

The Legislative conspiracy in Kansas. Court vs. Constitution. Who are the anarchists?

Section 1, Pages 1 - 30

This pamphlet presents the Populist version of the 1893 legislative war between the Populists and the Republicans. It was written by Ed. S. Waterbury, a lawyer from Emporia, who served as the Clerk of the Election Committee of the Populist House of Representatives. Waterbury describes what he believed was a conspiracy involving the courts. G. C. Clemens's assessment of Kansas Supreme Court Justice Albert Horton's decision in the legislative controversy begins on page 79. The original is fragile and some of the text has been lost. The pamphlet includes several photographs that are also available elsewhere in Kansas Memory.

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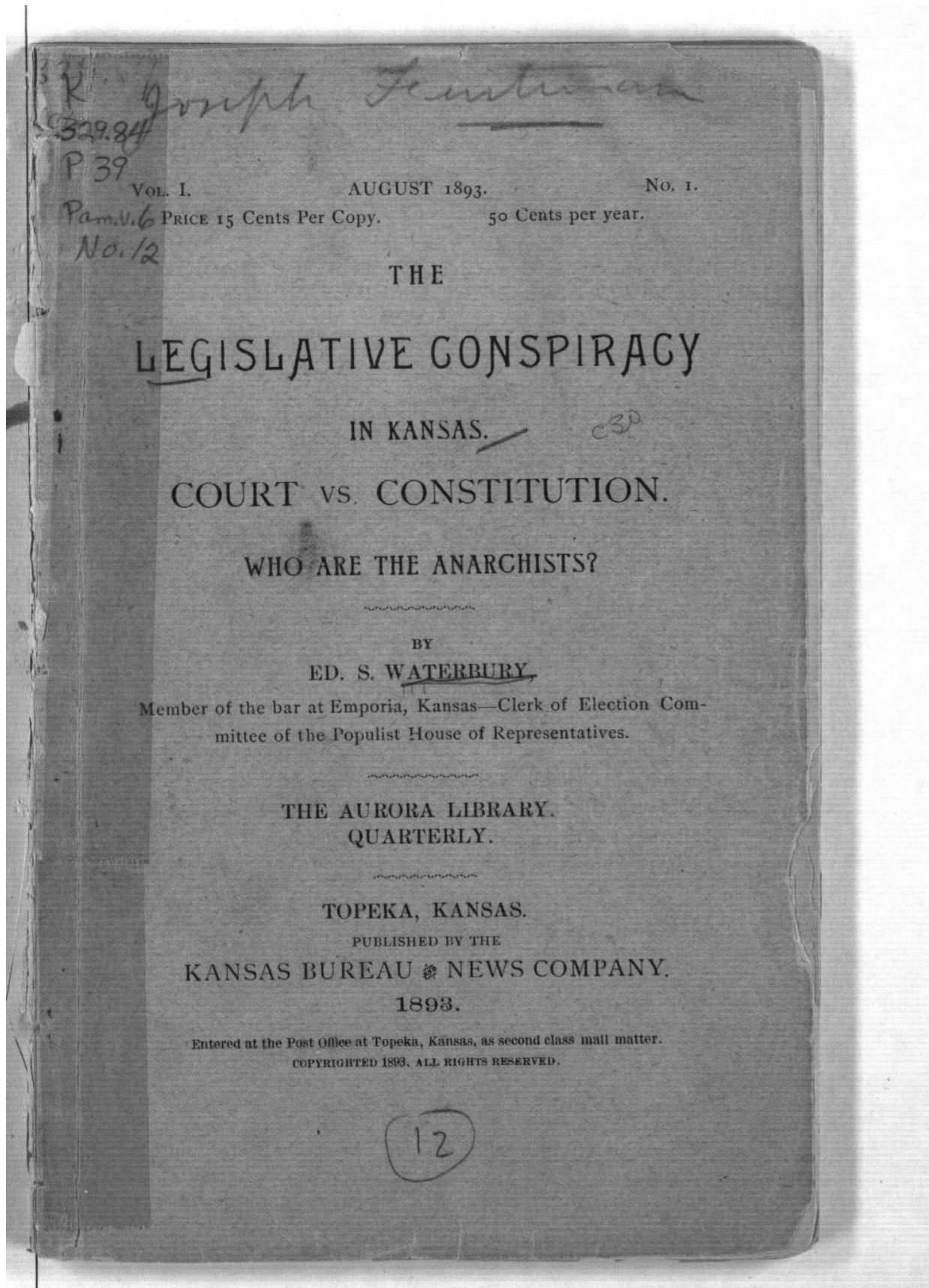
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THE LEGISLATIVE CONSPIRACY

IN KANSAS.

COURT vs. CONSTITUTION.

WHO ARE THE ANARCHISTS?

