Banks and banking newspaper articles

Section 2, Pages 31 - 60

Newspaper articles on banks, banking, Joseph N. Dolley, and the blue sky law.

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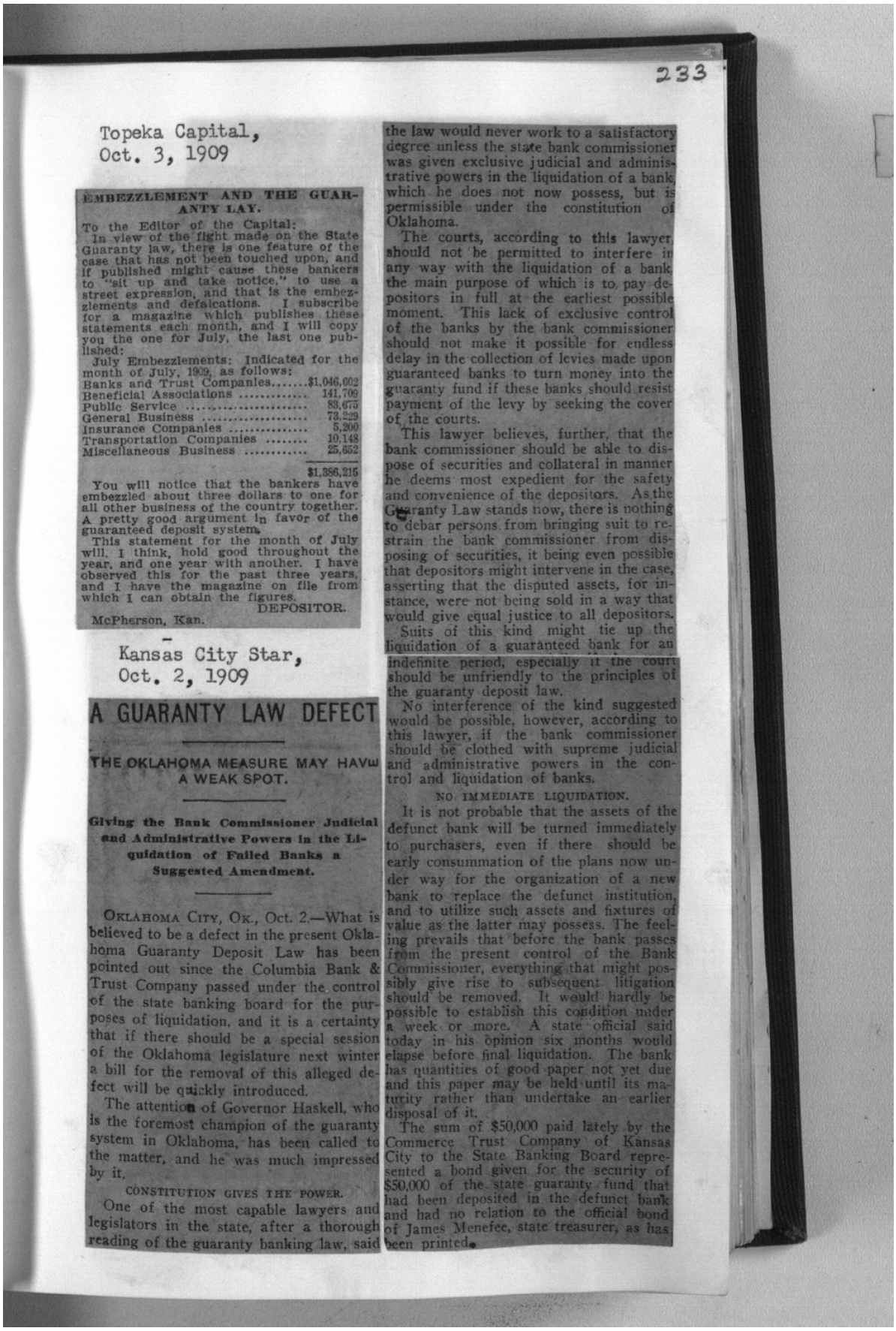

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Topeka Capital,
Oct. 3, 1909

EMBEZZLEMENT AND THE GUARANTY LAY.

