1st Session, XXI, 6982.
By the 1890's the debate over free silver had evolved into a sectional feud. The industrial, financially powerful, and populous East loudly clamored for the gold standard; the West and South bore the standard of free silver. In western states where little or no mining existed and in the South the movement received its impetus from the growing agrarian dissatisfaction over a deflated dollar and falling prices on farm products.  

In 1892 free silver was a vital issue in many congressional districts, but in the presidential campaign the tariff question was paramount. With regard to silver, the Republican and Democratic national platforms agreed: both declared for bimetallism with legislative controls or by international agreement. In addition the Democratic platform denounced the Sherman law as a "cowardly makeshift" and pledged its repeal. The work of "gold Democrats," the Democratic national plank stood in stark contrast with the free silver plank adopted by the Texas State Democratic Convention.

In 1892, to the chagrin of many silverites, Grover Cleveland, a staunch gold monometallist, received the

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Democratic presidential nomination. The people elected Cleveland and Democratic majorities in both houses of Congress, silverites controlling the Senate, and "Goldbugs," the House. In the month following Cleveland's inauguration, conditions deteriorated rapidly. In an effort to strengthen confidence in the government, the President declared the nation's obligations would be paid in gold, but his words went for naught. The situation worsened.

Urged by the leading presses and financial interests, Cleveland called a special session of Congress. In his message to Congress, the Chief Executive assailed the Sherman law and asked for its repeal in terms that amounted to a call for a gold standard. The President made no effort to appease the silverites, thereby setting the stage for the congressional battle that followed.

On August 9, 1893, the silverites held a caucus and appointed a committee of six, which included Bailey, to draw up a bill representing the views of the caucus. Prepared largely by Richard P. "Silver Dick" Bland of Missouri, the first part of the measure provided for the free coinage of silver and gold. The second section provided for the repeal of the Sherman Silver Purchase Act. The bill introduced by the

11The Dallas Morning News, August 9, 1893.
"Goldbugs" simply called for the repeal of the purchase clause of the Sherman Act.\textsuperscript{12}

On August 14, three days after the House commenced debate on the repeal bill, Joe Bailey made his first congressional address on the free silver question. Favorable weather brought a larger number of members to the House than had been present for previous sessions. Prior knowledge that the Texan would speak swelled the gallery audience. Following speeches by Charles J. Boatner, a silver Democrat from Louisiana, and Josiah Patterson of Tennessee, a gold Democrat, Bailey proceeded to address his colleagues, a majority of whom stood in opposition to his views.\textsuperscript{13}

\textbf{Speech in Opposition to the Dingley Tariff,}
\textbf{July 12, 1897}

In May, 1896, E. L. Godkin, editor of The Nation, correctly stated: "the currency question, and . . . the tariff question . . . today constitute almost the sum total of our politics."\textsuperscript{14} Six months later the defeat of the silver Democrats' presidential candidate, William Jennings Bryan, and the election of William McKinley and a Republican Congress left the tariff question supreme.


\textsuperscript{14}E. L. Godkin, "The Political Situation," The Forum, XXI (May, 1896), 257. Godkin was the editor of The Nation, but wrote the article for The Forum.
As was more often the case than not, a change in political control in Washington signified a tariff revision. The Republicans wasted no time. Using a $186,000,000 deficit in the nation's finances as an excuse for a tariff revision, McKinley called Congress into special session in March, 1897. On March 18 Nelson Dingley, a Republican from Maine, introduced into the House of Representatives a bill "to provide revenue for the government and to encourage the industries of the United States."\(^1\) The measure immediately went to the Committee on Ways and Means, of which Bailey was a member. The next day when the Committee favorably reported the bill, Bailey received permission to submit a belated minority report. Under strict party discipline the Republicans cut debate short on the Dingley measure and passed it unamended on March 31 and sent it to the Senate. Bailey, recently elected minority leader, planned to speak on the tariff on March 25, but a sore throat forced him to postpone his speech.\(^2\)

Three months later the House received the bill back from the Senate with a multitude of amendments attached. The House voted nonconcurrence in the amendments, and the measure went to the Senate and House conferees. Dingley reported the conference version to the House at noon on July 19. The Republicans successfully limited debate to bring the measure to

\(^{15}\) *Congressional Record*, 55th Congress, 1st Session, XXX, 19, 53. *U. S. Statutes at Large*, XXX, 151 (1897).

\(^{16}\) *Congressional Record*, 55th Congress, 1st Session, XXX, 15, 20, 53, 71, 289, 557.
a vote that night. Following Dingley's opening speech the supporters of the measure pursued a course of silence, forcing the minority to take the floor. 17

Well aware that the Republican majority would pass the Dingley tariff in spite of anything he or any other Democrat might say, Bailey avoided a useless item by item attack on the bill similar to those used by his colleagues who preceded him. Instead the minority leader sought to reassert, justify, and clarify what he conceived to be the proper Democratic Party tariff philosophy and to show the consequences of the Republican philosophy. 18

Traditionally, the fights over the tariff had been carried on between two groups: one advocated a high or protective tariff, which the group claimed manufacturers needed in order to compete with foreign products; the other group favored a tariff primarily for the purpose of providing sufficient revenue for government expenses, any protection offered by such a tariff being strictly incidental. The Democratic Party, especially after 1840, held to the latter view. The Republican Party from the time of its origin adhered to the principle of protection. 19


18 Congressional Record, 55th Congress, 1st Session, XXX 2735-2743.

19 Ample discussions of the tariff and its political implications during the nineteenth century are provided in Edward Standwood, American Tariff Controversies in the Nineteenth Century, 2 vols. (New York, 1903); and F. W. Taussig, The Tariff History of the United States, 8th ed. (New York, 1931.)
Between 1860 and 1894 all major changes in the tariff took place under Republican administrations. They were all protective in nature, the McKinley tariff of 1890 being the most extreme. One writer called the McKinley act "a radical extension of the protective system. The question of principle [protection versus tariff primarily for revenue] never was so squarely presented." The heavy losses Republicans suffered in the elections of 1890 and 1892 seemed to be an overwhelming verdict in favor of the Democratic position.

The Democrats, in full control following the elections of 1892, determined to rescue the nation from the hands of the protectionists. Two problems, however, interfered with Democratic intent: the silver question, which split the party into quarrelsome factions, and President Cleveland's insistence upon the transfer of certain raw materials, especially wool, from the dutiable list to the free list, a policy later referred to as "the doctrine of free raw materials." The President expounded this policy during his first administration and succeeded in getting it into the national platform of his party in 1892.

Cleveland theorized that placing raw materials on the free list would reduce the manufacturers' need of protection

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20 Ibid., pp. 282-283.
21 Ibid., p. 284.
for their finished products. A lower tariff would then be unobjectionable and would provide less expensive goods for the masses. With lower rates, imports of noncompetitive foreign commodities would increase, Cleveland asserted, thereby supplying adequate revenue.\(^23\) Theoretically, the President's proposal was sound, but by using wool to exemplify his theory he immediately jeopardized its acceptance by Democrats from states with agrarian economies. Wool was the one commodity that protectionists had used most to secure agrarian support for their policy.\(^24\)

In 1894 the Democratic Congress finally passed the Wilson-Gorman Tariff. It bore little resemblance to the measure Cleveland had sought. The rates set by the bill were only a modest reduction of those in the McKinley act. Wool was relegated to the free lists, but the high rate on finished woolens remained intact. Cleveland registered his disapproval by allowing the bill to become law without his signature. A number of Democrats, including Bailey, later claimed they voted for the placement of wool on the free list, not because they agreed with Cleveland, but because the party was pledged to that end.\(^25\)

In 1896 Bailey was instrumental in securing a plank in the Democratic National Platform repudiating the doctrine of

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\(^24\) Taussig, *Tariff History*, p. 291.

free raw materials. 26 In 1897 the minority leader came under fire for voting a duty on wool. He included a defense of his stand in his July 19 speech.

One of the charges often hurled at the protectionists was that protection bred monopolies. In the years between the passage of the McKinley tariff and 1897 the Democratic National Platforms carried planks severely denouncing the McKinley act as a breeder and perpetrator of trusts. 27 Democrats subjected the proposed Dingley act to like criticism. In his speech Bailey singled out the sugar schedule of the Dingley bill to exemplify the truth of the Democratic charge.

By the time the evening session began in the House at eight o'clock on July 19, the word was out that Bailey planned to speak. The announcement brought an overflow audience to the galleries. Those unable to find seats crowded the corridors. The members of the House were in practically full attendance for the final round. 28 The New York Times summarily commented: "Altogether it was a brilliant setting for the close of a memorable struggle." 29 After granting time to two other Democrats, the minority leader arose from his seat and addressed the House.

27 Ibid., pp. 87 and 98.
Speech on the Hepburn Rate Bill,
April 10, 1906

The Hepburn rate bill prompted what leading newspapers heralded as one of the most outstanding debates ever to transpire in the United States Senate. The junior Senator from Texas was the main spokesman for one of the three factions which had formed in the Senate regarding the rate bill. In that capacity he spoke at numerous times during the debate, all of his contributions being relatively brief but one. It was on that singular occasion, April 10, 1906, that the Texas Senator delivered what the Houston Daily Post regarded as "the greatest speech he ever made."

The result of several years of public clamor, the Hepburn rate bill sought to provide adequately for the regulation of railroad rates. Although several incidental acts were in the lawbooks, Congress made only two major efforts to regulate railroads previous to 1906: the Act to Regulate Commerce in 1887 and the Elkins Act of 1903. The act of 1887, which, among other things, established the Interstate Commerce Commission, aroused great expectations among its supporters. It contained serious defects, however, and through a series

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31 Ibid., p. 466.
32 Houston Daily Post, April 11, 1906.
33 Congressional Record, 59th Congress, 1st Session, XL, 2281.
of rulings the Supreme Court nullified the regulatory powers of the Interstate Commerce Commission, thereby rendering much of the law ineffectual. Although the Elkins act bettered the situation as it existed in 1903, it was too limited in scope to meet the needs posed by the times. Again the problem of enforcement was not adequately solved.

Basically the major problem facing the Fifty-ninth Congress in 1906 was that of determining who should be empowered to implement and enforce the rate regulatory measures of any bill on the subject. Prior to 1906 the courts had the final say on what constituted a just rate. That is, the commission, after full inquiry, could make demands on the railroads to correct inequities, but it had no power to enforce its decrees. It or someone else, usually the shippers, would have to go to the courts and ask them to enforce the commission's orders. The courts, instead of relying on the facts gathered by the commission, would then rehear all of the evidence and testimony given the commission and, in addition, accept new testimony.

Two difficulties were inherent in such a system. First the court proceedings often took years, during which time the inequities continued. The suffering shippers became

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35 Westmeyer, Economics of Transportation, pp. 117-118.

36 Ibid., p. 113.
discouraged and frequently, rather than bear the cost of such proceedings, sought other, sometimes illegal, means of dealing with the problem. Second, such a system encouraged the railroads to withhold important evidence from the commission and submit it when the case went to court. Such unethical tactics often resulted in the commission's findings being thrown out of court. The commission would then have to go through the whole procedure again, meaning more years of delay. This process embarrassed the commission and weakened its integrity. 37

The Hepburn bill originated in the House early in the session. After very little debate it passed that body unamended on February 8, 1906, by a vote of 347 to 7. 38 The bill sent to the Senate was the most comprehensive measure on the subject since the act of 1887, but on the all important question of where final authority to fix rates would lie, it was relatively silent and, at best, ambiguous. The Senate Committee on Interstate Commerce, however, reported the bill to the Senate unamended in spite of the fact that the foremost lawyers in that body believed the measure to be unconstitutional as it then stood. 39 The committee intended that the act should have a full hearing on the floor of the Senate and that amendments come from the floor.

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37 Ibid., pp. 113-114.
38 Congressional Record, 59th Congress, 1st Session, XL, 2302.
39 Houston Daily Post, April 13, 1906.
By April 10 lines of battle drawn in the Senate revealed three distinct factions. One Republican-led faction supported President Theodore Roosevelt's view that an amendment providing for a narrow court review should be passed. Such an amendment, if passed, would place the actions of the commission beyond the scrutiny of the lower courts. The largest of the three factions, also led by Republican senators, favored an amendment endowing the courts with broad review powers. This group believed it would be heresy to withhold from the lower courts the right to hear cases involving the Interstate Commerce Commission's rate-making power. On the other hand, the broad review faction insisted that once Congress had granted the lower courts partial review powers, Congress could not constitutionally keep those courts from exercising all the powers exercised by the Supreme Court under the Constitution. The third faction stood on the middle ground in both size and position. Bailey, who headed this group, agreed with the broad review coterie's contention that some type of court review was absolutely necessary; but he also believed that Congress had the constitutional right to spell out what powers the lower courts could exercise respecting any act of Congress.  

Although Senate debate on the rate bill began on February 28, not until March 21 did anyone offer amendments to the bill. Each faction had secretly maneuvered to present

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amendments at a time most conducive to their acceptance. On March 20, however, a leak to the press exposed Bailey's proposals to the public eye and forced him to abandon previously conceived strategy. On March 21 the junior Senator from Texas submitted two amendments. The first dealt with the section that denoted the method to be used by the commission to determine proper rates. After speaking on this amendment for about an hour, Bailey believed he had convinced the Senate of the validity of his contentions.

The second amendment was another matter. Embodying Bailey's ideas on what limitations Congress should impose on the courts' power of review, the proposal contained three major stipulations: that anybody who felt a ruling of the commission to be unjust could file suit against the commission in any Circuit Court, thereby relieving the commission of the necessity to initiate court action; that the court could not issue any injunctions to enjoin the enforcement of the commission's orders until after the trial; that such cases would take precedence over other cases before the courts. The Texan was about to enter upon a discussion of his second amendment when he received news of his father's death. Bailey immediately departed from Washington, leaving his second amendment undefended.

When the Texan returned over a week later, he found his anti-injunction amendment had come under heavy fire from two

\[41\text{The New York Times, March 22, 1906.}\]

\[42\text{Ibid.}\]
of the most noted Republican lawyers: Senator John C. Spooner of Wisconsin and Senator P. Chase Knox of Pennsylvania. In lengthy speeches Spooner and Knox split legal hairs in an attempt to destroy Bailey's second proposal. Their arguments contained two important distinctions. Their first claim was that a difference existed between the terms "judicial power" and "jurisdiction:" that once Congress established a lower court the court was no longer dependent on Congress for its authority but received its "judicial power" from the Constitution. Congress, they contended, could limit the "jurisdiction" of the courts, that is, could say what types of cases the lower courts could hear; but once jurisdiction was granted, Congress had no right to say what the courts could do respecting such cases. Should this distinction be permitted to stand, Bailey's amendment to limit the injunctive powers of the courts would appear unconstitutional. The second distinction drawn by the two Senators was that Congress had the right to restrict the courts in matters of law but not in equity cases, that is, cases involving property rights. Spooner and Knox presented elaborate arguments in support of their contentions, citing decisions of the Supreme Court and what they claimed to be irrefutable authorities in the field.

43 Congressional Record, 59th Congress, 1st Session, XL, 4115-4122, 4156-4164, 4376-4384.
44 Ibid.
The gauntlet was down, and the Texan accepted the challenge. On April 6 Bailey confidently proclaimed he would answer the attacks on his amendment. On April 7 The New York Times reported that "Senator Bailey is preparing another constitutional argument which he jokingly predicts will disgrace Senator Spooner before the American Bar Association and make Senator Knox look like thirty cents." In another article published April 10 the Times noted Bailey's intention to "make his long-expected speech today." It was noted earlier that such announcements by Bailey usually resulted in packed galleries, but few could have anticipated the magnitude of the crowd that gathered to hear him on this occasion. A throng gathered at gallery entrances long before the appointed time of their opening. The Dallas Morning News described the scene:

The men who came with keys to open the [gallery] doors had to elbow their way to their posts. Thirty minutes later there was no vacant seat, save in the gallery reserved for the diplomats and their families. The barrenness of this space but accentuated the crowd in other parts. But this was but for a moment, for by the time Mr. Bailey began to speak gay appareled women made their way into this, and that, too became fully occupied.

47 Claude G. Bowers in his biography of one of Bailey's strongest adversaries in the Senate, Albert J. Beveridge, remarked, "Senator Bailey was a remarkable man in many ways and the most impressive orator on the Democratic side. His mentality was far above the average. . . . [A]nd no man drew greater crowds to the gallery on the announcement that he would speak." Claude G. Bowers, Beveridge and the Progressive Era (Cambridge, Massachusetts, 1932), pp. 184-185.
Soon afterward a fringe of men and women arose behind those solid masses who had the good fortune to find seats and around the edge of the floor itself men whose membership in the other House gives them admission were banked four and five deep.\textsuperscript{48}

As to the number of House members present \textit{The New York Times} claimed that "practically the whole House of Representatives deserted their own chamber and came over to stand in the Senate."\textsuperscript{49} In an editorial the \textit{Houston Post} made some significant observations:

\begin{quote}
It is the rule rather than the exception that senators speak to empty chairs. For the most part senators do not listen to set speeches. Even if they do not leave the senate chamber they are engaged at something else and do not pay attention to the speeches. \ldots \\

The reports tell us that the senators with few exceptions remained in their seats for four hours listening \ldots \textit{[and]} that the press gallery was in full attendance \ldots \textsuperscript{50}
\end{quote}

It is also noteworthy that all of the major opponents of Bailey's amendment were among those present on the floor of the Senate.\textsuperscript{51}

From these reports it may be concluded that the audience which Bailey addressed on April 10 was of four general classes. First, and most importantly, there were members of the Senate who would eventually cast their votes for or against his amendment. Secondly, there was an unusually large and extremely interested body of representatives from the lower

\begin{flushright}
\textsuperscript{48} \textit{The Dallas Morning News}, April 11, 1906.
\textsuperscript{49} \textit{The New York Times}, April 11, 1906.
\textsuperscript{50} \textit{Houston Daily Post}, April 12, 1906.
\textsuperscript{51} \textit{The New York Times}, April 11, 1906.
\end{flushright}
house of Congress who would later vote on the amended bill and who might influence votes in the Senate. A third group of importance consisted of members of the press, a group not adept at following highly legal arguments, but one that through the power of the media it represented could arouse considerable public sentiment in favor of or in opposition to the speaker's cause. Those who crowded the galleries comprised the fourth class. It is difficult to assess what influence such a diverse group might hold, but that in their own way they represented the general public was reason enough for any senator not to ignore their presence.