BY

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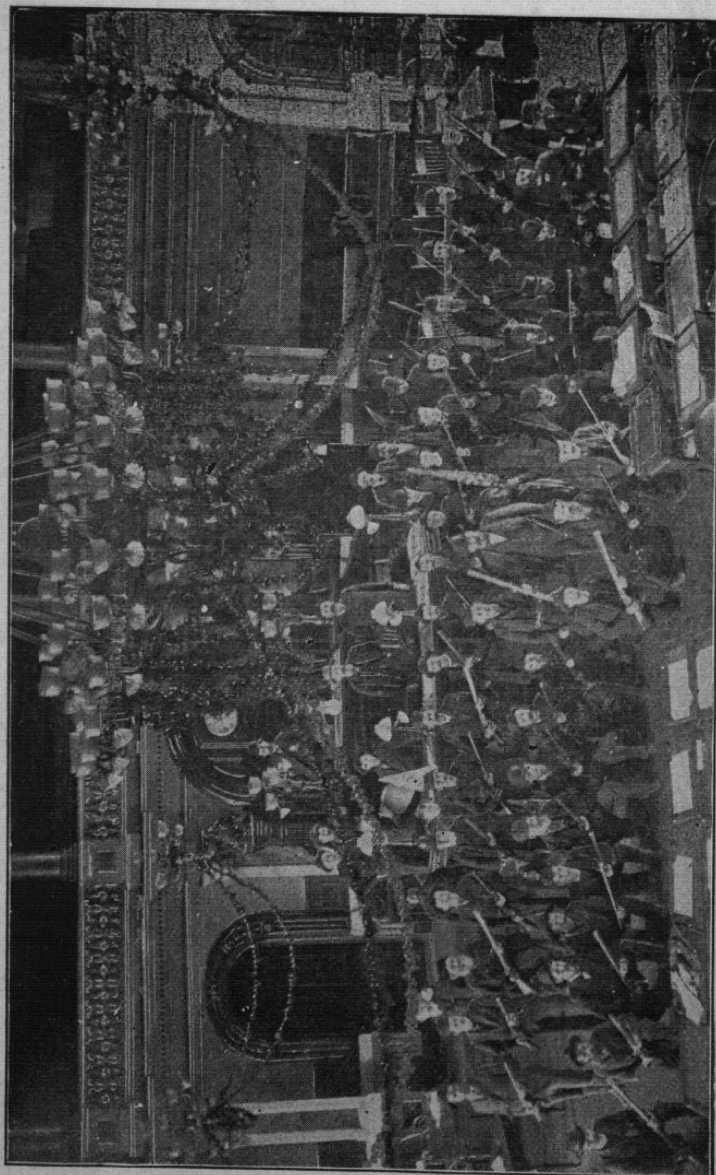
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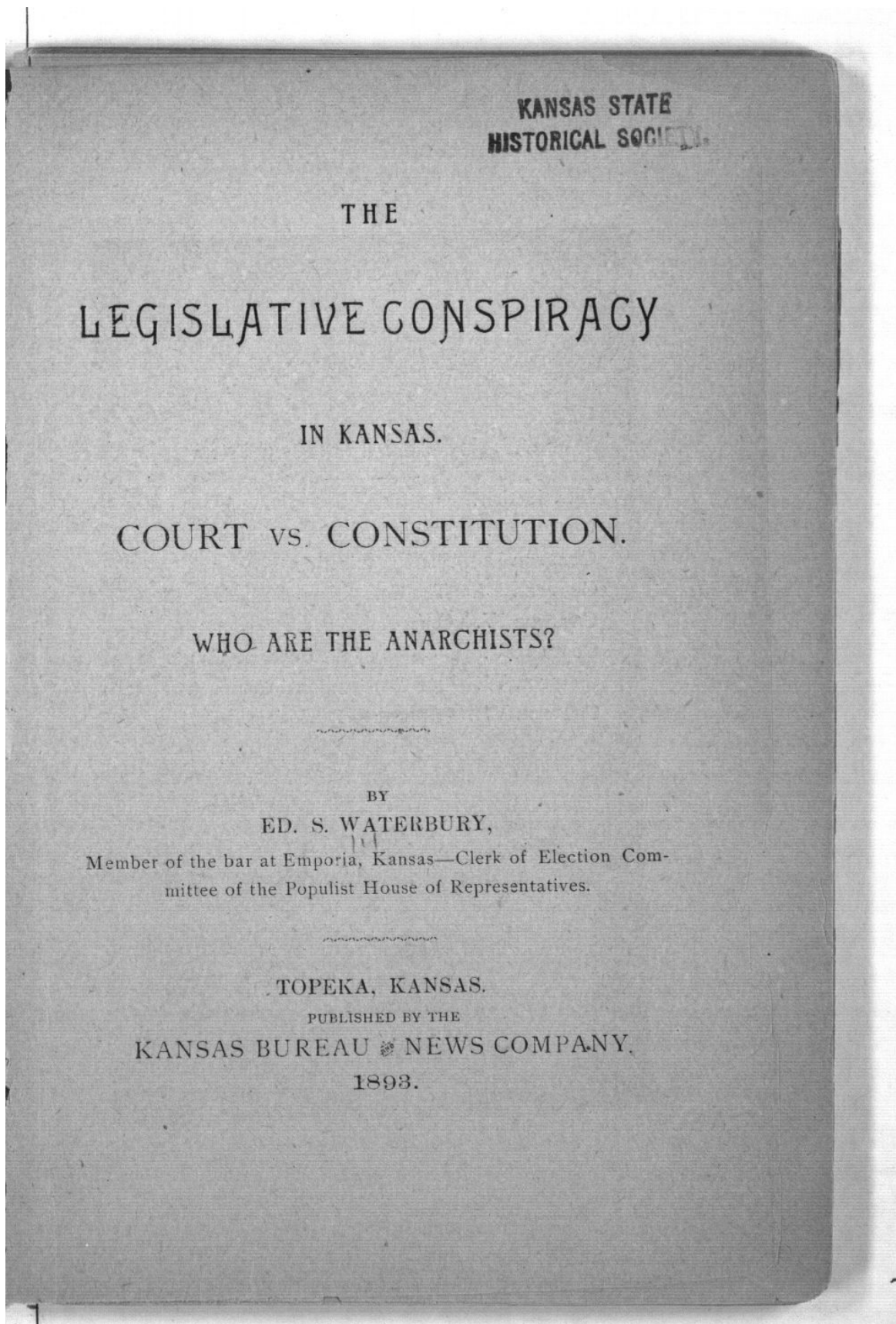
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**Scene in Representative Hall.
Some Republican Argument.**



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INTRODUCTION.

"The Republicans should have the credit of standing for law against revolution and anarchy." Rev. Pearse Pinch in *New York Voice*.

This cry of revolution and anarchy, raised against the recent political movement for unity of action among the people, illustrates a great national heresy and error.

No individual or collection of individuals ever believes great truths through mere intellectual exercise; they must experience and feel their importance before they really believe them. When, in the experience of people, great truths are thus realized, and a great body of men unite for the vindication of these truths, that body is the only suitable agency of the national progress which those truths are designed to inspire. Every organization takes its form and character from the motives which called it into being; and the continuation of that union of men for the sake of the organization merely, and after the inspiration which created it has been expended, creates dead life. This is party life. The men who are *members of*, and who *belong to* these parties ossify into classes; the most numerous become the "ruling class," and, in this country of ours where classes are so loudly denounced, this ruling class blindly believes all opposition to its organization to be anarchistic, revolutionary and subversive of good citizenship. These persons fear conversion as they fear annihilation. Every inspiring revelation which is born to the people out of new experience must encounter and overcome this *class* opposition or turn to ashes. The excruciating

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ating process of death and a new resurrection becomes the indispensable condition of all progress. It is the terrible realization of this destructive influences of classes which has yearly weakened the numbers of independent thinkers and voters in the land. There is danger in the situation. Let the people, if we have a people, awaken to the danger.

Taking its occasion by the weakness which has been superinduced by this heresy and error, the "Money Power" has this year appeared in a new role. It is not the myth we hoped to find it out to be. We have seen it. It has shown itself capable of tragedy, and we have been more startled than entertained by the unexpected exhibition of its versatile powers. The importance of what has just happened at the capital of Kansas is not now generally understood, even at home; or if in the deep convictions of men it is comprehended, it is not yet openly discussed and acknowledged. There is practically nothing local and peculiar to Kansas in its profound significance. Forces common to the whole country have played their respective parts. Like conditions invite the repetition of what has been demonstrated in Kansas to be capable of success under environments like those which exist every where. The powers which have been unmasked, and the hidden motives which have thrown off their disguise here, are national and general. The issues which crystalized on the prairies of Kansas last winter are at hand in every section of the whole country.

The question was that of citizenship under the constitution. When the facts of this struggle are fully and generally known, the influence which precipitated it will have nothing further to conceal. The policy of delay has served its purpose. Any whip-stich of emergency, the turn of any moment, may marshal else-where, as well as here, upon a larger and more effective scale, the power which last winter at Topeka drew its weapons against that sovereignty of the people which is ordained in the

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constitution. Just as sure as that power is not thwarted it must be encountered, and the time left to prepare for either is quite short enough. It is the dignity and virtue of citizenship which is in danger of being sullied and degraded. Let the citizen take thought and bestir himself.

"Ye have plowed wickedness; ye have reaped iniquity; ye have eaten the fruit of lies; because thou didst trust, in thy way, in the multitude of thy mighty men. Therefore shall a tumult arise among thy people, and all thy fortresses shall be spoiled."—*Hosea*.

"Gird yourselves and lament, ye priests, howl, (calamitously) ye ministers of the alter; come, lie all night in sackcloth, ye ministers of my God. * * Let the priests, the ministers of the Lord, weep between the porch and the alter, and let them say, Spare thy people, O Lord, and give not thy heritage to reproach. * * Then will the Lord be jealous for his land, and pity his people."—*Joel*.

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CHAPTER I.

Shortly after the adjournment of the last legislature in this state, Rev. Pearse Pinch, pastor of the most wealthy and aristocratic church in this city, Emporia, had an article in the *New York Voice* on the "Kansas Legislative muddle," written to establish his declaration that "The Republicans should have the credit of standing for law against revolution and anarchy." This cheap bandinage, by no means original with the reverend gentleman, failed to expand under his treatment to any thing more important than a mere postulate; and while I failed to see that he said any thing of consequence, my respect for the dignity of the Christian ministry, as well as the belief which I entertain that the subject is of overshadowing and almost unspeakable importance to every part of this great nation, has prompted me to write about it. I am unable to dispose of the long lesson in politics which the Kansas people have learned in the school of experience during the past few months as deftly and briefly as he did, but, if the reader will grant me a candid hearing throughout what I have to say, I will gladly submit to his judgment whether his time and patience have been adequately compensated.