Through experience, the junior Senator from Texas knew a member of the minority stood little chance against the steam-roller tactics of a strong majority, even if he proved his point well. But the situation Bailey faced was abnormal. No single faction of the divided opposition controlled a majority of votes. For once the minority party, the Bailey group, believed it could wield some influence if its position could be sustained.  

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In full cognizance of the circumstances peculiar to the existing situation, Joe Bailey rose from his seat shortly after noon on April 10, 1906, and began his address.

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Speech Favoring Income Tax,
April 26-27, 1909

In July, 1909, Congress passed a resolution proposing an amendment to the Constitution authorizing Congress "to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States . . . ."\(^{53}\) In view of the history of the pre-1909 struggle for an income tax, it seems ironical that an avowed arch-enemy of the measure—the conservative Republican, millionaire "boss" of the Senate, Nelson Aldrich of Rhode Island—should have sponsored the resolution. Aldrich, however, was in a dilemma: it was either the resolution or an income tax amendment to his tariff bill. The resolution was his means of killing the tariff bill amendment, and the Rhode Island Senator probably expected his proposal to die at the hands of at least twelve states, the number of negative votes required to prevent ratification.\(^{54}\) Joe Bailey, because of his part in creating the situation Aldrich faced, has received a large share of the credit for the establishment of an income tax.\(^{55}\)

\(^{53}\)Congressional Record, 61st Congress, 1st Session, XLIV, 4121, 4390, and 4440.


Prior to 1909, Congress had enacted major federal income tax legislation at two different times: during the Civil War and as part of the Wilson-Gorman tariff of 1894. While the Civil War was in progress the income tax received general public approval, but the plutocracy attacked the tax when the war ended. In 1870 Congress passed a law repealing the income tax, effective in 1872. Shortly thereafter agitation for another income tax law began. Although only third party platforms contained planks advocating the tax prior to 1894, a number of Democrats in the agrarian South and West also supported it. With the aid of Populist votes, the Democrats succeeded in tacking the income tax amendment to the 1894 tariff bill. A year later the Supreme Court struck down the measure, declaring it unconstitutional.

The high Court's action stirred considerable controversy. The Court twice heard the case involving the 1894 measure. Although the justices invalidated the act on both occasions, one of the judges evidently changed his mind on two important points between hearings and voted to strike down the measure. Supporters of the income tax, incensed by the Court's action, alleged corruption among the justices, while those who

56 U. S. Statutes at Large, XII, 432 (1862); XVI, 257 (1870). Ratner, American Taxation, pp. 67-68, 73-76, 121-126.

considered the tax communist, socialist, and Populist inspired, praised the "uprightness" of the decision.\textsuperscript{58}

Renewed agitation for an income tax followed the 1895 setback. In their 1896 national platform the Democrats chided the Court for ruling against a century of precedent and urged Congress "to use all the Constitutional power which remains after that decision, or which may come from its reversal ..." by a later Court, "so that the burdens of taxation may be equally and impartially laid, to the end that wealth may bear its due proportion of the expense of the Government."\textsuperscript{59} Also in 1896, the Populist and Socialist Labor parties declared for a graduated, or progressive income tax. The Populist Party was the only one to repeat its declaration in 1900. In 1904 no national platform contained a plank on the issue, signifying a low point in the movement.\textsuperscript{60}

In 1906, the flagging movement received a sudden boost from President Theodore Roosevelt, who jolted the wealthy conservatives by declaring for a tax on incomes. The "Big Stick" carrier, however, never followed through on his proposal. The following year the entrance of Cordell Hull, a Tennessee Democrat, into the House provided new blood for the crusade. A protegé of Benton McMillan, also a Democrat from Tennessee and sponsor of the ill-fated 1894 measure, Hull

\textsuperscript{58} Ratner, \textit{American Taxation}, pp. 189-190, 208-214.
\textsuperscript{59} Porter and Johnson, \textit{National Party Platforms}, p. 98.
\textsuperscript{60} Ibid., pp. 105, 110, 116, 118.
became an outspoken advocate of the income tax. Largely through his efforts the movement experienced a revival. By 1908, the struggle regained full momentum: the Prohibition and Socialist parties announced for a graduated income tax, and the Democrats asked for a constitutional amendment that would permit income tax legislation.

Bailey believed the Supreme Court had erred in its 1895 decision but refused to give credence to the charge that the Court was corrupt. Laboring under the conviction that a constitutional amendment was unnecessary, he and other congressional supporters of the tax introduced a number of bills during the interval between 1895 and 1909, but the only measure of their success was the fact that favorable public sentiment continued.

In March 1909, President William Howard Taft called a special session of Congress to revise the tariff, and, if needed for the purposes of revenue, to pass an inheritance tax. Although he had campaigned for an income tax and had proclaimed a constitutional amendment to be unnecessary, the new President ignored the income tax issue in both his inaugural address and his initial message to Congress. Taking

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62 Porter and Johnson, National Party Platforms, pp. 147, 156, 163.

heart in the possibility of presidential backing, Hull and others introduced income tax bills in the House early in the called session but to no avail. 64

Failing to get a bill through the House, Hull, cognizant of Bailey's past record on the subject, asked the Texas Senator to introduce an income tax amendment to the Payne-Aldrich tariff bill, which was still in committee in the Senate. Bailey readily responded in the affirmative. Hull especially had all his research on the tax brought up to date and gave it to the Senator. 65

On April 1 Bailey announced he would soon offer an amendment to the tariff bill providing for an income tax. The Texan presented his amendment to a Democratic caucus on April 14 and received unanimous approval of his measure. The next day he submitted his bill to the Senate. In a brief speech he stated "he was offering the bill in advance of Senate consideration of the tariff measure in order that every Senator on both sides of the Chamber might have the opportunity to examine it and suggest changes or modifications in it." He also announced he would speak at length on the subject at some early date. 66


Bailey drew his amendment along the lines of the 1894 measure, with one major exception. His bill exempted income from state, county, and municipal securities, a tax on which the 1895 Court had unanimously declared unconstitutional. Under the proposal a 3 per cent tax would be levied on all individual incomes over $5,000 and on the net earnings of businesses. Bailey intended for the measure to stand in direct challenge to the Supreme Court ruling.67

The bill stirred up considerable activity in the Senate. The New York Times reported that the Aldrich forces were nervous over the possibility of its passage. The "Insurgent" Republicans, so called because of their recent revolts against the Aldrich machine's domination, also favored an income tax and set about the task of drawing up their own proposal. Republican Senator Albert B. Cummins of Iowa led the attack for the "Insurgents." On April 21 he offered a graduated income tax bill as an amendment to the tariff measure.68 Bailey and Cummins later compromised the differences between their amendments and, with their forces combined, succeeded in bringing sufficient pressure on Aldrich to cause the Rhode Island Senator to submit his resolution for a constitutional amendment.

In the few days prior to Bailey's April 26-27 speech, however, the chance of success for any income tax measure appeared gloomy. On April 19 The New York Times reported

67 Congressional Record, 61st Congress, 1st Session, XLIV, 1351.

that Republican Senate leaders were confidently predicting failure for any tax measure other than the tariff. On the following day, while the Times was reporting in New York that Taft's approval of some form of income tax was common knowledge, the President was in Washington reversing his stand.69

On April 21 the Times made known the President's new position:

[Taft] is of the opinion . . . an income tax is undesirable because . . . it would fly directly in the face of the Supreme Court, and . . . it would be a direct incentive to perjury. Certain men would be sure to evade it by perjury . . . and it would be an unequal tax.70

So heavy was the weight of Taft's shift in position The Dallas Morning News felt obliged to declare that the "Income Tax Appears Doomed" and that any further discussion would be purely academic.71

If Bailey felt the movement for an income tax was a lost cause, his actions were to the contrary. He continued to prepare his speech, and on April 26 the Dallas News announced that the Texas Senator would begin a two day speech "today."

The News further stated:

Mr. Bailey has made a careful study of the income tax question and will be prepared to present the subject in all its bearings, both legal and economic. He is expected to express himself pointedly . . . with the result there will be much spirited colloquy during the speech.72

71 The Dallas Morning News, April 21, 1909.
72 The Dallas Morning News, April 26, 1909.
On both April 26 and 27, as in other instances when the junior Senator from Texas had announced a major speech, the galleries were packed. The Senate chamber was full, and about seventy-five House members invaded the upper house to hear Bailey speak. For the Texan it was an opportunity to turn the tide once more in favor of an income tax, and he eagerly took the floor to make another of the constitutional arguments for which he had become well-known.

Analysis

Logical Appeal

In each of the four speeches under study in this chapter, Joe Bailey developed his logical appeals around several major contentions. In his speech on the repeal of the Sherman Silver Purchase Act he tried to prove that

1. The United States, irrespective of the course of other nations, could sustain a bimetallic standard.

2. A gold standard would be harmful to the best interests of the United States.

3. The free coinage of silver would be beneficial to the United States.

The chief points of argument in Bailey's 1897 tariff speech were as follows:

1. Tariffs levied primarily for revenue would be more beneficial to the nation than a tariff primarily for protection.

73 The Fort Worth Record, April 28, 1909.
2. Raw materials should be subjected to duties as well as finished products.

The address Bailey delivered on the subject of railroad rate regulation was a direct reply to the speeches of Spooner and Knox, and was, therefore, largely refutative. In opposition to their arguments that his amendment was unconstitutional, and in support of his measure he adopted three major contentions:

1. The distinctions drawn by Spooner and Knox between the terms "jurisdiction" and "judicial power" did not apply to the case at hand, that is, relative to the question before Congress the terms were synonymous;

2. Congress had the constitutional right to abridge the power of the courts to issue injunctions;

3. By exercising its power to restrict court authority, Congress would provide the best solution to the problem.

The speech Bailey made in support of his income tax amendment to the Payne-Aldrich tariff bill necessarily involved the Texan's views regarding the tariff as well as the income tax. His principal arguments, however, mirrored his effort to establish the necessity and constitutionality of an income tax. The Texan attempted to prove the following major propositions.

1. The highly protective tariff duties proposed in the bill before the Senate should be reduced.

2. An income tax should be adopted to permit a reduction in the tariff.
3. An income tax is the best form of taxation.

4. An exemption from taxes on incomes under $5,000 is just.

5. An income tax would encourage tax evasion (perjury) no more than would other forms of taxation.

6. A tax on incomes is not a direct tax.

7. The 1895 Supreme Court ruling should be challenged.

The underlying mode of reasoning used by Bailey in all four speeches was deduction. It was the predominant mode in his speeches on free silver and the 1897 tariff, which were more doctrinaire in content than the delicate constitutional arguments of the rate bill and income tax speeches. In most instances he built his chain of reasoning upon a series of enthymemes in which one of the premises or the conclusion was sometimes suppressed, leaving to his audience the task of filling in the missing part(s). Seldom would it have been difficult for his listeners to supply the missing premises, as they were usually the stock presuppositions of the faction or party he represented. The following excerpt exemplifies Bailey's use of enthymemes in the free silver speech. In the process of leading up to his first major contention he argued that his opposition was over-estimating the significance of the nation's monetary system in relationship to its foreign trade. He continued his argument:

... in our foreign commerce the usual course of business is that we pay our imports with our exports. ... In the settlement of international balances we seldom use either of the precious metals, except when the balance of trade is against us, and this occurs ...
rare intervals. When we use them at all we do not use them as money. If we use gold or silver we use it as bullion and at its bullion value. You might double the amount of silver in your silver dollar or divide the amount of gold in your gold dollar without making any possible difference in the settlement of foreign balances, because they each would be taken . . . according to its weight and fineness.74

Restated syllogistically this argument appears as follows:

1. Only bullion is used in the settlement of balances of trade against the United States.

Gold and silver, as money, are not bullion. [Suppressed]

Gold and silver, as money, are not used in the settlement of balances of trade against the United States.

2. If gold and silver, as money, are not used in the settlement of balances of trade against the United States, the value of gold and silver money is of no consequence in the settlement of balances of trade against the United States. [Consequent suppressed]

Gold and silver, as money, are not used in the settlement of balances of trade against the United States.

The value of gold and silver money is of no consequence in the settlement of balances of trade against the United States. [Suppressed]

3. If the value of gold and silver money is of no consequence in the settlement of balances of trade against the United States, variances in the value of money are of no consequence in the settlement of balances of trade against the United States. [Antecedent suppressed]

The value of gold and silver money is of no consequence in the settlement of balances of trade against the United States. [Suppressed]

Variances in the value of money are of no consequence in the settlement of balances of trade against the United States.

4. If variances in the value of money are of no consequence in the settlement of balances of trade against the United States, the importance of the nation's monetary system in relation to foreign trade is overestimated.

74 Congressional Record, 53rd Congress, 1st Session, XXV, 313.
Variances in the value of money are of no consequence in the settlement of balances of trade against the United States.

The importance of the nation's monetary system in relation to foreign trade is overestimated.

On the basis of the conclusion in the last syllogism, Bailey concluded the opposing argument -- that the adoption of a bimetallic standard would harmfully affect foreign trade unless adopted through international agreement -- was without foundation.

Rhetorically, Bailey's argument was sound. It was closely knit to the extent that even the suppressed portions were implied in his speech. The difficulty with the argument, undoubtedly one which made the argument unacceptable to the opposition, lay in the premise that bullion was not money. Although the premise was tenable technically, especially in relationship to domestic trade, in reality bullion was the "currency" of international exchange, and its commercial value was a definite factor in the settlement of foreign balances. For the commercially oriented East, the center of agitation for gold monometallism, the argument that fluctuation in values between gold and silver was of no consequence was invalid. 75

Bailey offered another argument in support of the same proposition. The argument again demonstrates the Texan's ability to structure his arguments properly, but also shows his weakness in advancing questionable premises. The argument

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75 Murad, Paradox of a Metal Standard, pp. 5-6, 71.
is as follows:

It has become the fashion, Mr. Speaker, in the discussion of this question, to lay great stress upon the necessity of all commercial nations conforming to one financial system. Yet sir, the history of the very country [England] to which the advocates of this policy most frequently refer . . . [shows that] for more than fifty years [she] maintained her single gold standard, while all the countries with which she traded maintained either the single silver standard or the double standard . . . Yet it is not averred . . . that the difference between her monetary system and that which prevailed in all other countries ever interfered with English commerce. England adopted a single gold standard in 1816 when she was exhausted in blood and treasure by her long Napoleonic wars . . . Shall we . . . with our measureless resources . . . confess ourselves unequal to an easier task.\textsuperscript{76}

It is apparent that Bailey believed the United States could not only successfully maintain a standard distinctive from those of other commercial nations but could do so with greater ease than England had. Cast syllogistically his argument appears as follows:

If a nation with limited resources was able to maintain without adverse effect on its commerce a monetary standard different from the standards of other nations, a nation with measureless resources should be able to maintain without adverse effect on its commerce a monetary standard different from those of other nations. [Suppressed]

A nation with limited resources [England] was able to maintain without adverse effect on its commerce a monetary standard different from the standards of other nations.

A nation with measureless resources [the United States] should be able to maintain without adverse effect on its commerce a monetary standard different from those of other nations.

The silverites applauded the argument. Had the comparison been valid, it might have gone far in destroying the

\textsuperscript{76}Congressional Record, 53rd Congress, 1st Session, XXV, 314.
opposition to bimetallism, as the "Goldbugs" had frequently pointed to England's success with the gold standard as a reason for instituting a similar policy in the United States.\textsuperscript{77}

The fact England had prospered under a single gold standard, not a bimetallic standard, was enough to invalidate the proposition. While both of the arguments above exemplify Bailey's use of deduction in the 1893 speech, they also reveal the reasons why such arguments were unconvincing to the opponents of bimetallism.

Bailey's use of the enthymeme in his speech on the tariff of 1897 may be demonstrated by examining one of the popular arguments against protection: that the protective system aided trusts. He said, "Trusts are the legitimate and unavoidable outgrowth of protection, and both aim at the same end ... to enable the manufacturer to escape competition. ..."\textsuperscript{78} In this single statement the minority leader summed up his argument. The argument breaks down into two syllogisms.

1. If a goal of trusts is to eliminate competition, all laws which help eliminate competition for trusts aid trusts.

A goal of trusts is to eliminate competition.

All laws which help eliminate competition for trusts aid trusts. [Suppressed]

2. All laws which help eliminate competition for trusts

\textsuperscript{77}Murad, Paradox of a Metal Standard, pp. 72-73.

\textsuperscript{78}Congressional Record, 55th Congress, 1st Session, XXX, 2738.
aid trusts. [Suppressed]

Protective tariffs help eliminate competition for trusts.

Protective tariffs aid trusts.

The argument was structurally sound; and Bailey was able to adequately prove to the satisfaction of his party that the tariff on sugar was extremely beneficial to the sugar manufacturers; thereby validating the minor premise in the second syllogism. The minority leader was probably safe in assuming audience acceptance of the premises in the first syllogism. The argument was not original with Bailey, but the constant reiteration it received had a telling effect on the protectionists. Unable to escape the dilemma, some of the protectionists resorted to open defenses of the trusts.79

In support of his tariff argument that raw materials should be subjected to duties, the Texan developed three propositions: free raw materials were a form of protection; free raw materials increased the cost of finished products; and legislation providing for free raw materials was "special privilege" legislation. He claimed that the manufacturers, once relieved from the necessity of paying duties on raw materials, would pocket the savings instead of passing them on to consumers. He further contended that in order to raise sufficient revenue, duties on the finished products had to

79Ibid., pp. 2738-2739.
be increased to offset losses on raw materials placed on the free list, the result of which was an increased cost to purchasers of the finished products. The protectionist argument, that once the manufacturers received free raw materials they would reduce prices on finished goods, Bailey discounted as being excellent theory but contrary to actual practice.\(^{80}\) The minority leader linked his "special privilege" argument against free raw materials with a like argument against protection and part of his argument that free raw materials were a form of protection. He used enthymemes to make his points.