The Duke of Marlborough (in *New Review* of Jan. 1892, London) says "The squirearchy of America is the legal profession." The squirearchy, of course, depends upon the aristocracy. But have the preachers any advantage over the lawyers? Corporation lawyers, like pastors of rich churches, are generally very honest, but some of the western people have learned that, in matters of politics, they are not the safest guides for



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those who seek and dare to know the truth. I belong to the legal profession and claim no credence over the reverend gentleman. I only ask that since a great Kansas preacher has been heard, an humble Kansas lawyer may be heard also.

The Kansas House of Representatives is limited by the Kansas constitution to 125 members, 63 being a quorum. In the Republican house (which included all the Democrats opposed to co-operation with the People's Party, self styled "Stalwart Democrats") there were 64 persons holding certificates.

One of that 64 is, and since July last has been, a resident on an Oklahoma homestead, and attended at the session in Topeka under a "leave of absence" granted by the United States land officers of the territory.

Four of that 64 were postmasters at the time of the election, who are declared by the constitution of Kansas to be "ineligible to a seat in the legislature." They resigned their post-office commissions before the session commenced, and the Republicans decided that they thereby became eligible (electible) after they were elected. Every thing goes.

One of that 64 had a majority of *one* returned against him by the election supervisors, but the county board so falsified the returns as to give him a tie, and the state returning board, under an unconstitutional statute for deciding a tie by lot, *cast* the Republican in and gave him a certificate.

Two of that 64 were defeated in their respective districts as those districts were defined by law; but the county boards gave them certificates by counting votes cast outside of the districts, upon the assumption that the district boundaries were not what they ought to be, and that the county board could correct the legislative error.

In the case of another of that 64, the county clerk transposed the names, so as to show the man to be highest who was in fact lowest in the number of votes cast for him. In extenu-

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ation of this case it must be admitted that the Republicans ignored the certificate and admitted the man who was elected, when he agreed to stay in and vote with their house; though the other man was kept on hand for an emergency. The admitted man was a "Stalwart" Democrat.

In four of the above cases, those of the untrue returns, the state canvassing board having refused to receive evidence or corrected returns and issued the false certificates and adjourned, the supreme court, when appealed to, had decided that because of its adjournment the state canvassing board was legally dead and could not be reconvened and compelled to issue certificates according to the true returns.

In addition to the nine cases mentioned above, five ineligible and four holding certificates by substitution of false for true returns, the Populist house, when organized, (upon contests and evidence which had been filed in the secretary of state's office while the Republicans were yet in office) unseated yet four other Republicans; one for buying his election by bribing voters, two because of false counts of the ballots cast, and one because of illegal votes, and an election judge substituted Republican tickets for Populist tickets after they were taken out of the box and before they were counted. The evidence and facts in these cases are published in the journal, and if the conclusions are wrong the reports furnish their own condemnation.

Allen Thorndike Rice used to publish editorially in the *North American Review* the sickening details of the vulgar methods by which the people in certain of the Eastern states were defrauded at the ballot box. Rice has been dead several years. No reformation of those abuses has been heard of and those people seem reconciled to being defrauded. Rice as well had held his peace. When the people really *do* any thing for their own protection, platform, pulpit, bench and press stigmatize them as anarchists and revolutionists.

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"The priests said not Where is the Lord? and they that handle the law knew me not; the pastors also transgressed against me. * * For from the least of them even unto the greatest of them every one is given to covetousness; and from the prophet even unto the priest every one dealeth falsely. * * The prophets prophesy falsely, and the priests bear rule by their means; and my people love to have it so; and what will ye do in the end thereof. * * Like as ye have forsaken me, and served strange gods in your land, so shall ye serve strangers in a land that is not yours."—*Jeremiah*.

American liberty is not an achievement of this generation but has come down to us as a priceless inheritance from a former generation, embodied mainly in our state constitutions; every principle has been carried by the issue of war, every sentiment has been wrung from the oppression of years, every sentence has cost an army, and every syllable has been written in blood. While these remain we hold the possibility of supplying every treasure that greed may strip from us. When these are gone the loss is irreparable. We have lost our country.

In the forms of state government which have been handed down to us, our fathers have sought to preserve the independence of the people by preserving the three departments of government, executive, legislative and judicial, independent of each other; with this advantage to the legislative department, that (I quote from the Kansas constitution) "Each house shall be judge of the elections, returns and qualifications of its own members." These constitutions purposely take away all standing room for a mediator between the people and their representatives. They certainly deny all deciding power to a state returning board composed of a portion of the officers who constitute the executive department; and the representatives are judges of the "elections" which are behind the returns. The courts are no less certainly excluded. The Supreme Court of

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the United States says (7 How. 1); "Whether the members are duly chosen or not, whether their acts are according to certain parliamentary rules or not, whether they were voted for by a majority or not, these and several other questions equally debatable and difficult in their solution are *political* (not judicial) questions. They are too near all the great fundamental principles of government, and are too momentous ever to have been entrusted by our zealous fathers to a body of men like judges." They were left to the judgment, patriotism and sense of justice of the people's representatives, because, as the Supreme Court of Indiana says (109 Ind. 127), "It is often best to entrust high power to officers whose terms are short * * * if that power is left to the legislature the people can, at short and often recurring intervals, rebuke where rebuke is needed and approve where approval is merited."