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\ldots \text{if it were true that the American manufacturers needed this advantage [free raw materials] I would not give it to them, because to do so would be giving special privileges to a small class of our people. The fact that it is urged that our manufacturers cannot compete in the markets of the world without free raw materials, and that they can compete \ldots with free raw materials, establishes \ldots that free raw materials are a great advantage to them; and if we grant to a very small and very rich class of people a special and a valuable privilege in order to enable them to extend their business, we commit ourselves to \ldots protectionism. \ldots I am not able to distinguish as a matter of principle between the Republican proposition to favor the manufacturers by increasing the taxes of all other classes for their benefit and this other proposition to favor them by remitting their taxes. \ldots each must always be equally objectionable to men who believe in the sacred principle of equal rights to all and special privileges to none.}^{81}\]

Bailey obviously held the terms "advantages," "a remission of taxes," "free raw materials," and "special privileges" to be synonymous and considered each a form of protectionism and a violation of a "sacred principle" of American government.

\(^{80}\)Ibid., pp. 2741-2743.

\(^{81}\)Ibid., p. 2743.
The underlying assumption of this argument was that those engaged in manufacturing were the principal, if not the sole, beneficiaries of protection, a premise entirely unacceptable to Republicans. Since Bailey directed the argument primarily at the Cleveland free-raw-material Democrats, however, the argument assumed a different dimension. The Texan placed the Cleveland Democrats in the position of having to deny a premise traditionally held by Democrats or to retreat from their stand. Those who shared Bailey's view on free raw materials considered his argument indisputable.

In comparison to his efforts in 1893 and 1897, Bailey made relatively limited use of the enthymeme in his speech on the Hepburn rate bill. Although enthymemes were conservatively interspersed throughout the speech, not until he arrived at his final major contention did he employ the enthymeme extensively. Bailey's last major contention may best be stated in his own words: "They tell me that great injustice may be inflicted on the railroads under my proposed amendment, and I answer that a greater injustice may be inflicted upon the people unless my amendment or some other like it is adopted." 82 The Senator from Texas preceded his argument with a brief explanation of the status quo and the effect of his amendment.

Suppose the [Interstate Commerce] Commission fixes a rate, and a Federal court suspends it by preliminary injunction. Then suppose at the end of two years the courts finally adjudge that the rate fixed by the

82 Congressional Record, 59th Congress, 1st Session, XL, 4988-4989.
Commission was a proper one. What is the result? During those two years 10,000 American citizens have been compelled to pay the railroads more than a just compensation for their service. 

Under my plan, if the Commission's rate should be condemned, the railroad would be compelled to sue ten thousand shippers in order to recover the deficiency, while under the bill as it came from the House, if the Commission's rate should be suspended by a preliminary injunction and then finally sustained, ten thousand shippers would be compelled to sue the railroad in order to recover the excess. . . .83

Bailey then asked, in effect, which was more just: to require the railroads to sue the shippers or the shippers to sue the railroads? He argued that a greater justice would ensue if the railroads were forced to initiate suits:

... the railroad can very much more easily sue 10,000 people than 10,000 people can sue the railroad, because the railroad has its established legal staff; it has its records to show what every man paid, and what every man ought to have paid. ... On the other hand, the citizen has no regular legal staff. He has been compelled to pay excessive freight to the merchant, who paid it first, and then charged it to his consumer. The consumer who has really paid it would have no standing in court, because there was no contact or relation between him and the carrier. He would have to go to the merchant, and the merchant would have to go to the carrier. ... I marvel at a course of reasoning which leads men to believe that it is more unjust for the railroad to sue 10,000 people than for 10,000 people to sue the railroad.84

From his argument it is apparent that Bailey equated the degree of ease with which one party could sue the other with the degree of fairness that would result. He concluded, therefore, that it would be fairer for the railroads to assume the burden of filing suit since they could do so with greater

83Ibid., p. 4989.
84Ibid. (Underlining added.)
facility. Cast syllogistically his argument develops into five syllogisms, two categorical and three hypothetical.

1. All parties with legal staffs can initiate suits with greater ease than those without legal staffs. [Suppressed]
   Railroads have legal staffs.
   Railroads can initiate suits with greater ease than those without legal staffs.

2. Those without legal staffs cannot initiate suits as easily as railroads.
   Citizens are without legal staffs.
   Citizens cannot initiate suits as easily as railroads.

3. If the railroads can initiate suits more easily than citizens, it is more just to make the railroads initiate suits.
   Railroads can initiate suits more easily than citizens.
   It is more just to make railroads initiate suits.

4. If it is more just to make railroads initiate suits, my amendment should be adopted.
   It is more just to make railroads initiate suits.
   My amendment should be adopted. [Suppressed]

5. If my amendment is adopted, a fair solution will be achieved.
   My amendment should be adopted. [Suppressed]
   A fair solution will be achieved. [Suppressed]

While Bailey's argument is logically sound, it is difficult to assess its impact on his audience. The difficulty arises in the fact the Senator predicated his argument on the assumption that the only test of fairness was the ease with which one may file suit. He made no effort to prove that his test was the only reasonable test. Whether his audience agreed with his assumption cannot be firmly
substantiated with available evidence; but in the light of the temper of the times and the high degree of praise the press awarded the speech, it would not be too presumptuous to conclude that his proposition was generally acceptable.

Bailey relied chiefly on deduction in the first half of his income tax speech. Included in this portion of the speech were his remarks on the tariff, his arguments that an income tax was the most just and equal form of taxation devised, and his refutation of the assertion that it would produce a "nation of liars." An examination of the Senator's arguments against a protective tariff and the "nation of liars" charge revealed he made abundant use of the enthymeme in his discourse on the income tax.

In his 1897 tariff speech Bailey had denounced protectionism as class legislation, but he went farther in his 1909 address:

The purpose of protection is, as its firmest supporters assert, to give the American producer an advantage over his foreign competitor, but the effect of it is to tax the American consumer for the benefit of the American manufacturer; for to the dullest mind it must be self-evident that any law which enables one man to obtain more for his goods when he sells them must compel another man to pay more for those goods when he buys them, and in this fact lies the unanswerable and fatal objection to the policy of protection. It is not fair..."^5

The argument develops into two categorical syllogisms, the conclusion of the first serving as the minor premise for the second.

^5Congressional Record, 61st Congress, 1st Session, XLIV, 1534.
1. All laws enabling manufacturers to obtain higher prices for their products at the expense of consumers are, in effect, a tax on consumers for the benefit of manufacturers. [Suppressed]

The protective tariff is a law enabling manufacturers to obtain higher prices for their products at the expense of consumers.

The protective tariff is, in effect, a tax on consumers for the benefit of manufacturers.

2. All laws which are, in effect, a tax on consumers for the benefit of manufacturers are unfair. [Suppressed]

The protective tariff is, in effect, a tax on consumers for the benefit of manufacturers.

The protective tariff is unfair.

The argument was structurally sound, and its premises were a restatement of Democratic Party dicta on the subject. Bailey was not so naïve as to believe his argument would bring about the abolition of protection by a Republican Congress, but he probably hoped that the proposition might induce some Republicans to accept an income tax in an effort to offset the charge. A similar declaration which appeared in the 1912 platform of the Progressive Party, the formidable splinter of the Republican Party, was to some extent a testimony of the effect of the argument.

In refutation of Taft's reassertion of the old Republican claim that an income tax, because of its inquisitorial nature, would produce a "nation of liars" (tax evaders), Bailey argued, "Even if what they say is true, it is not more true of this

than it is of every other law that levies taxes. Every tax law... is inquisitorial." Although Bailey proffered additional arguments on the subject, his generalization that all tax laws are inquisitorial and the statement preceding it were the crux of this argument. Expressed syllogistically, these enthymemes appear as follows:

1. If all tax laws are inquisitorial, the charge (that the income tax is inquisitorial) is no more true of this law than it is of other tax laws. [Suppressed]

   All tax laws are inquisitorial.

   The charge (that the income tax is inquisitorial) is no more true of this law than it is of other tax laws.

2. If the charge (that the income tax is inquisitorial) is no more true of this law than it is of other tax laws, an income tax will not make us a "nation of liars" any more than our other tax laws. [Suppressed]

   The charge (that the income tax is inquisitorial) is no more true of this law than it is of other tax laws.

   An income tax will not make us a "nation of liars" any more than our other tax laws.

Bailey was able to show that other types of taxes were also inquisitorial and thereby supported the proposition on which the argument depended for its validity.88

On the basis of the foregoing analysis of Bailey's use of deduction in the four speeches under study, several observations may be made. The Texan's deductive arguments were structurally sound. In nearly every instance he employed the enthymeme in stating his case. In no instance did he leave

87Congressional Record, 61st Congress, 1st Session, XLIV, 1541.
88Ibid.
wide gaps in his reasoning; rather, he tended to develop closely knit arguments. The major weaknesses in his deductive arguments was that some of his premises were either not valid or lacked wide acceptance. The instances in which these weaknesses occurred were few in number, however, and appeared for the most part in his speech on free silver. Bailey probably realized that some of his premises were unacceptable to the opponents of his viewpoint; but in such instances he was arguing more for the sake of solidifying the support of those who accepted his premises than in persuading to his side those who denied his premises. This judgement must be limited, in the main, to the first two speeches and the tariff portion of the 1909 speech.

In addition to his wide use of deduction, Bailey utilized induction in presenting his cases to Congress. Although inductive arguments played a minor role in the silver and 1897 tariff speeches, they were predominant in the rate bill and the income tax speeches. In most instances he offered his inductive arguments for the purpose of establishing premises upon which he based his larger and more conclusive deductive arguments. Chief among the forms of induction used by Bailey was argument from authority. He also made ample use of statistics, examples, and analogies to support his arguments.

In the 1893 speech on silver Bailey argued, in part, from authority to show that the chief reason for demonetizing
silver was to raise the value of gold, a charge denied by gold monometallists. To sustain his position, the young Congressman quoted from a document published by the French government and the works of several economists. In another part of the speech he utilized statistics and an analogy to prove false the contention that a free coinage law would cause the United States to be flooded with the world's supply of silver.

During the last year the world produced about $175,000,000 worth of silver bullion. Of this amount the United States produced about $75,000,000, leaving $100,000,000 produced by all other countries. Of this $100,000,000, not less than $30,000,000 will be consumed in the arts and as subsidiary coin by gold-standard countries, leaving only $70,000,000 for full monetary uses. Will that $70,000,000 come to our mints? I do not believe it will, because silver-standard countries will need it to increase their circulation, and in order to retain it they will find themselves obliged to pay a price sufficient to keep it. It will be the same case as might happen with our wheat. If the wheat crop of Europe fails, the price of wheat advances here, and we are glad to sell our surplus at the advanced price; but when our surplus is gone our sales are practically ended, because whatever price they might offer us for that part of our crop which we need for home consumption we can not and will not sell it. The more the foreigner offers for it, the more our own people would be compelled to pay because they can not part with their bread. So it would be with silver -- whatever its price might be, foreign countries which need it to increase their circulation would be forced to retain it for that purpose.

In both the argument from authority and the argument employing statistics and analogy Bailey arrived at tenable conclusions. The difficulty with the first argument, however,
was that some of the sources used, while supporting the Texan's specific point, advocated a single standard. The strength of the argument lay in its psychological effect of putting the single standard adherents on the defensive and forcing them to justify a deflated dollar at a time when many desired inflated currency. Although the conclusion to the second argument was tenable, the argument itself had two weaknesses: Bailey offered no evidence that other nations would require silver in a quantity sufficient to absorb the surplus; nor was his analogy entirely valid. While both wheat and silver were commodities in the international market, natural phenomenon created the demand for wheat; whereas governmental whim was primarily responsible for the demand for silver. The possibility of a reduction in the silver market abroad was considerably less than it had been twenty years before, but it was nevertheless real. This factor caused some to seek an international agreement to secure the stability in the silver market.\textsuperscript{91} The weakness in the analogy probably reduced the effectiveness of the line of argument.

In his tariff speech the minority leader used statistics to show that a tariff revision was unnecessary. He cited figures on the amount of revenue produced by the Wilson-Gorman tariff of 1894 during its period of operation to 1897. With these statistics he showed how the deficiency in revenue had

\textsuperscript{91}Murad, \textit{Paradox of a Metal Standard}, pp. 89-107.
been constantly decreasing and that, with a return to economic normalcy, it would be erased completely.\textsuperscript{92} His argument was sound, and the statistics were correct. On the basis of the conclusion to this argument Bailey demonstrated that the Republicans were not interested in a revenue tariff but in one providing high protection for favored industries. The Democratic applause and the Republican silence registered the argument's impact.

Bailey relied on testimony from authorities several times in his tariff speech. His only extended use in the speech of this means of induction, however, was in his attack on the free raw materials doctrine and his simultaneous defense of the tariff plank of the 1896 Chicago platform of the Democratic Party. He drew upon the time honored statement of Democratic tariff principles as formulated a half-century before by Robert J. Walker, a former Democratic Senator from Mississippi and the Secretary of the Treasury under President James K. Polk. Bailey showed how closely the Chicago platform conformed in principle and word with Walker's statement and cited a passage in which Walker criticized the tariff of 1842 "because it did not make the tax on raw material equal to the tax on the finished product."\textsuperscript{93} With this point established Bailey placed Democrats favoring free raw materials in the

\textsuperscript{92}Congressional Record, 55th Congress, 1st Session, XXX, 2736.

\textsuperscript{93}Ibid., p. 2740.
dilemma of having to either admit the doctrine was not traditional or renounce the traditional view widely accepted in Democratic circles.

While Bailey's underlying mode of reasoning in the Hepburn rate bill speech was again deduction, he made extensive use of inductive arguments to arrive at premises upon which he based his deductions. For example the Senator from Texas argued from authority to conclude "that there is no distinction between the judicial power of the Government and the jurisdiction of its courts when those terms are considered with reference to a proposition like the one now before the Senate." This conclusion served as the minor premise in a deductive argument in which he concluded that the contention of Senators Spooner and Knox was without substance.

To meet the contention of his opponents that once Congress establishes a court it cannot limit its activities, Bailey offered a counter-proposal: the power to create is the power to destroy and also includes the power to limit. To prove that Congress had the power to create inferior courts Bailey simply had to read the clause from the Constitution vesting that power in Congress. To show that Congress had the power to destroy inferior courts required greater proof. He made his point through analogy, arguing as follows:

94 Congressional Record, 59th Congress, 1st Session, XL, 4978.

95 Ibid., p. 4984.
Almost the first act of Jefferson's Administration was to repeal what was known as the "midnight judge's law." They repealed the act of the Adams's Administration which created seventeen additional United States judges, and turned them adrift without an office and without a district. Whether Congress could deprive those judges of their right to compensation after they had been appointed is another question; but that it could repeal the act creating their offices and defining their districts is absolutely beyond all question.

It will not do to urge that a power does not exist because it might be abused. The Senator from Wisconsin will not deny that Congress has the power to declare war; and if it were to declare war to-day against every nation in the world, however wrongful the exercise of that power would be, the constitutionality of it would be indisputable. . . . the reckless act . . . would be the law of the land until repealed.

The Congress of the United States can, by its proper vote, repeal every criminal law upon the statute book. To do so would approach dangerously close to anarchy, but no man could successfully contend that the repealing act was beyond the power of Congress. Mr. President, as every inferior court of the United States was created by an act of Congress they can all be destroyed by an act of Congress . . . .

For proof of his contention that Congress has the power to limit the judicial power (or jurisdiction) of the inferior courts Bailey relied again on argument from authority. For over an hour the Senator quoted from the text writers and Supreme Court decisions pointing out at the end of each citation that the authority's conclusion and his were the same. Thus was the Texan able to establish the premise that the power to create and the power to destroy includes the power to limit. Senator Engene Hale of Maine, an influential Republican, who prior to Bailey's speech supported the position of Spooner and Knox, registered the impact of the argument.

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96 Ibid.
Hale interrupted the Texan's address to declare that he had profited from Bailey's argument and now agreed that Congress had the power to regulate the courts.97

Bailey was not content to show merely that Congress could limit the power of courts. His goal was to prove that Congress could in the case at hand constitutionally prohibit the courts from issuing injunctions. Using analogy the junior Senator very ably accomplished his purpose. He cited Supreme Court decisions to prove that the power of Congress to prohibit the court from issuing a writ of habeas corpus or a writ of mandamus and from executing its own judgements was a recognized, existing power. By use of authority he showed that each of the three powers just enumerated was equal to or greater than the power to issue an injunction. He concluded his argument in summary fashion:

When Marshall says that the great writ of habeas corpus beneath whose protecting care only can the citizen stand secure, can not issue except it be authorized by an act of Congress, Mr. President, I may be excused for saying that Congress has the power to deny an inferior court the right to issue a preliminary injunction. When Marshall says that the writ of mandamus, a writ as ancient as that of injunction—and upon the authority of the Senator from Wisconsin I may be permitted to add as necessary to a court of law as the writ of injunction is to a court of equity—when Marshall and his associates say that without authority from Congress the Federal courts can not issue a preliminary injunction. When I see that Congress has prohibited Federal courts from issuing injunctions, may I not insist that it shall again prohibit them in a case of vast importance to the people.98

97 Ibid., p. 4985.
98 Ibid., p. 4988.
In the latter half of the income tax speech, which contained Bailey's arguments on the constitutionality of the tax in their entirety, the Texas Senator relied almost exclusively on induction to prove his points. He cited every pertinent Supreme Court decision and every act of Congress dealing with the subject to prove that neither body had ever construed a tax on incomes to be a direct tax until the controversial 1895 decision. In fact he was able to show that on three occasions the Supreme Court had actually stated that an income tax was not a direct tax. 99

To refute the 1895 Court's specific declaration that rent derived from real property was a part of property and therefore subject only to direct taxes, Bailey not only cited Court decisions to the contrary, but he also demonstrated the absurdity of the ruling with three hypothetical examples.

If I should lease my plantation to a tenant, agreeing to take as rent one-fourth of the cotton that he might raise, will any man assert that after he had picked the cotton and delivered it to me it is real estate? As long as the cotton is still on the plant it forms a part of the land, ... but after it has been picked and ginned all connection between it and the soil upon which it was grown has been completely severed and it is personal property both in fact and in law. ... Suppose I rent my farm to a tenant for a thousand dollars per annum; he pays me the money and I place it in the bank ... and use it to meet my current expenses. Does any man suppose that I am spending real

99 Congressional Record, 61st Congress, 1st Session, XLIV, 1558-1563.
estate when I spend that money?
The distinguished Senator from Mississippi [Mr. McLaurin] who sits before me is a great criminal lawyer . . . . Does he think that a conviction could be secured under an indictment, charging the theft of land, by proving that the defendant had stolen money which had been collected from a tenant as rent?100

Almost all of Bailey's inductive arguments were strong. He used generally recognized authorities and sources for testimony and factual data. Thoroughness and attention to detail were marks of his constitutional arguments. The fact that the arguments in the silver speech were to some degree faulty may be indicative of Bailey's relative inexperience in developing sound arguments and his immaturity in judgment at this early stage of his congressional career. From the personal knowledge he demonstrated in the later speeches and the felicity with which he handled that knowledge, it is easy to comprehend why his colleagues highly respected a Bailey argument.

On the whole, the Texan's logical appeals were a credit to his speeches. Both his inductive and deductive arguments were usually closely knit and sound. The majority of his shortcomings appeared in his earlier speeches, and to what degree some of his faulty premises affected audience acceptance of his arguments was not always demonstrable. It can reasonably be said of Bailey's logical appeals that they nearly always drew a favorable response from his Democratic colleagues and respect from his opponents.

100 Ibid., pp. 1563-1564. (Brackets originally in quotation.)
Emotional Appeal

Bailey's logical appeals were important ingredients in his congressional speeches, but they were hardly the sole constituents of his speeches. Among the other components were his emotional, or pathetic, appeals. In their work, *Speech Criticism*, Thonssen and Baird recognized the significant role emotional appeals play in persuasion and assigned to this mode of persuasion "all those materials and devices calculated to put the audience in a frame of mind suitable for the reception of the speaker's ideas." 101

The audience to which Bailey addressed his remarks on many occasions ranged beyond the membership of Congress and those who crowded the galleries. As a leader in his party he undoubtedly realized that his words might at times be construed as party policy and would be widely publicized in the press. Too, it was the custom of many congressmen to have their speeches published in pamphlet form and distributed to their constituents and colleagues. The presence of a number of the Texan's printed speeches among his papers, including three of the speeches under study, indicate his adherence to that custom. 102 In his 1897 tariff speech Bailey frankly stated that his remarks were intended for the eyes of the fifteen million voters across the nation as well as the ears of the few hundred who sat before him. 103

102 Joseph W. Bailey Papers, Dallas Historical Society Archives, Dallas, Texas.
103 *Congressional Record*, 55th Congress, 1st Session, XXX, 2735.
The pathetic appeals Bailey used were founded primarily on basic sentiments of his audience: desire for security, desire for fairness and justice, respect for the "natural rights" of man, desire for harmony among men. The emotions to which Bailey appealed were chiefly fear, pity, pride, shame, patriotism, indignation, fair play, honor, and benevolence.

In his speech on the 1893 repeal bill many of the Texan's argumentative appeals were as emotional in nature as they were logical. The following excerpt exemplifies one of Bailey's attempts to arouse audience fear of the gold advocates' proposition and resentment against the supporters of the proposition.

Under the influence of these . . . demands on the nation's gold reserve we have exported something more than one hundred millions of gold, and the country is threatened with a panic. Yet with a strange infatuation, gentlemen who declare that the evils are attributable to our exportation of gold are advocating a policy which is certain to more than double that exportation.104

After briefly elaborating on this statement, Bailey launched another charge at the repeal bill, again warning his listeners to beware of the measure: "This bill, if it becomes a law will inflict a great and permanent injury upon all classes of our people except the money-lending class and the class whose incomes are fixed."105 The struggle, Bailey insisted,

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104 Congressional Record, 53rd Congress, 1st Session, XXV, 315.
105 Ibid.
was a contest between the debtors and creditors, and he portrayed the creditors as those attempting to "destroy" a system under which America had prospered.106

The young Representative reserved his most impassioned pleas for his conclusion. In his final remarks he righteousnessly claimed that he and those who supported him (the people) wanted only what was just and fair and would not settle for less.

... all they ask of you to-day is an opportunity to fairly test the matter [free coinage]. Will you deny them this? ... You may go on, and in a blind obedience to the commands of the rich and powerful, you may strike down the money of the people and destroy the coinage of the Constitution. You may forget the millions who toil in the workshops and fields of this land, but they will not forget you. ... And when the heartless exactions of avarice have ground their faces into the dust, and aggravated their burdens beyond their capacity to bear them, they will arouse themselves to a consciousness of their strength, and then, when it may be too late, you will find what it is having sown the wind, to reap the whirlwind.

If you do this work faithfully and well, the people will bless the memory of this Congress for generations to come. If you do it ill, ... they will drive forever from power and place the recreant representatives who have betrayed their confidence and disappointed their hopes.107

While a majority of those in the House paid little heed to the admonitions of the upstart from Texas, the "friends of silver" applauded loudly what they unquestionably believed to be "gospel." The fact that a whirlwind in the form of William Jennings Bryan descended upon and nearly undid the gold men

106 Ibid., p. 316.
107 Ibid., p. 317.
three years later evidenced the impact of such pleas on the people for whom Bailey spoke.

The emotional appeals in the remaining three speeches were somewhat less passionate and relatively fewer in number than those in the silver speech. Nevertheless, he continued to make use of this element of persuasion. In the 1896 tariff address, he exploited one of the burning issues of his time -- corruption in big business. He portrayed trusts and protection as complementary outgrowths of Republican policy. Protection, he asserted, bred extravagance, and "extravagance is a vice which enfeebles the mind, benumbs the conscience, and degrades the character of a people," corrupts the nation, and renders its people "weak and servile."108

Bailey was unrelenting in his efforts to brand the protectionists as friends of that symbol of corruption, the trust. He claimed that "the apostles of protection" who taught manufacturers that riches and power could be theirs through the elimination of competition had since become dependent on the votes, influence, and campaign contributions of those "hurtful combinations of capital."109 He finally concluded,

\[\text{it is certain that trusts will continue to increase in number and power as long as you continue your policy of protection. Men may perceive their danger and cry out}\]

\[\text{108 Congressional Record, 55th Congress, 1st Session, XXX, 2736 and 2738.}\]
\[\text{109 Ibid., 2738.}\]
against them, but these vast aggregations of capital will go on destroying all individual and independent enterprise until their growth is arrested by the destruction of the protective system which has fostered them.110

The arguments Bailey used against the advocates of free raw materials were probably as much emotional as they were logical in their appeal. No self-respecting Democrat wanted to be labeled protectionist, or advocate of special privilege legislation, or friend of the trusts. Bailey's final charge against the doctrine of free raw materials was that it would lay a "crushing weight upon the farms." He followed this declaration with a eulogy on the virtues of farmers resembling in tone and essence Bryan's "Cross of Gold" speech, and the minority leader concluded:

A Republic which practices injustice against homes like these, which multiplies their burdens and drives their impoverished and discontented occupants to already . . . overcrowded towns and cities invites its own destruction.

I do not plead for special privileges for the farmers; I only plead in defense of the Democratic party for having said that in dealing with this question it will keep its pledge that none shall enjoy a special favor nor shall any suffer a special burden; but that all shall stand equal before the law. . . . If we adhere steadfastly and faithfully to this, the most vital of all our principles, the American people will reward our fidelity with their confidence, and we can reward their confidence by perpetuation forever and forever more this, the greatest, the freest and therefore the best Government that ever rose to animate the hopes or bless the sacrifices of mankind.111

Bailey's use of emotional appeals in the rate bill and income tax speeches presented somewhat of a contrast with

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110 Ibid., 2739.

111 Ibid., p. 2743.
those of the House speeches delivered in 1893 and 1897. The
contrast was not so much in the tone of his appeals as in the
number of times he used them; relatively few appeared in the
Senate speeches. The only instances of extended pathetic
appeals in the rate bill speech were in his brief deviations
from the main line of argument and in his concluding remarks.

An example of one of these departures was his brief dis-
cussion of the "extraordinary" powers of the courts. He
believed the "natural rights" of man were in jeopardy and
sought to make his audience aware of the danger. Bailey never
defined what he meant by "natural rights;" he allowed his
audience to attach their own definitions to the ambiguous
term. The pathetic appeals in the following passage reflected
the depth of the Texan's concern.

Is there a settled determination in this country to give
the courts a power which the Constitution intended to
lodge with Congress? Is there a deliberate purpose not
only to permit but to invite the courts of this country
to assume to themselves the right to determine what are
the principles of natural right and justice against sol-
lemn legislative enactments? I impute no such motive to
the Senator from Wisconsin, and yet I must be permitted
to say that the time was never so unfortunate as now for
the revival and indorsement of such a doctrine. For
thirty years the people of this country have been accus-
tomed to seeing the courts exercise arbitrary and
extraordinary power; and a new generation of lawyers
has come to the bar, who think it treason and who call
it anarchy to restrain those powers.

Mr. President, I have no hesitation in saying that
if this Government was organized upon a principle which
allows one man to abuse or misuse his power and yet
denies Congress the right to restrain him, it was founded
upon a false principle.\footnote{Congressional Record, 59th Congress, 1st Session, XL, 4983.}
Bailey attempted to establish Congress as the protector of the natural rights of the people while at the same time inducing fear that the courts might usurp congressional authority and endanger those sacred rights. He tried to arouse indignation against those who would permit or favor such flagrant use of power and shame those who would defend such action. To gain respect for Congress and himself as the defender against such practices Bailey continued his impassioned plea:

This is the first Government in the history of the world which ever organized a judiciary department and gave it the power to annul everything that the other departments might do. God knows, that is power enough for any small body of men to exercise. To vest them with the right to judge whether we have kept our oaths to obey the Constitution when we made the law is power enough to give even that great tribunal without inviting it to look beyond the Constitution and assume our duty to defend and guard the natural rights of men. We are ninety, chosen by the very elect of all the people. They are nine, who receive their appointment from a single man, ratified and confirmed by us. I would not trench upon their power; but I would hold myself unworthy of my station here if I should yield to them a power which the Constitution has confided to Congress.113

At another time Bailey declared that the contentions of his opponents "that the courts are not limited by constitutions in supervising the action of the legislatures" to be "the most dangerous doctrine ever heard within the . . . Senate."114

Bailey's appeals regarding the courts were powerful. He used them to create an element of fear and to motivate his

113 Ibid.
114 Ibid., p. 4982.
audience to adopt his power-curbing amendment before the courts became all-powerful. In view of the blows the courts had dealt railroad legislation and other progressive measures during the decade previous to Bailey's speech, his admonitions were timely.

The Senator from Texas, to illustrate abuses existing laws had permitted citizens to suffer (abuses that would be compensated for by adoption of his amendment), told a story calculated to arouse the emotions of pity and indignation in his audience. To bring his point closer to his auditors he spoke of the incident as if it might happen to himself, implying that it could, therefore, easily be the experience of anyone.

The railroad comes to my homestead, consecrated by a thousand associations of mother and father, of wife and children, and mocks me when I talk about the sweet and tender memories of my childhood and plead with them to go another way. They tell me that private interest and private sentiment must yield to this great public convenience; and when I refuse to agree with them upon the compensation, they apply to the county judge, and he appoints, in many of the States, three commissioners to view the premises and assess the value of my land. I plead with those commissioners; but they read me the cold, unfeeling letter of the law, and tell me that private property shall not stand in the way of public progress and convenience. They find that I am entitled to so much. If I am dissatisfied, they tell me to appeal to the court, and I appeal, but pending that appeal they pay me what the three commissioners have awarded me, and they enter upon my land, tear down my fences, or, if it obstructs their way, they raze my house, and I must litigate with them in the courts the question of whether they have paid me enough for my property.115

Bailey had prefaced his story by saying that numerous similar cases were on record, and he followed it with another story,

115 Ibid., p. 4989.
which he claimed to be the actual experience of a personal friend.

In his peroration the Texan sought to fortify his long legal argument with an enticing picture of the beneficient results that passage of a properly amended rate bill would bring. He played upon sentiments peculiar to his time: a desire to eliminate strife between agrarian interests and the railroads, and to terminate the railroads' political influence. He also employed the more commonplace appeals to desires for justice, goodwill, and equality among men, to pride, and to the desire for a secure future. He said,

Mr. President, I do not believe that this legislation will lead to the end which some men fear. I believe that its ultimate effect will be to promote a better understanding between the railroads and the people. I believe that when it has made the railroads do the people justice, the people will feel less resentful toward the railroads... It will take the railroads out of politics, and we will hear no more about railroad Senators. ... Politics are for men of flesh and blood, made in the image of their God, and not for corporations, which are the mere creations of the law. ... if we pass this bill, amended as it ought to be, with the concurrence of all Senators, I would... feel that the railroad and the shipper could work together in peace and with a good will toward each other... I would feel that we are approaching a new era in this devoted land where men are to be judged by how they act and what they think, rather than by what they own; when intellect instead of fortune shall be the measure of our esteem, and when an honest fame shall be the goal toward which our ambitious youth will toil and hope.116

Practically all of Bailey's rate bill speech, most of the exceptions appearing in this portion of the analysis, was cast in the language of a legal argument containing few emotive

116 Ibid., p. 4990.
words. An appeal of the nature just quoted must have had a lifting effect upon his audience. Bailey probably felt no need to offer evidence to support his concluding statement; that such benefits lay within the realm of possibility and were the desire of most men provided a strong psychological note on which to end his address.

Bailey was even more moderate in his use of emotional appeal in the income tax speech than he was in his utterances on the rate bill. The only extended appeals appeared in the first portion of the speech, where he discussed the tariff and presented his non-legalistic arguments in support of the income tax, and in his peroration.

At one point toward the end of his remarks on the Payne-Aldrich tariff Bailey counseled the protectionists on how to ward off the threat of socialism—"socialistic" being one of the labels conservative Republicans had tried to place on the income tax measure.

The apologists of special privilege may continue to cry aloud against the dangerous and leveling doctrines of Socialism, but I tell them here and now that the best way to eradicate Socialism is to renew the people's faith in the justice of their Government. The best way to make the poor respect the rights of the rich is to make the poor understand that the rich respect their rights.117

Justice and respect for each others rights were again a part of the Senator's appeal.

Bailey continued to attack the protectionists on the basis that their policy was unjust. He contrasted the plight

117 Congressional Record, 61st Congress, 1st Session, XLIV, 1534.
of the rich with that of the poor: "Many rich men contribute nothing toward the Federal Government's support, but there is not one among all the laborers of this land who does not pay, and in many instances he is compelled to pay, much more than his proper share."¹¹⁸ The Senator chided the Republicans for having laid the burden of Spanish War expenses on the poor instead of the wealthy. He related the story of a millionaire who had moved from the country to escape taxation but who still received his income from large holdings in the United States. Some of his opponents must have cringed a little after Bailey's conclusion:

I denounce it as a grotesque absurdity to say that this government can call the laborer from his shop, the farmer from his field, the merchant from his store, the lawyer from his office, the husband from the bosom of his family, and the son from his widowed mother's side and send them forth to fight the battles of our country, and yet it can not compel this expatriated millionaire to contribute one dollar toward purchasing the arms and ammunition with which our patriots must defend his property.¹¹⁹

Bailey re-enforced, with pathetic appeals, his logical arguments against the charge that an income tax would produce a nation of liars. He asserted no one could be tempted to tell a lie with an exemption of five thousand dollars and that it was a "fearful indictment" to say people were basically dishonest. The Texan added, "Will any millionaire consider it a compliment to him that you refused to pass an income tax law because you thought it would make a liar out

¹¹⁸Ibid., p. 1540.
¹¹⁹Ibid.
of him? Do you think such an explanation will flatter his self-respect or increase his pride?"120

Finally, Bailey appealed to the rich man's patriotism, or at least he tried to shame wealth into acquiescence:

I know the poor man does his duty by his country and though he may have no property on which to pay a tax, his strong arm and brave heart are always at his Government's command. . . . He knows that a battle may cost his life, or . . . leave him a captive of the enemy, but he does not stop to count those perils when the summons comes. . . . Will the rich men of this land admit themselves so inferior to the poor that from their millions they will not give a paltry sum while the poor give freely of their blood?121

After concluding his legal arguments the Senator urged his audience once more to see the justice of his cause.

"With this unbroken line of decisions, Mr. President, with this unanimous decision in every case up to the 1895 decision . . . is it asking too much of the American Congress to demand [a rehearing on behalf of the people]." In 1895 the Court had in the second trial narrowly decided in favor of the wealthy, Bailey said, and perhaps "the next time the change will be in behalf of justice toward all people and not to help the greedy rich escape the laws['] just tribute."122

A review of the four speeches showed that Bailey used pathetic proofs primarily to enforce his logical arguments. In a few rare instances, mainly in the silver speech, the emotional appeals woven into his arguments seemed to overshadow

120 Ibid., p. 1541.
121 Ibid.
122 Ibid., p. 1566.
his logical proofs. Considering the fact most of his arguments relied chiefly on evidence for their support, it would be difficult to conclude that the Texan overused emotional means of persuasion in his speeches. If anything, it may be that Bailey missed several opportunities to stir the emotions of his audience. He might have dwelt longer on the protection-trust relationship in his tariff speech. During the rate bill address he might have made the courts' abuse of power the major issue or exploited thoroughly his opponents' use of misleading evidence in their attacks on his amendment. In his income tax speech he might have launched a vicious attack against the Supreme Court or chided President Roosevelt and Taft for their cowardliness in retreating from the income tax issue. That Bailey argued with considerable propriety probably gave his speech more credibility in the eyes of his colleagues than if he had buried his logical appeals in strongly emotive language.