In the next chapter we shall behold the wisdom, judgment and patriotism with which these Kansas Republican representatives addressed themselves to the solution of these great fundamental, important and momentous questions.



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CHAPTER II.

A statute provides that "Upon the day fixed by law for the assembling of the legislature, the secretary of state shall lay before the house a list of the members elected thereto in accordance with the returns in his office." The unbroken custom has been for the secretary to call the members to order, introduce a clergyman, and, after prayer, the members, as the list was read by the secretary, would come forward in blocks of twenty-five and be sworn in, usually by a Supreme judge there present, and the secretary would continue to preside until the temporary speaker was chosen, when he would turn over the list and retire.

At the time fixed by law for the assembling of the legislature of 1893, January 10th, all persons holding certificates and all others claiming to have been elected were in representative hall, when the newly installed secretary of state went into the desk, took up the gavel, and rapped for order and announced that he was there to perform the duty required of him by the above mentioned statute. Immediately Mr. Douglass (afterwards Republican speaker) arose, and for himself and fellow Republicans, objected to the secretary's presiding during such temporary organization, and insisted that he should leave the list and withdraw. Mr. Dunsmore (afterwards Populist speaker) besought the Republicans to allow the secretary to preside until it could be seen whether an understanding might be reached as to who should participate in organizing the house. This overture was rejected, and Douglass still insisting on his



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objection, the secretary said he understood he could not so preside except by unanimous consent; that when the body had some official person with whom to leave the list he would return and deliver it; whereupon he withdrew, and pandemonium ensued.

What was the first thing to be done? Evidently the house must be called to order. But whose duty was it to call it to order? If this were an original question, I think Rev. Pearse Pinch would say that any person whose right to membership was wholly unquestioned had the right to call the house to order. The existence of such right must be admitted; the duty of the others to respect that right necessarily follows.

In the midst of the utmost confusion, such a member (Sample, Populist) went into the desk and, rapping with the gavel, called for order, and asked for nominations for temporary presiding officer. Immediately a man rushing from the midst of the Republicans standing on the floor, ran with all his speed to the desk, pulled a mallet from his coat pocket, and commenced pounding and calling for nominations, till, within the shortest time within which the necessary formulae of words could be uttered, the Republicans had gone through the form of making first a temporary and then a permanent organization and introduced a bill. On the subsequent trial of the *habeas corpus* case it was testified that the man who so rushed to the desk had been, by the Republicans near him on the floor, nominated and elected temporary speaker, but only a few of their own number could hear or know of it. All the ineligible and holders of false certificates heretofore mentioned participated in, and were necessary to this organization. Some one produced a list said to have been certified by the former secretary of state, but it was not used and there was never a roll call. The negative of no motion was put, every motion being declared carried upon the call for affirmative votes. The officers

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were sworn in by a supreme court commissioner who was erroneously supposed to have authority to administer oaths. The entire performance from start to finish was accomplished, so Mr. Douglass testified, in perhaps three minutes, and this model of deliberative wisdom, statesmanship and patriotism passed into history and precedent.

But the man who had called the House to a temporary organization had not yielded to the interruption. He adhered to his purpose until Mr. Ryan had been elected temporary chairman, and other temporary officers were chosen, and a committee waited on the secretary of state, and that officer appeared and delivered the statutory list to Mr. Ryan. The action of the Republicans leaving nothing else to be done by the Populists, they proceeded to the election of Mr. Dunsmore as permanent speaker, and to the election of the other necessary officers of a permanent organization.

These two bodies having been thus organized, one with a constitutional quorum of persons holding certificates, the other with a constitutional quorum of persons duly elected upon the true returns, and after all the following efforts for union by reconciliation had been exhausted, who *now* should decide between them? Rev. Pearse Pinch says the courts should decide. He is wrong. The Republicans of Kansas and all men every where who so hold are wrong, Judges Horton and Johnston of the Supreme Court of Kansas included.

The legislature consists of three parts, the House, the Senate and the Governor. Each of these component parts is bound to find the other two and co-operate with them. Who compose these three parts *must* be decided before any legislature exists and before any legislative business can be transacted. May a court decide in the first instance?

There is no case on record where a court has assumed to direct which of two bodies claiming to be component parts of



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the legislature should be recognized and co-operated with by the other component parts. Judge Horton cites a case in Maine, but he does not mention the fact that the Maine court was forced to depart from the general rule by a peculiarity of the Maine constitution; and in that case the decision of the court was in favor of the body which had been previously recognized. The Supreme Court of Indiana says (109 Ind. 79), "No means are provided by our state government by which unity of action between the two Houses (Senate and House) can be constrained or either House coerced to act against its will." * * * "The constitution plainly contemplates a concurrence of action between the two Houses *in all matters which pertain to the organization of each*, as well as those things which require the joint action of both." * * * "No power but that House can determine the right to membership in that House; and *a fortiori*, no power but the legislature itself can determine the right of its bodies to membership in that department." And the Supreme Court of Georgia says (45 Ga. 402) "It must *in the nature of things* be in the power of a legislative body to declare, and declare conclusively, who compose it, and whether it is properly organized and in session according to the constitution and laws."

Four days of waiting passed; the Governor and Senate had the lawful right to decide; and in the nature of things they **MUST** decide. They did decide and formally recognize the Populist house and proceed to co-operate with it. The Senate and Governor having found a certain body, and having co-operated with it as the House for almost the entire legislative session, could a court then say that no legislature had existed? Could a court overrule the action of the legislative department in determining upon the membership of one of its component parts? In the Georgia case quoted above the court says: "It needed no provision to protect the legislature against the scrutiny of

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Welch and some of his deputies.
But the maintenance of Republican supremacy * * * required all this. See page 13.



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the courts on this subject. To make it the subject of review before the courts, is not only to make all legislation inconclusive, but to exalt the courts to supreme power in the state." In the Indiana case cited above the court says: "There is no appeal from what either House may do except to the people through the medium of the ballot box." As has already been shown, the Supreme Court of the United States has defined the question which was decided by Governor Lewelling and the Kansas Senate to be, not a judicial, but a political question. And again in (137 U. S. 202) that august tribunal says: "The determination of such political questions by the legislative and executive departments of any government conclusively binds the judges, as well as all other officers, citizens and subjects of that government." The Supreme Court of New Hampshire says, (56 N. H. 577); "If a precedent of interference by one department with the discharge of its duties by another be established by the form of a judicial decision, a dangerous blow would, in our judgment, be struck at one of the most vital principles of our system of government, the consequences of which no one could foretell, but which no intelligent and candid citizen could fail to see would be lasting and pernicious."

Firmly and rightly, consistently with the popular majority at the election, and by every test of constitution, law and precedent, was the Populist organization established as the House of the Kansas legislature. Its destruction could be accomplished only by the instrumentality of revolutionary force to subjugate the executive and legislative departments, to annihilate their independence and equality, and elevate the judicial department to supreme power. But the maintenance of Republican supremacy and the interests which that supremacy subserves in Kansas required all this—required its destruction.

It was natural that a necessity so desperate should not be entertained at its first presentment. When such purposes have

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been defined in history they have received ugly names. The cry of anarchist and revolutionist is excellent political clap trap with which to brand the other fellow, but the Grand Old Party must hesitate before it assumes the role which has no other legitimate definition but that of Revolution and Anarchy. Yet time for the contemplation of, and for familiarity with the black spectre will soften its hard outlines. "First hate, then endure, then embrace."



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CHAPTER III.

After the organization of the two Houses, and the recognition of the Populist house by the Senate and Governor, each of them met daily in the same hall; their speakers at first sat side by side, and their clerks at either end of the same desk; each House had its own set of pages, door-keepers &c., each acknowledging certain courtesies and prerogatives to the other; each House appointed a bare majority on the standing committees, leaving a minority of each committee to be made up from the other house when it should abandon its organization; they convened at the same hour; they took recesses and adjourned to the same hour; sometimes, but seldom, the transaction of business was in full blast in both houses at the same time; generally one would work awhile and voluntarily pause for the other to work awhile; in matters where a possible advantage to either might result, as concerning the occupancy of the hall, a Republican, addressing and being recognized by the Republican speaker, would move adjournment to a certain hour and a Republican would second the motion, then the Republicans would pause till the same motion had in like manner been made and seconded on the Populist side and that side had paused, then the Republican speaker would put the motion and upon the vote of his side would declare the House adjourned, but all would maintain order till the Populist speaker had put the motion to his side and declared the House adjourned. After a few days mutual confidence so increased that the Republicans occupied the hall in the forenoon and the Populists in the after-

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noon. While this was the condition, the Republicans introduced and had at various stages of advancement 265 bills, 29 of these they passed, all but three of which afterwards became laws; and the Populist house, in conjunction with the Senate, was also proceeding with legislation in the regular way. Both parties were willing for the time being to maintain the *status quo*; the Republicans, because they believed that upon the passage of the first appropriation bill they could, through an injunction against payment by the state treasurer, brought upon the relation of any county attorney of the state, establish the illegality of every act of the legislature as then constituted; the Populists were equally confident because they had a quorum and majority of members who had been duly elected by the true returns, and they expected the Republicans to yield when they came to realize that the action of the Senate and Governor was lawfully conclusive of the controversy.