**Ethical Appeal**

Having examined Bailey's logical and pathetic proofs, the ethical proofs he used in his congressional speeches remain to be analyzed and are the subject of this portion of this study. Thonssen and Baird, in *Speech Criticism*, based much of their discussion of a speaker's ethos on the theories set forth by Aristotle in his *Rhetoric*. Aristotle believed it important that a speaker create a proper impression of himself before his audience, and that in doing so the speaker
would be utilizing his "most potent" instrument of persuasion.\textsuperscript{123}

In order to create the right impression on his auditors, according to Aristotle, a speaker must be a man of intelligence, high character, and good will. Intelligence implies both sagacity and wisdom. A man of high character exhibits the virtues of justice, courage, temperance, magnificence, magnanimity, liberality, and gentleness. A speaker may show his good will by doing those things which will cause others to like him, such as acting virtuously, desiring for others the things he wants for himself, taking people and issues seriously, and being able to give and take in personal chaff.\textsuperscript{124}

Thonssen and Baird believed that the ethical appeals a speaker used in a speech were extremely important, but they clearly enunciated their conviction that the audience's attitude "toward the speaker--based upon previous knowledge of the latter's activities and reputation--cannot accurately be separated from the reaction the speaker induces through the medium of the speech."\textsuperscript{125} It will be recalled from the discussion of Bailey's background in the preceding chapter that the Texan's colleagues in Congress held him in high

\footnotesize{\textsuperscript{123}Lane Cooper, The Rhetoric of Aristotle (New York, 1932), pp. 9 and 91.}

\footnotesize{\textsuperscript{124}Ibid., pp. 47-48, 92, 102-106.}

\footnotesize{\textsuperscript{125}Thonssen and Baird, Speech Criticism, p. 385.}
esteem. They regarded Bailey as a highly intelligent, serious, and candid man, an outstanding speaker remarkably adept in expounding on the Constitution, and extremely loyal to his convictions and friends. The fact that Democrats in both Houses of Congress made him their spokesman signified further the extent of Bailey's reputation. One other significant honor Bailey received was the attendance and attention of Congress upon his addresses.

Bailey demonstrated within his speeches most of the characteristics of a strong ethical appeal. He exhibited sagacity in his choice of arguments. He was not one to dodge issues; rather he quickly perceived significant issues and built his arguments around them. In the silver speech he unerringly stated the real issue involved: "It is useless to disguise, or attempt to disguise, the fact that, in a large degree, this is a contest between the debtors and the creditors of the world."\textsuperscript{126} His arguments were largely predicated upon the answer to the simple question: Who could more easily recover from an economic setback, the rich creditor or the poor debtor? For the Texas Congressman the answer was as simple as the question and he argued accordingly.

Long before the time Bailey's turn to speak on the 1897 tariff arrived, he had correctly recognized the intent of the Republicans to pass the measure over any protest lodged against

\textsuperscript{126} Congressional Record, 53rd Congress, 1st Session, XXV, 316.
it. Instead of preparing an attack on the specific bill before the House, Bailey wisely used his time to launch his assault against the protective system itself. In addition he saw the occasion as an opportunity to reiterate what he conceived to be the correct Democratic tariff philosophy. His choices in regard to his subject matter were another mark of his sagaciousness.

In the rate bill speech Bailey exhibited wisdom in choosing as the issues for debate the same ones Senators Spooner and Knox had set forth in their speeches. The Texan wanted his auditors to be aware of his choices and so informed them: "In order that the Senate may know that I have not misunderstood and that I have not misstated the position of those Senators, I will read the very words in which they tender the issue between us." 127 Later in the speech, as he took up a new issue, he declared, "Happily the Senator from Pennsylvania ... reduces the whole question to a single sentence. Here is where he makes the crucial test, and I accept it as decisive in this debate." 128

The Texas Senator's excellent choice of arguments in his rate bill speech and the ease with which he developed them prompted comment from a Republican opponent. Immediately before Bailey delivered his peroration, Senator Eugene Hale

127 Congressional Record, 59th Congress, 1st Session, XL, 4977.

128 Ibid., p. 4984.
interrupted to proclaim that "the thorough discussion by
the Senator from Texas" has "tended more to disentangle this
subject . . . than anything that has taken place."\textsuperscript{129} Considering the source, the remark was an extraordinary testimonial
to Bailey's sagacity.

Another mark of Bailey's intellectual ability was his
adeptness in capitalizing on the inconsistencies of his
opponents. Several examples of his ability in this capacity
appeared in the income tax speech, but one will suffice for
the purpose of illustration. In years previous to Taft's
campaign declaration favoring an income tax, Senator Nelson
Aldrich, the Republican boss of the Senate, had denounced the
income tax as "Socialistic, Populistic, and Democratic;" but
in a speech a few days previous to Bailey's address, Aldrich
had dropped the old charge in favor of another: that an
income tax would produce unneeded revenue and breed govern-
mental extravagance. After gibing at the millionaire Rhode
Island Senator for his sudden departure from his old argument,
Bailey made his opponent squirm a little more to the laughter
of his colleagues. Bailey's statement is as follows:

I sincerely regret that we have not heretofore had the
benefit of his [Aldrich's] great influence in resisting
the shameful waste of public money; but I welcome him,
even at this late hour, to the ranks of those who believe
that a simple, frugal, economical government is best. I
can not forget, however, that the Senator from Rhode
Island has never protested against extravagance until we
reached a point where we were about to lay the burden of

\textsuperscript{129}\textit{Ibid.}, p. 4990.
it on the shoulders of the rich, and then he suddenly becomes a convert to government economy.\textsuperscript{130}

In addition to the speeches revealing Bailey's sagacity, they projected the Texan as a man of courage, who sought only to do what was just and right, who was generally liberal, magnanimous, even gentle, in his attitude and actions toward others. The speeches were replete with examples of his virtues. For purposes of illustration a few examples will be adequate.

Probably the most predominant trait Bailey projected through his speeches was that of fairmindedness. During his 1893 speech the Texas Congressman proclaimed to his audience,

\ldots I am no more willing that Congress should take from the people and give to the bondholders than I am that it shall take from the bondholders and give to the people. It is one of those rules which works both ways, and ought to work either way with equal justice.\textsuperscript{131}

A few minutes later the image appeared again:

As for my part, I would forfeit the good will of the people, and retire forever from public service, before I would vote, after having restored the equal privilege of these two metals, to then permit them coined into dollars of unequal value.\textsuperscript{132}

In the tariff speech the minority leader in defending the Democratic measure of 1894 as an adequate measure waived

\textsuperscript{130}\textit{Congressional Record}, 61st Congress, 1st Session, XLIV, 1537.

\textsuperscript{131}\textit{Congressional Record}, 53rd Congress, 1st Session, XXV, 316.

\textsuperscript{132}\textit{Ibid.}, p. 317.
the use of 1897 revenue figures in his argument because they would not be a fair test "of the revenue-producing power of the present law." Another succinct example of Bailey's attempt to be fair may be seen in the following passage from the rate bill speech: "If it [the power to prohibit the courts' use of the injunction] were a doubtful power I would not invoke it; if it were a strained construction of the Constitution I would not plead for it . . . ."134

The occasion of his rate bill speech provided the Senator from Texas with ample opportunity to assail his opponents for what on their part appeared to be wholesale misrepresentations of authoritative opinions and court decisions. That Bailey was liberal in his praise of their abilities and temperate in disclosing their fallacies was undoubtedly to the Texan's credit. At one point following the disclosure of one of Senator Spooner's misinterpretations Bailey dismissed it as a "mistake, which I am sure was unintentional."135 In his peroration he stated:

My regret is that I have not been able to agree with some lawyers in this body whose judgment upon a question of law I have been in the habit of receiving with perfect confidence. We go to the books for an answer to each other, and yet—and I say it in no spirit of flattery, Mr. President—I would as soon accept the deliberative, unbiased, and matured opinion

133 Congressional Record, 55th Congress, 1st Session, XXX, 2736.
134 Congressional Record, 59th Congress, 1st Session, XL, 4988.
135 Ibid., p. 4981.
of Spooner and Knox ... as to accept the opinion of any text writer whom I have quoted here to-day. Knowing their great accomplishments and their great learning in their profession, it was a matter of profound surprise to me when I found that both had taken a position never before successfully maintained in Congress or before the courts.136

Bailey's magnanimity, somewhat illustrated in the immediately preceding quotation, was manifest in his income tax speech. During the presentation of his arguments refuting the charge that an income tax would produce a "nation of liars," the Senator remarked,

I hold no brief to defend the rich men of America, but I think better of them than some of them think of themselves, for while many of them say they will lie to escape this tax, I believe that is true of only a small portion of them. . . .

Mr. President, I would hate to think that wealth engenders crime ... and I have never felt any tolerance for the demagogue who is always declaiming against the rich. It has been enough for me to believe that a man is a man whether rich or poor, and I want to live and die in that belief.137

It was a powerful appeal, and coupled with other proofs, it provided a forceful rebuttal for opposing arguments.

The comments Bailey used in his rate bill and income tax speeches to preface his criticism of court decisions typified his ethical appeals. He endeavored to make clear his high regard for the justices and the impersonality of his criticism of their decisions. In the rate bill address Bailey generously praised the judges as a class:

136 Ibid., p. 4990.
137 Congressional Record, 61st Congress, 1st Session, XLIV, 1541.
To me the patient man who, with a clear mind, a brave heart, and clean hands, holds the scales of justice in even balance, is a mightier force for progress and civilization than any warrior who ever rode to victory or death. The judge, patiently deciding the law as the lawmaking power has made it, is to me an inspiration and example.138

In the income tax speech Bailey disclosed his awareness of the delicacy of assailing a Supreme Court decision in Congress. He said he would be as discreet and fair as possible in presenting his case. He affirmed his belief that the Court was worthy of the highest respect of every citizen and its pronouncements, binding. Referring specifically to the 1895 decision he declared:

I have no patience with the insinuation . . . that the decision . . . was tainted with corruption. . . . I do not believe that there is a justice on that bench now, and I do not believe that one ever sat there whose judgment could be purchased at any price . . . . But while I utterly repudiate the suggestion that these judges were corrupt, I do not embrace the equally unfounded notion that they are infallible.139

Many of the examples cited in the preceding discussion also adequately illustrated the appeals Bailey used to create good will. It would be somewhat redundant to offer additional testimony of Bailey's efforts to be fair and sincere or of his desire to secure benefits for others that he himself relished.

One other aspect of Bailey's ethos merits attention. Aristotle believed it was important for a speaker to show

138 Congressional Record, 59th Congress, 1st Session, XL, 4983.

139 Congressional Record, 61st Congress, 1st Session, XLIV, 1542.
that his witnesses were of high character and trustworthy. By doing so a speaker could induce a higher level of belief in his audience.\textsuperscript{140} A close scrutiny of Bailey's speeches revealed that the Texan religiously adhered to this practice. Without exception he commented on the worth of every piece of testimony he introduced in support of his contentions. At times he found it sufficient to use a single sentence: "I hold in my hand a circular issued by the American Protective Tariff League, of which a Cabinet officer in the present Administration is a leading member, which declares in its opening sentence . . . ;"\textsuperscript{141} or "Bouvier, in his great work, which is accepted as authoritative by every court in all the land, defines jurisdiction. . . ."\textsuperscript{142} A few times Bailey felt obliged to extend such remarks, but without indulging in needless praise. An example from the silver speech follows:

I have here a book which comprises a series of articles contributed to the current prints in 1854, 1855, and 1856, and it was deemed a work of such merit that Richard Cobden, the great apostle of free trade in England, translated it from the French into his own language. It was written by one of the most brilliant Frenchmen of his day, to persuade his countrymen to the demonitization of gold.\textsuperscript{143}

\textsuperscript{140} Cooper, \textit{The Rhetoric}, pp. 82-84.
\textsuperscript{141} \textit{Congressional Record}, 55th Congress, 1st Session, XXX, 2737.
\textsuperscript{142} \textit{Congressional Record}, 59th Congress, 1st Session, XL, 4978.
\textsuperscript{143} \textit{Congressional Record}, 53rd Congress, 1st Session, XXV, 314.
Toward the end of his rate bill argument on the most significant issue in the debate over his amendment, Bailey took time to extoll the worthiness of his most important witness.

Mr. President, I can safely vest the power of Congress to forbid inferior courts to issue preliminary injunctions, upon the existence of a statute as old as this Government and on the authority of an unbroken line of decisions of the Supreme Court, speaking through its greatest justices and its greatest Chief Justice. What Marshall has said none of us need apologize for saying, for . . . in spite of the fact that I do not agree with a single political opinion which he ever expressed from the bench or during his brief political career, I accord to him the honor of being first among all the Chief Justices of the Republic, and I believe his was the greatest legal mind that ever illuminated the judicial history of this or any other country. With him to sustain my contention, . . . I may well be content. 144

From the foregoing discussion of Bailey's ethical appeals, it is obvious that he realized the value of this mode of proof and used it extensively in his speeches. The speeches bore abundant testimony to his sagacity and virtues and showed him to be a man of good will. Further, he was judicious in the use of ethical appeals: praising when praise was important, identifying issues that were important, tactfully rebuking opponents, and always witnessing to the justice in his cause. Bailey's ethos was probably his "most potent" instrument of persuasion.

144 Congressional Record, 59th Congress, 1st Session, XL, 4988.
CHAPTER IV
CAMPAIGN SPEAKING OF JOE BAILEY

The campaigning in which Joe Bailey engaged during his political career was somewhat of a contrast with that of the average politician. His first campaign for public office, in 1890, was hardly a test for the young Texan. So popular was Bailey with the voters of the Fifth Congressional District that he probably would have been elected their Congressman two years earlier had he been of age. This same popularity returned him to office for four additional congressional terms in the 1890's. Little or no serious competition confronted him during any of the election years between 1890 and 1900.¹

By 1900 the ambitious Bailey had emerged as one of the dominant figures in Texas politics. More significant was the fact that he stood opposed to the most predominant political figure in Texas, James Stephen Hogg. The initial four years of Bailey's career in the House of Representatives coincided with Hogg's governorship of the Lone Star State, and Bailey supported the railroad regulation policies and free silver stance of the bumptious governor. Bailey's attitude toward Hogg began to change, however, when the latter threw the whole of his political weight behind William Jennings Bryan's 1896 bid for the Democratic presidential

nomination and, afterwards, for the Presidency. At the Hogg dominated Democratic State Convention of 1898 Bailey fought bitterly against the expansionist plank submitted by the Hogg forces. The Fifth District Congressman lost this first face-to-face struggle, but he left the convention determined not to be thwarted again.

In 1900, seeking to wrest power from the ex-Governor and at the same time gain a promotion, Bailey decided to seek the United States Senate seat occupied by Horace Chilton, a staunch Hogg supporter. The contest between the two was cut short, however, when, on his return to Texas from Washington in mid-April, Senator Chilton became ill and withdrew from the race. But before Chilton's withdrawal several county conventions already had registered Bailey's new surge of strength by instructing their legislators for him. It appeared that once again the Gainesville congressman would stand unopposed in his bid for office.

The illusion was short-lived. Hogg and "the boys," searching for an issue on which to attack Bailey, found it in the Waters-Pierce Oil Company affair. The controversy which they initiated in the summer of 1900 provided Bailey with his greatest political challenges between 1900 and 1910, making that period the most crucial of his career in public

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2The Austin Daily Statesman, August 7, 1898.
3The Dallas Morning News, April 18, 1900.
4Acheson, Joe Bailey, p. 139.
office. It was in recognition of this fact that the three campaign speeches to be analyzed in this chapter were taken from this era. All three speeches have one other important characteristic in common: they reveal Bailey in the role of defender of his most valued possession, his personal integrity. A more detailed background of the speeches follows.

Background

**Waco Speech, August 8, 1900**

On June 21, 1900, at the State Democratic Convention called for the purpose of selecting delegates to the National Democratic Convention, the strength of Bailey's following revealed itself. The convention reversed the Party's 1898 declaration on expansion and selected nearly all the National Convention delegates from among Bailey supporters. Disturbed by the outcome of the convention, Hogg forces set about to undo the state of affairs. Before the regular State Democratic Convention convened in August they churned into a muddy sea the relatively calm political waters that had pervaded the Texas scene since Senator Chilton's withdrawal from the Senate race in April.

On May 28 the old Waters-Pierce Oil Company had been dissolved, and the next day the reorganized Waters-Pierce Oil Company had received a license to do business in the State of Texas. At first the event passed with little public comment. The Dallas News thought it unfortunate that the

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5The Dallas Morning News, June 22, 1900.
anti-trust laws of Texas could be so easily circumvented. The paper, however, made no charge of illegality regarding the event, nor did it chide any public official for permitting the re-entry.  

With the exception of the non-accusatory comments published in June the public prints maintained virtual silence on the issue until late July. Suddenly, on July 24, the Dallas News printed an open letter from David A. McFall, a legislator from Travis County and close friend of Hogg, to Governor Joseph D. Sayers, a firm Bailey supporter who had previously served in Congress with Bailey. The letter denounced the Waters-Pierce re-entry as a fraud upon the state and a travesty on justice. McFall asked Sayers to drive the "Standard Oil" company back out of Texas and offered his personal services to that end.

Alongside the McFall letter the News printed a letter from Thomas S. Smith, Attorney-General of Texas, to Secretary of State D. H. Hardy, who was responsible for issuing the permit to Waters-Pierce. In the letter the Attorney-General stated that H. Clay Pierce was the only one of the incorporators of the old company whose name appeared among the incorporators of the new company. He noted that Pierce had personally sworn that he had purchased all stock owned by Standard Oil and other questionable parties in the old company.

6 The Dallas Morning News, June 3, 1900.

7 D. A. McFall to Governor Sayers, July 20, 1900, cited in The Dallas Morning News, July 24, 1900.
Lastly, Smith cited a series of court decisions, which he claimed obligated Hardy to issue the license. On its face the letter appeared to be a legal opinion justifying the Secretary of State's action, but Smith undoubtedly hoped it might quell questioning voices across the state.

Hogg played his next trump on July 25, just two weeks prior to the gathering of the Democratic clan in Waco for the party's regular state convention. Speaking before the annual meeting of the State Bar Association at Galveston, the ex-Governor renewed McFall's charges. The members of the organization restricted Hogg to a somewhat nonpolitical discussion of the issue, and one member, Professor W. S. Simpson of the University of Texas Law School, defended the Secretary of State's conduct. Smith personally attended the meeting the following day and further defended his action.

It is difficult to determine exactly when the incriminating rumors concerning Bailey's part in the controversial relicensing began, as none appeared in the public prints before the August meeting of the Democrats. But from the report of the pre-convention activities published by The Dallas Morning News, it was apparent the rumors were numerous and

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8 Attorney-General Smith to Hon. D. H. Hardy, Secretary of State, July 20, 1900, cited in The Dallas Morning News, July 24, 1900.
9 The Dallas Morning News, July 26, 1900.
10 Ibid.
widespread. On August 7, the News correspondent at the Waco affair reported that everyone was talking about the Waters-Pierce case and that Hogg and his "boys" were going to attempt to get the convention to censure Bailey and the various state officials for their part in the relicensing episode. The reporter further stated that Bailey was ready to do battle with his assailants.\textsuperscript{12}

When the convention opened the following day, Hogg carried out his censure threat, and what the News headlined as a "Death Struggle for Supremacy" between Bailey and the ex-governor began.\textsuperscript{13} It was on this date, August 8, 1900, that Joe Bailey for the first time publicly defended his role in putting the Waters-Pierce Oil Company back into business in Texas. Democrats from over the state must have sensed that battle would be done at the convention, for over two thousand of them made the journey to Waco.\textsuperscript{14} The Bailey backers, who comprised the majority of the delegates attending the convention, were not disappointed by the events that unfolded.

\textbf{Belton Speech, December 15, 1906}

The Hogg forces failed in their effort to depose Bailey in the latter part of 1900 and early 1901. A period of relative

\begin{flushleft}
\textsuperscript{12}The Dallas Morning News, August 8, 1900. \\
\textsuperscript{13}The Dallas Morning News, August 9, 1900. \\
\textsuperscript{14}Ibid.
\end{flushleft}
calm lasting over five years followed the Texas Legislature's January, 1901, investigation of the Waters-Pierce re-entry, with only minor skirmishes occurring before the summer of 1906. The peace was irreparably shattered by the events of this latter year.

Bailey announced his candidacy for a second term in the Senate as early as August, 1905. A new primary law in Texas permitted senatorial candidates to enter their names in the July, 1906, preferential primary. In early spring the junior Senator had his name placed on the July ballot. In passing the new law, however, the Texas Legislature still retained its power over the final selection of senators.

Eight weeks before the July 28 primary, the Cosmopolitan Magazine "expose" of Bailey's "deals" with Pierce, John H. Kirby, and Standard Oil appeared and spread across Texas with great rapidity. Rumors from six years before recirculated and multiplied. Bailey and his backers were quick to deny all insinuations of misconduct on his part and succeeded in temporarily silencing dissenters. Their leader having died in March, the Hogg forces were too disarrayed to effectively challenge the North Texan in the primary. With an exceedingly impressive vote, Texans registered their approval of Bailey.

At the Democratic State Convention the following month relations between all factions appeared to be smoother than

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15 The Dallas Morning News, August 27, 1905.
16 Acheson, Joe Bailey, p. 211.
they had been for some time, but in September the situation
changed radically. A law suit between Pierce and a former
Waters-Pierce accountant, J. P. Gruett, Sr., and a new Texas
anti-trust suit against the oil company refueled the old
fires.

Only a year before, the State of Missouri, in an anti-
trust suit against Waters-Pierce Company, had revealed that
the company was still related to Standard Oil. The Attorney-
General of Texas, Robert Vance Davidson, and a special assistant
began immediately to collect evidence against the Pierce
operation in Texas. Unknown to Bailey, Pierce had through the
years run his personal transactions with Bailey through com-
pany records, which made it appear on the surface that the
Senator had received money from the company, not Pierce
personally. Gruett, before his dismissal from Waters-Pierce,
appropriated from company files the vouchers evidencing Pierce's
actions. In June, 1906, Gruett used the vouchers in an
attempt to get Pierce to pay him $2,000, which he alleged to
be back wages. Through a friend, Gruett tried to get Bailey
to use his influence on Pierce. Bailey indignantly replied
that no such documents existed and that, if they did, they
were forgeries. The Senator soon dismissed the incident from
his mind.

18Texas Legislature, House of Representatives, Proceedings
and Reports of the Bailey Investigation Committee (Austin,
1907), pp. 300, 305.

19Ibid., pp. 295-299, 864, 999.
Gruett, failing in this last effort, secretly struck a bargain with Davidson and made the vouchers available to the Attorney-General. Gruett then filed suit against Pierce. Nothing was said about the vouchers in the trial that followed in September, but Pierce recounted the details of a $13,000,000 transaction which Bailey had assisted in untangling for him. The testimony received vicious treatment at the hand of the Senator's enemies, who made it appear that the St. Louis capitalist had paid Bailey the $13,000,000. Outcries against the junior Senator soon came from various parts of the state.

At the same time this most recent anti-Bailey movement was fomenting, Davidson launched the anti-trust suit against the Waters-Pierce concern. Among the accusations leveled was one which in part declared the company had secured readmission "through supposed political influence." Bailey read the charge as another deliberate attempt to disgrace him. A sharp exchange of letters between the two followed. Bailey stated his resentment of the charge but also offered to testify regarding other charges if he were needed. Davidson

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20 Ibid., pp. 300-304, 999.
21 The Dallas Morning News, September 15, 1906.
22 Acheson, Joe Bailey, p. 224.
23 The Dallas Morning News, November 27, 1906.
24 Joseph W. Bailey to R. V. Davidson, October 2, 1906, Joseph W. Bailey Papers, Dallas Historical Society Archives, Dallas, Texas.
flatly refused the Senator's offer and said he intended to prove every charge.  

In the meantime, the anti-Bailey forces persuaded M. M. Crane, the former Attorney-General who prosecuted the first Waters-Pierce case, to make an open fight against Bailey. The two met in Houston in early October for a "debate" which solved nothing. The junior Senator spent the remainder of the month touring the state in his own behalf, by the end of which time he felt the "madness" had spent itself. The illusion was short-lived.

The anti-trust suit trial against Waters-Pierce began on November 26 at Austin. To the chagrin of Davidson, the presiding judge immediately ruled out the "supposed influence" charge as being irrelevant to the case. As a last resort the Attorney-General turned to the Gruett papers. Filing amended pleas, Davidson served public notice on attorneys for the company to produce sundry original records including books showing correspondence between counsel for the Waters-Pierce Oil Company and Joseph Weldon Bailey, and various vouchers of specified number and date purporting to show payments to Joseph Weldon Bailey. Notice is given that if the originals are not produced upon trial of pending cases . . . the State will offer secondary evidence.


26Acheson, Joe Bailey, pp. 227-229.

27The Dallas Morning News, November 27, 1906.

28The Dallas Morning News, November 28, 1906.
Bailey, who had returned to Washington to prepare for the opening of the next session of Congress, responded with the statement that any document purporting he had received a fee from the Waters-Pierce Oil Company was a forgery. He further declared that the Attorney-General's new move was a "deliberate and sedate conspiracy to defeat a Democratic nominee and defame an honorable man." On the following day, November 30, in an open letter to Bailey, Davidson laid bare to the public eye the vouchers and audited notations supplied by Gruett and charged Bailey with the responsibility of the Waters-Pierce re-entry.

Bailey was taken aback by the disclosure of papers which he once believed to be non-existent. Arriving in Austin on December 6, he addressed an open letter to Davidson detailing his business affairs with Pierce and commenting especially on each of the items publicized by the Attorney-General. The most damning of the vouchers was one bearing a date close to the time of the relicensing of the Pierce company in 1900, for the instrument was made out to Bailey in the amount of $3,300 and carried the notation "Legal expense Texas cases." The voucher bore an additional inscription, however, labeling the item as a demand loan. In his specific answer to Davidson regarding the voucher Bailey declared the amount was a loan, not a fee, and that a man would have to be quite stupid to

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29 The Dallas Morning News, November 29, 1906.
believe anyone would give "evidence of indebtedness when he is collecting a debt."\textsuperscript{31}

While Bailey and his friends thought the reply clear and sufficient, his political foes and even some of his supporters interpreted it as an admission of guilt. The next day the powerful Dallas News, which had stood by the Senator or, at least, remained neutral during previous battles on the issue, reversed its stand in an editorial entitled, "Why Senator Bailey Should Be Defeated."\textsuperscript{32} Almost overnight anti-Bailey clubs sprang up over the state. To counteract the movement, those remaining loyal to the Senator formed organizations in his behalf. The most heated battle yet was under way. Speakers representing both sides stumped the state, and the press filled its pages with the charges and countercharges uttered by politicians, preachers, and other peddlers of the "truth" about Bailey.\textsuperscript{33}

The junior Senator entered the fray immediately, going from town to town, making several speeches a day. On December 14 he journeyed to Belton, Texas, where he made the second of the campaign speeches under study. After making a reportedly non-political speech to the four hundred students at Baylor Female College during the morning chapel service,


\textsuperscript{32}The Dallas Morning News, December 7, 1906.

\textsuperscript{33}See, for example, issues of The Dallas Morning News and The Fort Worth Record for December 7-30, 1906.
Bailey made his way to the Bell County courthouse for an afternoon address. Some five hundred people crowded the room where the Senator spoke. The audience contained some of his opponents as well as his supporters. The editor of the local newspaper, evidently and "anti," asked Bailey in the issue circulated that morning why he was not in Washington attending to his senatorial duties instead of running around Texas. The audience was eager to hear from the North Texan's lips his response to the accusations lodged against him.  

**Bailey Convention Speech, March 28, 1908**

The Legislature's 1907 investigation, which was a culmination of the struggle begun in 1906, solved nothing. Throughout the year occasional speeches from the members of the two factions kept the old antagonisms alive. With a presidential election year rapidly approaching, the anti-Bailey forces determined that the Texas delegation to the 1908 Democratic National Convention should be void of Bailey men, and they formed the "Democratic Club" to further their ends.

When word of the new movement reached the Senator's ears in January, 1908, he accepted the challenge. Although he had made no previous expression of intent to become a delegate, he said he had now become a candidate for the post because

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34 *The Fort Worth Record*, December 15, 1906.
"the conduct of my enemies forced me to do so or appear to shrink from the test."³⁵

The anti-Bailey group prevailed on the State Executive Committee to order a state-wide primary to select four delegates-at-large and four alternates. At first the Executive Committee hedged on the request, but after the petitioners charged that Bailey feared a popular election, the Senator entered a personal plea that the primary be sanctioned. "Nothing will please me better," Bailey replied, "than a test before the Democratic voters of Texas."³⁶

The anti-Bailey forces commenced their campaign early in March. Over 2,000 of the "antis" congregated at Waco to select a slate of candidates for the primary ballot. Cone Johnson of Tyler, a prominent figure in Texas politics who had nominated Bailey for Senator at the 1906 State Democratic Convention, accepted the lead position on the slate.³⁷

On March 28 6,000 Baileyites gathered at Fort Worth to perform similar duties. Meeting at a recently dedicated coliseum, they quickly made Bailey and seven others their nominees. That evening Bailey launched the assault against his antagonists in a speech before the highly partisan body. In spite of a persistent rain, more than 2,000 supporters turned out to hear and cheer their idol.³⁸ In introducing Bailey to the

³⁵The Fort Worth Record, January 14, 1908.
³⁶The Houston Post, February 25, 1908.
³⁷The Dallas Morning News, March 8, 1908.
³⁸The Fort Worth Record, March 29, 1908.
convention, Louis J. Wortham of Fort Worth reflected the attitude of those in attendance:

About two weeks ago this vast coliseum in which you are tonight assembled was dedicated by the National Feeders and Breeders' Show, the mission of which is to eliminate the scrub steer from Texas. Today and tonight this vast coliseum is rededicated and reconsecrated to the mission of eliminating forever and aye, the scrub Democrat from Texas. (Loud and vociferous applause.)

This, my countrymen, is the matchless Democrat with whom we expect to accomplish that result. (Prolonged applause.)

Logical Appeals

The degree to which Joe Bailey employed logical appeals in his campaign speeches varied with the situation confronting him. In his initial speech on the Waters-Pierce issue at the 1900 convention he evidently felt no need to develop long arguments. At the time no one had yet launched a public campaign against him over the issue, although rumors were abroad. In addition he was cognizant of the fact that the audience was favorably disposed toward him. Consequently, Bailey relied primarily upon his personal explanation of the events surrounding the case to vindicate him before his auditors. On the second occasion the circumstances were radically different from the first: he was under the unrelenting fire of his opponents and before an audience familiar with the issues but unfamiliar to him. He recognized the need for and employed a larger number of logical appeals. Again, in 1908, he was on the verge of the most bitterly fought political struggle of

39 Ibid.
his life and already under attack from his antagonists. He was, however, at the moment, facing 2,000 of his most loyal supporters, and he sought to supply them with arguments to use in his defense and confound the enemy. On this last occasion the Senator made an even more extensive use of logical appeals.

Bailey employed both deductive and inductive reasoning in his speeches. In the Waco address he used enthymemes which never consisted of more than a single premise or the conclusion to an undeveloped argument. For example, he asserted near the opening of his remarks, "There isn't a man in Texas that believes there is money enough in the world to corrupt my judgment." The weakness in the generalization is too obvious to require elucidation. At another point in the speech he argued on more tenable grounds. He put the enthymeme in the form of a question: "Do you believe that I, standing upon the threshold of a new career, . . . would have so far forgotten myself as to betray their [Texan's] interests?" Cast syllogistically the argument is as follows.

No one on the threshold of a new career would deliberately jeopardize that career. [Suppress]

I am on the threshold of a new career.

I would not deliberately jeopardize that career. [Suppressed]

While the validity of the unexpressed universal on which the argument is based is questionable, the high degree of probability contained in it evidently engendered considerable

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40J. W. Bailey, Speech before State Democratic Convention, Waco, Texas, August 8, 1900, cited in The Dallas Morning News, August 9, 1900; hereafter cited as Waco Speech.
belief in his audience. Reportedly, cries of "No! No! No!" resounded from the audience following Bailey's query.\footnote{Ibid.}

In his Belton speech in December, 1906, the Senator frequently relied on the enthymeme. Bailey, convinced he was the victim of a conspiracy, attempted to prove the validity of his conviction to his audience. He first tried to convince his audience that the "evidence" Attorney-General Davidson held was not genuine. He pointed out that Davidson had the evidence in his possession before the July primaries and yet had waited nearly six months before levelling his charges. "If they believed these papers to be genuine," Bailey argued, "... why did they not lay them before the people of Texas before the primaries?" He continued,

Was it not their duty, as honest citizens and Democrats, to lay them bare? I have some bitter enemies and there are probably some of them in the audience and yet not one of them will dare to stand up and face this intelligent audience and justify the conduct of those men in withholding from you any fact. ... \footnote{J. W. Bailey, Speech at Belton, Texas, December 14, 1906, cited in The Fort Worth Record, December 15, 1906; hereafter cited as Belton Speech.}

Bailey counted on his audience to conclude that his opponents had been recreant in performing their duty to the people for the obvious reason that the evidence was invalid. Whether the audience drew these conclusions is not verifiable, nor could it be claimed that, if they did reach these conclusions, they did so solely on the basis of Bailey's premises. The high degree of emotional and ethical appeal introduced.
into the presentation of the argument may have reduced the logical appeal to a position of secondary importance.

The fact his opponents had waited until they could introduce the evidence into a legal proceeding was further proof that they themselves considered the evidence against him to be false, Bailey contended. It was only through this tactic, he concluded, that his accusers could gain for the papers an air of credibility. He based his conclusion on the premise "that the average man is inclined to look upon papers produced in the progress of a lawsuit as something which bears the color of truth." Bailey proffered no evidence to support his premise; rather he relied on his audience to accept his proposition as fact. Although rhetorically sound, the argument depended largely on his ethical appeal for its credibility.

The extensiveness of Bailey's use of the enthymeme in his speech before the "Bailey Convention" in 1908 is best demonstrated by examining his initial argument. The Senator asserted that the reason his accusers believed he would sacrifice his integrity for money was because they subscribed to the philosophy that every man has his price. For proof that he did not subscribe to such a philosophy, he drew upon the following enthymemes:

If I believed in that [philosophy] why would I drudge and slave to serve my country? If I believed in that,

\[43\] Ibid.
I would not expect this republic to endure. If I believed that, I would contribute nothing toward building church houses, for if that be true, then patriotism is a pretense and religion is a hollow mockery. (Applause.) If all men and women have their price no man serves his government unselfishly, and no woman can enter the Kingdom of God.44

Following, as they did, an extended and intensely emotional appeal on the subject, these enthymemes received the acceptance of his auditors. A less partisan audience might have questioned the exaggerated elements within these arguments, but their idol was speaking, and, for them, validity was a matter of who said what. Bailey's tactic of leading his auditors, as in this instance, away from the original contention—that the anti's were attacking him because of their every-man-has-his-price philosophy—without offering substantive evidence in its support, probably aided in convincing his opponents that he was a master of guile. As in examples previously cited, the logical appeal appears to have been of secondary import.

In addition to his use of deduction, the Senator employed inductive reasoning when pleading his cause. He utilized analogies and arguments from specific instance almost to the exclusion of any other type of inductive arguments. In one case only did he rely on authority as the basis of a generalization.