The organization of the Kansas senate was regular and lawful beyond all hope of any excuse for the application of the judicial knife, but in the matter of the election of a United States Senator, the Republican senators displayed a contempt for the dignity and authority of that body, of which they were themselves members, which would scruple little at the destruction of that authority whenever a plausible excuse for its destruction should present itself. The State senate was composed of 40 members, of whom 15 were Republicans, 2 Democrats, and 23 Populists. All parties were present at the "Joint Assembly" of the House and Senate, the Lieutenant Governor presiding, when Judge Martin was elected United States Senator. Though a Democrat, Judge Martin had been agreed upon by the Populists, not merely because of his deep conviction of the justice of the Populist demands, nor yet because nearly every Populist member had been supported in the election by that kind of Democrats, but particularly in the hope that his candi-

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dacy would draw the three Democrats adhering to the Republican house to vote for him in the Joint Assembly, by doing which they would recognize the Populist house and so deprive the Republican house of its alleged quorum. In this the Populists were disappointed, for only two of the Republican house voted for Judge Martin, one a Democrat and the other a Republican, and both of them afterwards resumed their allegiance to the Republican house. All of the rest of the Republican house refused to vote. The Journal of that body which afterwards became the lower house of the Kansas legislature will contain no record of Senator Martin's election. *The Republican senators all refused to answer to their names in the Joint Assembly.* Afterwards the Republican senators met with the Republican house, and, with a Senator named Baker presiding and playing the part of Lieutenant Governor, assumed to be the lawful "Joint Assembly" and claimed to elect J. W. Ady for United States Senator. These joint sessions of the Republican senators with the Republican house (though never having a quorum of course) were kept up every day for a week, over this matter and the election of a state printer, (elective by Joint Assembly also) which latter office they never claimed to elect because they could not find a man upon whom they could sufficiently agree.

But the excitement and asperity incident to the election of a United States Senator did not go to the extent of disturbing the *status quo* between the two Houses. Other causes contributed to that result which will be briefly considered.

At the ruption of the amicable relations between the two houses, the Populists had passed, or had well under way, very liberal appropriations for all state institutions, the railroad bill, mortgage redemption bill, and all other measures for which they stood pledged by their platforms to the people, and were working with unrelenting industry in the hope of an early adjournment.

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Hitherto the Republican organization had participated in an assumed election of a United States Senator, had introduced and passed bills, and professed itself to be *the* constitutional House of Representatives, only needing the authoritative endorsement of the courts to give efficacy to its actions. But difficulties presented themselves.

Suppose that when the Supreme Court should "find adjudge and decree" that the Republican was the only lawful House, and that the Populist organization was an unlawful body of anarchists and revolutionists, the naughty Governor and Senators should fail to see in such decision any authoritative reason for changing their line of action; could the Supreme Court enforce its judgment by sending the sheriff with a writ to put them in jail for failing to recognize and co-operate with the Republican organization? Safely as the Republicans might expect such a decision to be rendered by a Republican court, and valuable as such decision would be as a means of besmirching the cause of the Populists, and giving moral support to the Republican cause, what if, braving all this, such decision should be treated by the Senate as an intrusion upon its exclusive authority as a co-ordinate branch of the legislature; what if the Governor should hold such decision to be an infringement of the independence of the executive department, and therefore inconsistent with his constitutional duties? However cheeky, wicked and unpretty it might be for the Populists to act that way, what plain, peaceful and lawful remedy for it could the Republicans pursue? The proposition that the test of jurisdiction in a court or body to decide anything is the inherent lawful power to enforce its own decision might embarrass the whole Republican position, if they depended merely upon a civil lawsuit to decide the controversy.

The Populists were fixing to adjourn by joint resolution of the Populist house and senate. The constitution declares that

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"Neither house, without the consent of the other, shall adjourn for more than two days, Sundays excepted." How could the Republican house adjourn? Plainly no legislative act could be performed by that house without recognition, and no kind statute pointed out the steps to coerce the Senate against its will.

Might not coercion be effected indirectly by a judicial declaration that every act of the legislature as then constituted would be held invalid, and so compel the Populists to either assume the responsibility of shutting off all appropriations, and supplies to state institutions, and all legislation, unless they would consent to recognize the Republicans as the lawful House? That sword had two edges, for the Populists might say, you will take such legislation as we give you, and you decide it invalid at your peril, yourselves assuming the responsibility of shutting up the charitable and other institutions, and depriving the state of all legislation, by so deciding. By adopting that course the Republicans would have been at the mercy of the Populists, and if they had not been themselves hung on the gallows which Haaman had built for Mordicai it would be only because the Populists were less willing to wreck the public interest, and were more scrupulous of the welfare of the state than they were.

It had become apparent that the Republican programme had been a misconception from the start. They could travel no road but the road of submission without producing disaster and encountering the obstacles of law and constitution at every step. Party prestige might have yielded to a broader patriotism; personal pride and ambition might have found refuge in a nobler duty; but, if you would have a clear eye, you must keep a clean conscience; there was money involved in this question of Republican submission.

Up to this time the Populist representatives and senators, and all the employees of both Populist houses, had received no



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pay. Not so with the Republicans. On this subject I quote from the *Topeka State Journal* (Republican) of February 6th, under the caption "Who Pays the Bills?"

"Chairman James M. Simpson of the Republican Central Committee in his latest circular says he has borrowed money in order to pay the expenses of the Republican house. It is not known of whom Mr. Simpson borrowed this money. * * Although Chairman Simpson has issued his appeal to the Republicans of the state at large, very few seem to have taken the appeal in earnest. * * A few desultory subscriptions have been received, but they are a mere drop in the bucket. Mr. Simpson's checks heretofore given to members and House employees have been promptly honored, and it is perfectly evident that he has a bounteous fund to draw on, no matter where he gets it."