In his Belton address, Bailey drew upon analogy in his attempt to counteract the argument that his borrowing money

44J. W. Bailey, Speech before the Bailey Convention, Fort Worth, Texas, March 28, 1908, cited in The Fort Worth Record, March 29, 1908; hereafter cited as Fort Worth Speech.
from Pierce was proof of the St. Louis capitalist's influence over the Senator. He argued that to borrow money was no crime nor did it mean the debtor was automatically under the dictatorship of the creditor. People borrow money from banks, but the bankers do not go around telling their debtors how to run their affairs, he said. Striking out at his opponents, he ended his argument:

How many men do you suppose there are in congress who have never borrowed money from a bank? Yet do you think any member of the house or senate would be asked to favor the banks with laws because of the loans? . . . National banks were created by congress, they are controlled by congress; and yet . . . many of [my critics] . . . borrow frequently from banks; and very few men are in congress who have not borrowed money from banks. Most of your senators have owned stock in banks and they have never said a word about this. Still because I have borrowed money . . . they think I have done a grievous thing.45

It appeared to be a strong argument and the audience's applause indicated its acceptance of the appeal. The argument did not prove that Bailey had accepted the initial loan from Pierce without knowledge of the latter's ulterior motive in making the loan; however, by pursuing the preceding line of argument, Bailey probably was able to reduce or offset the impact of the charge against him.

The Gainesville Democrat's arguments from specific instance were probably his most effective logical appeals. In his Fort Worth speech, for example, he drew frequent bursts of applause from his auditors as he tried to show that his pursuits as a lawyer had in no way affected his performance

45 Belton Speech.
as a Senator. He cited specific pieces of legislation he had helped promote and amendments he had tried to attach to other bills, all for the purpose of curbing the trusts' power. Does my record, he asked in conclusion, show that "I have served the corporations for which they [Bailey's critics] say I have such a friendship?"^46

Undoubtedly, the strength of the argument lay predominantly in the concreteness of the evidence from which he argued. His actions were a matter of record, and the fact that Bailey had gained national recognition and wide acclaim in Texas on the basis of several of his congressional battles lent credence to the argument.

Having analyzed the logical appeals used by Bailey in his campaign speeches, it is necessary to examine the weaknesses in the arguments he used. A survey of the speeches studied revealed that the weaknesses were of two general types: organization and fallacies of reasoning. An analysis of organization showed that many of Bailey's arguments lacked a sequential pattern; that is, his chain of reasoning was often broken, disconnected. Sometimes he broke the sequence by introducing irrelevant materials; at other times he left one argument to take up another, later returning to his original argument.

The Belton speech affords an example of his occasional introduction of materials unrelated to his argument. When

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^46 Fort Worth Speech.
he was developing his contention that he was the victim of a conspiracy, the Senator, referring to his opponents' strategy, said, "They expected to do precisely as they did do—to withhold these documents until the lawsuit had come up. . . ."47 Instead of continuing his argument he suddenly made the following diversion: "and, by the way, this lawsuit is not a lawsuit. It ought to be styled the suit of the attorney general and other conspirators to oust J. W. Bailey from the United States Senate."48

An example from the Fort Worth address illustrates the Texan's tendency to jump from one argument to another. After beginning his principal argument in his speech—that he was not the agent of trusts—he left this argument to introduce another. His new argument consisted of an attempt to prove that he was unprejudiced toward the poor. He then interjected a story to illustrate the rumors his enemies were circulating to malign his character, after which he returned to the argument dealing with his attitude toward the poor. Upon completing this latter argument he took up his initial argument.49 This lack of sequence in his organizational pattern made his line of reasoning difficult to follow.

The most common fallacies of reasoning present in Bailey's speeches fell into four categories: insufficient

47 Belton Speech.
48 Ibid.
49 Fort Worth Speech.
evidence, hidden judgments, "black-or-white" fallacy, and begging the question. The first fallacy appeared frequently in the speeches. Some instances in which it occurred were noted above in the analysis of his deductive arguments. Additional examples of Bailey's fallacy in making assertions without offering evidence in their support are worth noting.

"If one of the men criticising me had been offered a fee for the service I performed he would have taken it with avidity;"50

"Neither Mr. Pierce nor the Waters-Pierce Oil Company had any greater interest in the national congress than the ordinary citizen had;"51 "Now, I do not know how true it is in your counties, but . . . in my county . . . if they will exclude from the primary every man that ever scratched a Democratic ticket, they could not poll fifteen votes against me;"52

"They teach that all men have their price."53

The black-or-white fallacy, or the fallacy of mutual exclusion, involves a limited choice for the listeners in which the alternatives to the choice are asserted to be mutually exclusive. When tested, however, the choices may be shown to be not mutually exclusive. In stating his conclusions regarding Davidson's choice of time for making the Gruett papers public, Bailey committed the following black-or-white fallacy:

50 Belton Speech.
51 Ibid.
52 Fort Worth Speech.
53 Ibid.
They failed in their duty to you and to common fairness when they failed to produce them during the six weeks that I traversed this state in an open and fair canvass before the people. . . . They withheld them, my country-men, for a willful and malicious purpose.54

In creating the argument Bailey left his audience with only two choices regarding his opponents' conduct: they were guilty either of neglect of duty or of conspiracy.

The fallacy of which the Senator was most guilty was that of begging the question. One form of begging the question is through the use of suggestive questions, or questions which are stated in a manner that suggest the answer or conclusion. In his Waco speech, for example, succeeding each phase of the explanation of his connection with Pierce, Bailey interjected what he believed to be the effect of his action and followed his statement with a suggestive question such as "What more do you want?" or "What, would you have done?"55 In the Belton and Fort Worth speeches his questions were even more suggestive. The following are examples: "What right have they [my adversaries] to impugn the honesty of their neighbors if they are honest themselves?"56 "I put it to you, if you were an official of the state and a man who held a high and honored position . . . had been accused of theft

54Belton Speech.
55Waco Speech.
56Fort Worth Speech.
and forgery, would you publish the documents before you had submitted them to the man whom they affected?"\(^{57}\)

Another form of begging the question is what Douglas Ehninger and Wayne Brockriede in *Decision by Debate* called "persuasive prefaces."\(^{58}\) The fallacy involves prefacing a statement with a phrase which rules out question of the statement. Bailey committed the fallacy in making the following assertions: "There isn't a man in Texas that believes there is money enough in all the world to corrupt my judgment;"\(^{59}\) "Neither I nor any other living man in Texas had any idea that the Standard Oil [Company] was interested in the Waters-Pierce Oil company until last year;"\(^{60}\) "No other American senator is more feared or hated by them [the trusts] than I am."\(^{61}\) The initial phrase in each statement precludes any question as to the soundness of the view expressed.

Hidden judgment was the fourth major fallacy in Bailey's logical appeal. This fallacy entails the use of "highly emotive terms" which indicate value judgments.\(^{62}\) Examples of

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\(^{57}\)Belton Speech.


\(^{59}\)Waco Speech.

\(^{60}\)Belton Speech.

\(^{61}\)Fort Worth Speech.

this fallacy appeared in the Senator's speeches in phrases like "these forged instruments," "advised of their machinations," "these flannel mouthed demagogues," and "the fatal consequences of such a policy." In as much as the judgment sought or implied in each case went unsubstantiated, the fallacies resembled closely the insufficient evidence fallacies.

In summary of what the foregoing analysis has shown with respect to the logical appeal in Bailey's campaign speeches, at least three major observations can be made. First, Bailey's appeals appeared more often in the form of enthymemes than in inductive arguments, although, upon analysis, his inductive arguments seemed more sound than those in the deductive form. Since the validity of an enthymeme is determined, however, by whether the audience supplies the desired premise or conclusion, the strength of such arguments by Bailey may have been considerably greater than the foregoing analysis reflects. This last conclusion gains in plausibility when consideration is given to the fact that the majority of those in his audience were predisposed in his favor.

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63 Belton Speech.
64 Fort Worth Speech.
66 Judith Schulz's analysis of Barry Morris Goldwater's 1963-64 campaign speaking in pursuit of the Republican Party's nomination for the presidency seems to sustain this conclusion. Schulz found that many of Goldwater's arguments employing enthymemes, although rhetorically weak, were readily accepted by Republican audiences. Judith Schulz, "Persuasion in the Speeches of Senator Barry Goldwater in His 1963 Nomination Campaign," unpublished master's thesis, Department of Speech, North Texas State University, Denton, Texas, 1964.
second observation was that many of his arguments seemed to derive their validity as much or more from the ethical and emotional appeals accompanying them than from his logical appeals. The last major observation was that Bailey's logical appeals frequently admitted to a number of fallacies, the most prominent being that of begging the question.

Emotional Appeal

An examination of Bailey's campaign speeches showed that the Texas Senator made extensive use of pathetic appeals in presenting his case to his audiences. He appealed to a variety of sentiments he found common to his audiences: desire for obedience to laws, reverence for God, respect for the rights of others, fear of corrupting influences in government and the home, desire for justice, honesty, and fair play, and loyalty to the Democratic Party.

While relating his version of the details connected with the relicensing of the Waters-Pierce Oil Company in 1900, Bailey frequently appealed to his audience's desire to have Texas' laws obeyed. His political enemies had done much to create audience resentment against what appeared to be a flagrant disregard for the law on the part of Pierce, Bailey, and state officials. The following excerpts illustrate the North Texan's attempt to dissipate this resentment.

He [Pierce] came back here, took an oath that he would uphold the majesty of the law, begging permission to conduct his business in conformity with the law.

I said: 'Mr. Pierce, make up your mind that you must abide these laws.' . . . He went and returned with a new
charter at an enormous expense... He took the oath that he was not in part of any trust, that is, no combination or agreement in violation of the laws of the State of Texas. He solemnly [sic] promised to abide our laws, and... issued to every agent in this State a special written instruction to abide the anti-trust law of Texas in spirit and letter.67

Bailey occasionally embellished his pleas with references to God and religious practices and beliefs. Although such remarks created much ethical appeal for the speaker, the pathetic appeal embodied in these references was equally potent. During the speech to the Bailey Convention, for instance, the Senator labeled his opponents as peddlers of the philosophy that "all men have a price" and apprised his audience that if his opponents were right, "no women can ever enter the Kingdom of God."68 In his Waco address he declared, "And God knows... that everything on the earth, except the honor of my wife and children, I would sacrifice before I would my title to the confidence of Texas."69

In many instances Bailey combined appeals to a variety of emotions within a few sentences. This tendency is best illustrated in the following passage from his Fort Worth speech in which he exploited the "every man has a price" philosophy, which he had attributed to his adversaries.

That is not my religion and that is not my philosophy. I believe that is a blasphemy against Almighty God and a libel on human nature... Every man in this audience who has got a price and who would betray the people's

67Waco Speech.

68Fort Worth Speech.

69Waco Speech.
trust to serve himself, hold up his hand. (A voice: "There is nobody.") If there are any anti-Bailey men out there, some of them will do it. . . . My countrymen, I believe in the purity of women and . . . the honesty of men. When I reach the point that I believe in neither I pray that God will call me hence. (Cheers and applause.) . . . Go home tonight and call your bright-eyed and manly little boy to your side and look into his face and tell him: "Son, as you grow to man's estate you will hear other men prate about the honor and fidelity of themselves. Never believe them. All men have their price, and when the tempter comes they will sell their mortal soul for wealth and power and will betray their people." . . . Will you [tell him that]? . . . I thank God none of my friends believe in such a philosophy as that. 70

The high degree of emotional appeal in the preceding excerpt was created in part by the subject matter, but the number of emotive words contained within the passage undoubtedly produced the greater share of the pathos experienced by the audience.

At Belton Bailey assailed The Dallas Morning News for its stand against him. In making his attack on the paper, he appealed in part to the party prejudice in his auditors. "The Dallas News has never been a Democratic paper—a white blackbird—black swans are just as numerous as independent Democrats," he said, eliciting laughter from his auditors. "You remember in 1896 how the Dallas News deserted the Democratic party?" Bailey asked his audience, and then he proceeded to recount how the News had attacked honorable Democrats and supported William McKinley and the "goldbugs." 71

Of all the emotional appeals found in the speeches surveyed, the appeal to fair play appeared most frequently.

70Fort Worth Speech (underlining added).
71Belton Speech.
Bailey continually asserted that his opponents' charges were unwarranted and unjust and that their methods were underhanded and conspiratory. In his Waco address he told his audience that the greatest crime a public official could commit was to betray the trust confided in him, but "The next greatest crime," he said, "... is for men to unjustly accuse an honest servant of the people."72 At Belton, during his discussion of the tactics used by his opponents in bringing the Gruett papers before the public, he charged that "they failed in their duty to ... common fairness when they failed to produce them the six weeks that I traversed this state in an open and fair canvass before the people."73 To the cheers of the partisan crowd at the Fort Worth convention Bailey declared,

Oh, my countrymen, what a parody, what a cruel injustice it is when a man is serving you by day and night as faithful as a representative ever served the people, ... what shall be said of his own people that seek unjustly to tarnish his good name! My name, as long as I am your senator, is your name. (Applause). And when they put mud on me, my countrymen, they put it on you as well.74

In retrospect, it may seem that Joe Bailey used emotional appeal to an excessive extent. He lived, however, in a time when many orators were guilty of extended pathetic appeals. William Jennings Bryan, Albert J. Beveridge, Theodore Roosevelt, and Robert La Follette, probably the best known political

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72 Waco Speech.
73 Belton Speech
74 Fort Worth Speech
evangels of the period, used similar pleas. Indeed, Bailey had no Texas monopoly in the use of emotional appeals. A survey of the speeches by his opponents revealed their use of an abundance of impassioned petitions.

Looking back over the appeals used by Bailey, it appears that the Texan's goal in employing them was twofold: to raise audience indignation and resentment against his adversaries and to gain sympathy for himself and his cause. He played on a number of sentiments commonly held by his audiences, and, if his triumphs at the polls were any measure of his effectiveness, it must be said that he achieved his goals.

Ethical Appeal

It will be recalled from the preceding chapter that the degree of ethical appeal a speaker achieves with his audience is proportional to his success in projecting himself as a man of sagacity, high character, and good will. Inasmuch as Bailey's adversaries called into question these very attributes of the Senator, the North Texan found it imperative that he repair the wounds to his image inflicted by his foes. The constant assaults on his integrity embittered him against his assailants, and he finally sought not only to protect his

76 Robert Tarbell Oliver, History of Public Speaking in America (Boston, 1965), p. 476.
76 For a collection of speeches and articles produced by Bailey's opponents see Cooke, Bailey Controversy, II.
own reputation but to destroy the image of his self-righteous opponents.

One of the most effective weapons Bailey had at his disposal as he fought his verbal battles was his reputation. His constituents tremendously admired their man in Washington. A letter written by the County Clerk of Cooke County in 1898 in reply to an inquiry regarding Bailey's character reflected the sentiment of many Texans:

Mr. Bailey stands above reproach here at his immediate home and throughout his district. He was re-nominated [sic] only recently without opposition as he has always been since his candidacy for Congress. The people have implicit confidence in his personal and political honesty and regard him as one of the foremost statesmen of the times, and endorse his every act in Congress.77

In addition to his reputation as a statesman, Bailey presented an almost legendary image of a man of principle and a fighter for causes he believed to be just. At the 1898 State Democratic Convention he did battle with the Hogg forces over the issue of expansion and almost won; two years later he did win. In Congress the young Representative from Texas fought many verbal battles on the basis of the principles involved. Bailey's sheer audacity and the fact that he did not shrink from conflict unquestionably increased his capital with his constituents.

The speeches used in this study were replete with ethical appeals. Bailey was engaged in the task of convincing his audiences that he was, indeed, a man of sagacity, and to a

77 A. J. Thompson to S. N. Dennison, October 17, 1898, Bailey Papers.
degree, of good will, but primarily a man of high character. At Belton he demonstrated his sagacity by pointing out his ability to see through the underhanded "plot" against him. His enemies had thought it would be a simple matter to "expose" and defeat him, Bailey told his audience, "But they miscalculated the man with whom they had to deal."\textsuperscript{78} In his Fort Worth speech he said his opponents had been unable to perceive how he could get large fees for his legal services without promising use of his influence, but the reason was simple. He was able to demand large fees because he had "sense and knowledge enough to be employed in some important cases."

\textsuperscript{79} At Waco he implied he was too intelligent to disqualify himself from a race he was winning by purposely breaking the rules.\textsuperscript{80} While these apparent assertions of his ego repulsed his opponents, they impressed his followers.

Bailey's ability to win over his audiences was commensurate with his efficacy in creating good will between his listeners and himself. He achieved rapport with the audiences in three ways: by establishing himself as a protector of their interests, through praise of his listeners, and through audience involvement. Examples of the first method could be extracted from almost any portion of Bailey's speeches. In the Waco address, as he explained his actions in connection

\textsuperscript{78} Belton Speech.
\textsuperscript{79} Fort Worth Speech.
\textsuperscript{80} Waco Speech.
with the Waters-Pierce relicensing, he tried to show that everything he had done was for the benefit of Texas. He had persuaded Pierce that Texas laws must be upheld. Texas' citizenry, he said, would not have to suffer from shortages of the products distributed by the company. Further, the benefits of honest industries would not be denied Texans so long as he had a say in matters. Bailey devoted the greater portion of his Fort Worth speech to proving that, contrary to the allegations made by his assailants, he had been busy in Congress guarding the welfare of all by attacking those "great aggregations of capital" that pose "a serious menace to the perpetuity of our free institutions," the trusts.

At Belton he declared that he was no peddler of influence, but a servant of the people, ever striving in Congress to carry out their wishes. Indeed, by fighting and exposing the "liars" who opposed him he was protecting the interests of his constituents; and if he should be defeated, he asserted, Texas' interests would fall into hands not capable of carrying out the people's will. He declaimed at the end of his address:

I have guarded the interests of Texas. No man ever assailed you in my presence that I did not answer back, in congress, on the stump, everywhere. I have upheld the honor of my state . . . and I will do that again and again, as long as I see fit to offer and you see fit to elect me.\(^3\)

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81 Ibid.
82 Fort Worth Speech.
83 Belton Speech.
The Senator's ability to tie his destiny to that of his audience and to project the image of a dedicated public servant contributed much to the strong rapport he shared with his audience.

The second means by which Bailey developed good will was praise of his auditors. He complimented his audiences on their intelligence, their devotion to family, state, and nation, and their willingness to stand up for what was right and just. An excerpt from the speech delivered at Belton will serve to illustrate such appeals. In the process of assailing the tactics of his opponents the Senator asserted that "not one of them will dare to stand up and face this intelligent audience and justify the conduct of those men. . . ." Bailey was temperate in his praise of his audiences, however. He integrated his remarks along this line with other aspects of his speeches and refrained from engaging in extended praise.

The third method Bailey employed to establish rapport with his auditors was to elicit responses from individuals within his audience and from the audience in mass. For example, in his Waco speech the North Texan asked his listeners if they believed he "would have so far forgotten himself as to betray their interests?" To which question his audience shouted "No! No! No!" During his address at Belton he

84 Ibid.
85 Waco Speech.
called upon a local banker to correct him should he err in his explanation of a banking transaction involving a Pierce draft.\textsuperscript{86} With considerable frequency during his Fort Worth speech inspired members of the audience interjected comments such as "That is true," "They are lying," and "Hurrah for Bailey; you will do to speak for us."\textsuperscript{87} The instances in which Bailey so engaged his audiences were numerous. Speech critics have long recognized the effectiveness of these tactics in creating good will between speaker and audience.

Although Bailey was extremely successful in gaining the good will of his auditors, he realized that his most important task was to persuade his listeners that he was still a man of high character. He attempted to project the image of one who was always fair and honest in the conduct of his affairs and courageous in the defense of his convictions and the interests of his constituents. His efforts to this end were legion.

In view of the nature of the principal accusation against him, Bailey felt the intense need to convince his listeners of his honesty. In his Waco speech he relied chiefly on audience reminders of his reputation to convey the image. He innocently declared, "It is a new sensation for me to be accused of dishonesty. ... I have never done any thing in my life that I wouldn't stand on and fear to let the whole world know it."\textsuperscript{88}

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\textsuperscript{86}Belton Speech.
\textsuperscript{87}Fort Worth Speech.
\textsuperscript{88}Waco Speech.
Following these remarks he gave his audience an "honest account" of his part in the Waters-Pierce relicensing; he concluded with the following statement:

I know that nobody believes [I have betrayed your confidence], and I did not think it necessary to prove my innocence, but I did think that I owed it to my friends to make before them a plain, honest statement of the truth so that hereafter nobody should misstate [my role in the affair].

Although such statements satisfied his friends and most of his opponents in 1900, they only partially sufficed six years later.

The Belton speech reflected the change in Bailey's approach. While he continued to use appeals similar to those in the Waco address, he now tried to prove his innocence by attacking his assailants and the evidence against him. The Gruett documents he branded as forgeries or as gross misstatements of the actual transactions between Pierce and himself, and he made detailed explanations of his affairs. His opponents, he said, were dishonest, as their methods showed them to be, and guilty of many of their own charges. By taking the offensive he was able to divert audience antagonisms from himself to his opponents.

In much the same way that he approached the problem of honesty he demonstrated that he was fair and just. He charged his political foes with unfair tactics. Was it fair, he asked his Belton audience, for his opponents to plot in secret against a public servant and to refuse him the right to examine

89 Ibid.

90 Belton Speech.
the evidence they said would convict him? Was it just that
he should be refused the right to see and deny the evidence
against him before his accusers pronounced him guilty and cast
him before the public eye? To his queries the audience re-
sponded that they would not have treated him in that manner. 91

At Fort Worth Bailey employed additional appeals. While
explaining his role in Congress as a fighter against railroad
monopolies, he told his audience he had tried to get legisla-
tion that would reduce rates on express and sleeping cars
because "I felt that their charges ought to be reduced to what
is just and fair." On the other hand, he continued, "I do not
want the railroads . . . to haul you or me or to haul your
freight or mine for less than a fair compensation for their
services." 92 Later in the speech he intimated to his audience,
"I don't judge a man in this world by whether he is poor or
rich." 93 The audience registered, through applause, the im-
mediate impact of the appeals. In such instances as those
above it is difficult to determine whether the proof is more
ethical than emotional.

One of Bailey's more demonstrable virtues was his courage,
and he seldom, if ever, failed to give ample proof of his
courage. At Waco he projected the image by showing how he had
brought Pierce "to the feet of the Attorney General. . . ." 94

91 Ibid.
92 Fort Worth Speech.
93 Ibid.
94 Waco Speech.
In the courthouse at Belton he proclaimed the reason for his presence there: "If I am in Washington while they are assailing me, ... you might assert I am afraid to meet my accusers. ... The man of courage and integrity cannot be kept from going where his honor is assailed." At Fort Worth he related episodes from his congressional battles in which he had tackled the powerful Standard Oil Company and other trusts in order to protect the interests of his audience. In a period when "manliness" was an important virtue, Bailey vividly projected the image of "manliness."

It is difficult to assess the impact of Bailey's ethical appeals because they were so thoroughly integrated with logical and emotional proofs. Nevertheless, it must be said that he displayed a strong ethical image to his audience. He showed himself to be an intelligent and virtuous man--honest, fair, and brave in word and deed. By portraying himself as the guardian of his constituents' interests and through praise and personal involvement of his audience he created a large measure of good will. It must also be noted that the reputation Bailey established prior to the initial attack on his integrity was responsible, probably more than any other factor, for his audiences' willingness to accept his word almost without question. The evidence amply supports the conclusion that Bailey's ethical appeal was his most vital asset on the campaign trail.

95 Belton Speech.
96 Fort Worth Speech.
CHAPTER V

CONCLUSION

In the introduction four questions were posed to serve as guidelines for this study. Chapter II, which established Joe Bailey's identity and supplied a general survey of the times in which he lived and spoke, was a response to the first of those queries. The second and third interrogatives, and, in some measure, the fourth, which dealt respectively with the background, analysis, and evaluation of Bailey's congressional and campaign speaking, received answer in Chapters III and IV. This final chapter consists of a summary of findings and judgments stated in preceding chapters and additional conclusions which seem justifiable in light of the foregoing analyses.

The material presented centers around three areas of thought: what this study says about Joe Bailey and his speaking, what it reveals about public address, and inherent values in making a study of this nature.

Bailey, as an individual, has undergone analysis in at least three areas. The first area of analysis dealt with his background and revealed specific factors which influenced his development as a speaker and conditioned him for the kinds of speaking situations he faced in Congress and on Texas campaign circuits. The material included in Chapter II showed that Bailey's schooling contributed significantly to his
development as a speaker. Each of the schools in which he enrolled provided opportunities for Bailey to engage in debates on issues important in his days. His schooling undoubtedly had something to do with the growth of his intellect, and certainly his studies at the Cumberland Law School contributed immensely to his superior knowledge of constitutional law.

Too, it was, during those years that Bailey adopted the philosophy of government he so ably espoused in succeeding years.

A law practice, first in Mississippi and later in Texas, afforded Bailey further opportunities to engage in debate and sharpen his reasoning powers and improve his ability to produce smooth, well supported arguments. Further and equally important, pursuit of his profession brought him into contact with the influential people in the regions where he sought election.

Bailey's early forays into the realm of politics also contributed to his development as a speaker. He became interested in politics early in his life as a result of his father's involvement in Mississippi's political affairs and undoubtedly had occasion to witness a number of political campaigns. He barely completed his schooling before he entered and won his first campaign. In the few years preceding his initial campaign for the United States House of Representatives Bailey campaigned vigorously on behalf of several office seekers and in the cause of prohibition.

The fact that from his youth Bailey availed himself of every opportunity to speak may account in large measure for
his maturing into an engaging speaker. And, indeed, it was his speaking ability that first endeared him to the electorate of Texas' Fifth District.

Bailey's strong points as a speaker constitute a second sphere of knowledge revealed through this study. After everything is considered the Texan's four greatest assets as a speaker were his powerful ethical appeal, an engaging delivery, capability in developing sound, logical arguments, and his ability to adapt well to each speaking situation. His ethos was, to be sure, the most important of the four. Several factors contributed to his strong personal appeal. His physical make-up—tall, well proportioned, handsome features—accounted for a portion of his appeal. Confidence in his own abilities, an apparently keen intellect, and a high degree of sincerity in his relationships and undertakings also shared in creating his ethos. Another easily recognizable factor was Bailey's intense loyalty to his friends and to his convictions and his willingness to defend both regardless of the station of the attackers. Through his defense of convictions and principles he held in common with his constituents, he came to be regarded by many as the guardian of their rights. Finally, among those factors which added markedly to the Texan's powerful personal appeal was his delivery.

So valuable an asset was this latter factor that it rightfully deserves recognition as one of Bailey's major strong points as a speaker. Although no concentrated body of material covering Bailey's presentation may be found in
this paper, numerous allusions to his attractiveness as a speaker are included. Anyone who could consistently draw over-flow crowds to the galleries of the congressional chambers each time he delivered an announced address and hold a lay audience through four hours of legal argument may justifiably be termed an engaging speaker. Indeed no one questioned this man's rank as the most outstanding orator the Democrats had in Congress. Bailey's ability to gain and hold audiences must definitely be attributed in part to his delivery and must be counted among his major assets as a speaker.

A third strength, notable especially in Bailey's senatorial addresses, was his ability to develop potent, exhaustive arguments. The rate bill and income tax speeches stand as monuments to Bailey's mastery of logical appeals. Exhaustive preparation and thoroughness in the development and support of a line of reasoning characterized the inductive and deductive arguments of these two speeches. The Texan's frequent employment of the enthymeme, demonstrated in the earlier congressional speeches studied and in his campaign speeches, verified the "self-persuasive" values inherent in this form of reasoning.

Last among the Texan's principal assets but certainly not the least important was his ability to adapt to each speaking situation. In preparing his 1897 tariff speech, for example, he recognized that in the face of a solid Republican majority a speech intended to secure rejection of the measure under consideration would be futile. Consequently he directed
his remarks primarily to the national electorate in whose pow-
er he believed the ultimate decision lay. He made no attempt at lengthy, well documented arguments of the type he used nine years later in the Senate. Rather he attempted to argue and reason in terms he felt his audience would best comprehend.

On the other hand, in 1906 and again in 1909 when he saw an opportunity for the Democratic minority to exert an influence on legislation he went to great lengths to present detailed logical arguments in support of his cause. The analysis of the campaign speeches revealed still other adaptations. Unquestionably, Bailey's ability to adapt to a variety of situations was one of his four major strengths as a speaker.

Having reviewed Bailey's background and his strong points as a speaker, it is time to summarize what this study showed to be his weaknesses. They fall into two general categories: factors damaging his ethos and weaknesses in logical appeals.

Through most of his congressional career Bailey's ethos suffered primarily because he was a Democrat and Republicans were in power. In Texas his reputation was firmly rooted by 1898, but his split with ex-governor Jim Hogg in that year, while demonstrating his willingness to fight for a principle, resulted in the rise of a formidable opposition to his position in Texas politics. His opposition did not really crystalize into a permanent movement until after the emergence of the Waters-Pierce controversy. Bailey's central position in the affair and the bitterness with which he carried out the public prosecution of his accusers constituted the greatest blow
to his ethos. Although a majority of his adherents remained loyal for a decade following the opening of the controversy in 1900, his personal appeal to many Texans suffered a complete reversal during that period.

A second major weakness in the Texan's speaking lay in the logical appeals of some of his speeches. Included above is the statement that the logical appeals used in the rate bill and income tax speeches were actually a major asset to his speaking. This fact remains true, but at the same time it is equally true that the presence of weak arguments and sometimes clearly fallacious reasoning in other situations were quite damaging. In the silver speech, for example, a major contention of the congressman centered around a comparison between England's position in 1816 and the United States' position in 1893, a comparison which proved invalid under analysis. In his campaign speeches, especially at Belton and Fort Worth, fallacies in his logic were numerous. Unsupported assertions, broken chains of reasoning, begging the question, and hidden judgments were among the fallacies committed. Although it could not be shown that any of Bailey's supporters ever questioned his reasoning, ample evidence exists that his opponents rejected his weak arguments. If considered on this basis, it must be concluded that in some instances the fallacies in Bailey's logical appeals formed a major weakness in his speaking.

With the summary of Bailey's background and his strengths and weaknesses as a speaker concluded, consideration can now
be given to what this study reveals about public address. Without doubt the one point that really stands out through the analytical chapters is that the speaker's ethical appeal was his most important means of persuasion. The fact that Bailey was obviously a successful campaigner for some twenty years despite the constant appearance of weak arguments in his speeches indicates that his ethos was responsible in large measure for the retention of his following. Ready acceptance by the audiences of the premises and conclusions to his deductive arguments both stated and unstated resulted from the extremely high potency of his reputation, and this willingness to accept (or supply) spoken (or unspoken) premises in reality determined the worth of Bailey's enthymemes. In other words, some of the North Texan's seemingly weak arguments were apparently acceptable to those who had advanced their idol to the realm of "political sainthood." As noted in Chapter IV, Judith Schulz, in her thesis on Barry Goldwater's campaign speaking, arrived at a similar conclusion.

The fact that Bailey's best and most elaborately developed congressional speeches failed to significantly affect the voting of the Republican majority provides additional support for the conclusion that ethos is a speaker's most effective means of persuasion. Analysis of both the railroad rate bill and income tax speeches revealed his arguments to be logically sound and solidly evidenced. High public acclaim followed both speeches. Still the weight of his arguments failed to elicit the particular desired response
from the Republican majority, an audience pre-conditioned to resist arguments advanced by those occupying the opposite side of the congressional chamber. Doubtless had Bailey been a Republican in those hours, adoption of his amendments, especially the rate bill amendments, would have occurred. Under the circumstances, however, no amount of argument could overcome the stigma of being a Democrat.

This study solidly reaffirms another generally accepted principle of public address: adaptation to each speaking situation is important. Bailey's addresses are models of speaker adaptation. Several specific ways in which he allowed the situation to dictate the course his speech would follow deserve rementioning. The number of logical appeals found in each speech demonstrated one method of adaptation practiced by the Texan. In the silver and tariff speeches, for example, where he recognized imminent defeat, he did not bother with developing heavily documented, exhaustive arguments. Nor did he find it necessary, or even feasible, to present detailed discourses at political gatherings back in Texas. On the other hand, in 1906 and 1909 when he perceived an opportunity to influence legislation he went to great lengths to develop his case.

What was not said in the preceding paragraph regarding Bailey's adaptation to the circumstances surrounding the free silver and tariff speeches was what he did do in those situations when he realized the measures or positions he favored would be voted down. On such occasions he spent his time
establishing principles which he hoped would serve as guidelines for future action on the part of his colleagues and his constituents. Too, he supplied warnings as to the consequences he believed would result from violations of the principles he set forth. The fact that he was frequently able to say on later occasions, "I told you so," added significantly to his personal appeal.

The degree of emotional appeal employed by Bailey in his speeches provided another index by which to judge his ability to adapt to a particular situation. On those occasions in Congress when his ethos was lowest and his logical proofs were neither thoroughly developed nor fully supported, he revealed a great reliance on emotional proofs. For instance, in the free silver speech he frequently predicted adoption of a single gold standard would result in grave consequences to the nation's economy and an erosion of the American way of life. In the tariff speech he declared at numerous points that enormous injustices to the downtrodden masses would occur as a result of either Republican or Cleveland policy. In Texas, where politicians commonly dealt in personalities and waged highly emotional campaigns, the Senator made frequent use of pathetic proofs. In his Belton and Fort Worth speeches he left few emotions untouched as he worked to gain sympathy for his cause and to develop audience wrath against his opponents. Bailey's sensitivity to the needs of each situation and his ability to achieve a delicate balance between his emotional, ethical, and logical proofs indeed
reflect the value of sound adaptation to each speaking situation.

Having determined what insights this study has provided into the background of a celebrated speaker and what can be discerned about public address as a result of an analysis of his speeches, it seems worthwhile to make some comment regarding values inherent in conducting a study of a speaker and his speeches. Perhaps the most obvious benefit the student derives from a study of this nature is a necessary increase in knowledge of some segment of history. It is perhaps a truism that the background of a speaker can be fully appreciated only when the student has substantial knowledge of the period(s) in which the speaker lived or lives. This study, for example, made mandatory an acquaintance with the social, economic, and political history of the United States and Texas ranging from the Civil War through the "roaring twenties" and a thorough knowledge of the years 1890 through 1912. An in-depth study of the currency, tariff, railroad, and income tax issues and the Waters-Pierce controversy was necessary in order to evaluate the arguments presented in speeches on these subjects. Further, the study of history from the standpoint of one individual's relationship to it and those who were a part of it affords the student the opportunity to gain new insights into the record of the past.

A second value in studying a speaker and his speeches is the knowledge one may gain about the bases of response. Since any serious theory of speechmaking must be formulated in the
belief that its application would secure a desired audience reaction, it was interesting to note the various responses Bailey elicited from different audiences relative to his approach in each situation. This study, for example, quite lucidly reveals the fact that the Texan's auditors more often responded to the man, Bailey, than to the arguments he presented, thereby underscoring the significant role a speaker's ethos plays in campaign and congressional speaking. A study of this nature should provide the student with a more intelligent grasp of the bases of audience response.

A third, and perhaps the most important, benefit a study of this type affords is what it reveals about the general principles of public address. No single study can pose as substantiation or refutation of any one dictum of rhetoric, but when considered with a number of studies it may either reinforce accepted principles or increase doubt about some of questionable validity. It is also possible that such a study may even raise new questions about public address or provide part of the answers to old queries. Again looking to this study, a number of instances exist in which principles of speechmaking were either upheld or rejected. The principle of audience adaptation, for example, is frequently supported in Chapters III and IV. Somewhat remote, but nonetheless significant, is the question the analysis of Bailey's congressional speaking seems to raise about the function of congressional debate. Regardless of which role is fulfilled, research centering on a speaker and his speeches seemingly
has a vital contribution to make in the field of public address. It was in the belief that an analysis of the congressional and campaign speeches of an accomplished speaker, Joe Bailey, would benefit the student of public address that this study was conducted:
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