The amount of money thus paid could not have been less than five hundred dollars per day. The *Journal* article, quoted above, puts it at a much larger sum. It is sufficient here to say that the sum of private money thus used was very considerable; and the inevitable inference follows that much greater private or corporate property interests were seeking the destruction of the Populist organization. The public is interested in the *Journal's* question, "Who Paid the Bills!"

It will be remembered that the Populist house and senate had passed the Senate railroad bill, which provided for an elective commission, to which judicial powers were given, whereby the commissioners were enabled to summon any railroad company to appear before them, in order to the final determination of any objection which such company might have to the schedule of rates established, (subject only to the right of appeal) by which the decision of the commissioners was given the force of a judicial determination of such objection; a railroad law adapted to the latest decisions, and whose every feature had been



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sustained in advance by the highest courts of the land; such a railroad bill as no Kansas Republican legislative body ever has passed, and doubtless none ever will; such a bill as no railroad company, with the avarice which now characterizes those corporations, would see enacted into law without every possible measure of resistance. The remarkable activity of the railroads, and the exceptional devotion of the railroad service and management to the Republican cause in the last campaign will be remembered. The connection of eminent railroad men and railroad lawyers with the Gunn *habeas corpus* case sheds a light on the question "Who Paid the Bills!" "Nothing for the Dunsmore house" said a railroad general officer, in response to the application of Sergeant-at-Arms, Dick, for the usual courtesy of a pass over his road to serve some legislative papers; and yet newspapers contemporaneous with the "war" at Topeka reported that the passes of the same company were being given out by Republican committee men all over the state, by fifties, and by car-loads, to run Republicans into Topeka; that it was common to see a committee-man pass through the coaches with the conductor and point out his men who were not even required to show either passes or tickets. And Sergeant General Welch, in command of the armed forces in the Republican house, when he heard that the Governor would call out the militia, bawled through the telephone "Tell Mr. Peck to order out two thousand Santa Fe shop men to defend the Douglass house." It is written "The ass knoweth his owner and the ox his masters crib," and it is only necessary to observe the ass to discover who the owner is. If the Republicans were bound hand and foot to a master who had fought their political battles, and "Paid the bills," their promptings of duty and patriotism could have but one exponent—that master's will. Whether because of these considerations or not, in the last outcome, it was all the same as if the wish of those corporations had been their guiding star, for the

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Kansas railroads could not have desired a different final result.

From the first of the session a Populist committee had had unquestioned exclusive control of a committee room opening off of representative hall. On the 8th of February this committee went to its room and found it occupied by a body of about 20 Republicans. One of their number took the chairman of the Populist committee aside, and told him that the occupants of the room were the Republican Ways and Means committee of which he was chairman; that the Republicans had determined to bring matters to a climax between the two houses, and had instructed his committee to take forcible possession of that room; that he wished to avoid personally being the occasion of the first conflict, therefore the first entrance had been gained by one of their number climbing over the bannister in the Speaker's gallery, and unfastening the spring lock from the inside, and letting the others in; that the next time they came if they found the door locked, they would be provided with a sledge hammer and would break it down; and he asked the Populist chairman to surrender the key so that personally he might be saved from the unpleasant responsibility, promising to restore the key so that the Populists could occupy the room when the Republican committee was not in session. The Populist chairman consented to the request and his committee withdrew.

During the residue of that week the Republicans inaugurated steps toward vacating the offices of all members who should not acknowledge, and co-operate with, the Republican house; they appointed a large number of assistant Sergeants-at-Arms, and gave out that another man, to be selected by the Democrats, and to whom the Republicans would give their united support, should be elected United States Senator. On Friday they adjourned until 4 o'clock P. M. of the following Monday and went home, having initiated a programme which, except for an unexpected action of the Populists, would have

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overthrown the Populist government, reconstructed both branches of the legislature, imprisoned the Governor and Lieutenant Governor, removed all the Populist State Officers, and advanced George L. Douglass to the functions of Governor of Kansas.

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CHAPTER IV.

Concurrently with the departure of the Republicans for their homes on Friday, February 10th, there begun to arrive in Topeka large numbers of people from all parts of the state; Democratic senatorial candidates opened their respective headquarters at the hotels; not only politicians came, but many who had never been in Topeka before in any political interest, and a noticeable number of strangers appeared from the adjacent cities of Kansas City and St. Joseph in Missouri; and when the Republican members returned on the next Monday, their belligerent constituency came with them, or followed shortly after. The crowd of Republican sympathizers which reached Topeka by Thursday morning was conservatively estimated at five thousand.

On Tuesday morning the Republican house passed an elaborate substitute for the measure to vacate the Populist's seats, naming the individuals to be removed, and carefully prescribing the notice, and every detail of the contemplated procedure, and fixing Tuesday February 21st, as the day on which the decapitation should be accomplished. Then, having increased their force of assistant Sergeants at Arms to an astonishing number, and ordered the arrest of Gunn, whose name will figure later in this history, they ordered that Rich should be arrested for loud reading in the discharge of his duties as chief clerk of the Populist house, and so "contemptuously" disturbing the Republican house, that he be brought to the bar of the House to answer for the contempt, and held subject to their further orders.