To the Editor of the Capital:

In view of the fight made on the State Guaranty law, there is one feature of the case that has not been touched upon, and if published might cause these bankers to "sit up and take notice," to use a street expression, and that is the embezzlements and defalcations. I subscribe for a magazine which publishes these statements each month, and I will copy you the one for July, the last one published:

July Embezzlements: Indicated for the month of July, 1909, as follows:

Banks and Trust Companies	$1,046,602
Beneficial Associations	141,709
Public Service	83,675
General Business	73,229
Insurance Companies	5,200
Transportation Companies	10,148
Miscellaneous Business	25,652
	$1,386,215

You will notice that the bankers have embezzled about three dollars to one for all other business of the country together. A pretty good argument in favor of the guaranteed deposit system.

This statement for the month of July will, I think, hold good throughout the year, and one year with another. I have observed this for the past three years, and I have the magazine on file from which I can obtain the figures.

DEPOSITOR.

McPherson, Kan.

Kansas City Star,
Oct. 2, 1909

A GUARANTY LAW DEFECT

THE OKLAHOMA MEASURE MAY HAVw A WEAK SPOT.

Giving the Bank Commissioner Judicial and Administrative Powers in the Liquidation of Failed Banks a Suggested Amendment.

OKLAHOMA CITY, OK., Oct. 2.—What is believed to be a defect in the present Oklahoma Guaranty Deposit Law has been pointed out since the Columbia Bank & Trust Company passed under the control of the state banking board for the purposes of liquidation, and it is a certainty that if there should be a special session of the Oklahoma legislature next winter a bill for the removal of this alleged defect will be quickly introduced.

The attention of Governor Haskell, who is the foremost champion of the guaranty system in Oklahoma, has been called to the matter, and he was much impressed by it.

CONSTITUTION GIVES THE POWER.

One of the most capable lawyers and legislators in the state, after a thorough reading of the guaranty banking law, said the law would never work to a satisfactory degree unless the state bank commissioner was given exclusive judicial and administrative powers in the liquidation of a bank which he does not now possess, but is permissible under the constitution of Oklahoma.

The courts, according to this lawyer, should not be permitted to interfere in any way with the liquidation of a bank the main purpose of which is to pay depositors in full at the earliest possible moment. This lack of exclusive control of the banks by the bank commissioner should not make it possible for endless delay in the collection of levies made upon guaranteed banks to turn money into the guaranty fund if these banks should resist payment of the levy by seeking the cover of the courts.

This lawyer believes, further, that the bank commissioner should be able to dispose of securities and collateral in manner he deems most expedient for the safety and convenience of the depositors. As the Guaranty Law stands now, there is nothing to debar persons from bringing suit to restrain the bank commissioner from disposing of securities, it being even possible that depositors might intervene in the case, asserting that the disputed assets, for instance, were not being sold in a way that would give equal justice to all depositors.

Suits of this kind might tie up the liquidation of a guaranteed bank for an indefinite period, especially if the court should be unfriendly to the principles of the guaranty deposit law.

No interference of the kind suggested would be possible, however, according to this lawyer, if the bank commissioner should be clothed with supreme judicial and administrative powers in the control and liquidation of banks.

NO IMMEDIATE LIQUIDATION.

It is not probable that the assets of the defunct bank will be turned immediately to purchasers, even if there should be early consummation of the plans now under way for the organization of a new bank to replace the defunct institution, and to utilize such assets and fixtures of value as the latter may possess. The feeling prevails that before the bank passes from the present control of the Bank Commissioner, everything that might possibly give rise to subsequent litigation should be removed. It would hardly be possible to establish this condition under a week or more. A state official said today in his opinion six months would elapse before final liquidation. The bank has quantities of good paper not yet due and this paper may be held until its maturity rather than undertake an earlier disposal of it.

The sum of $50,000 paid lately by the Commerce Trust Company of Kansas City to the State Banking Board represented a bond given for the security of $50,000 of the state guaranty fund that had been deposited in the defunct bank and had no relation to the official bond of James Menefee, state treasurer, as has been printed.

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Topeka Capital, Oct. 5, 1909

DEFIES THE COURT AND CONTINUES TO PAY DEPOSITORS

Bank Commissioner Young of Oklahoma Opened Bank as Ususal and Went Right on Paying Depositors in Failed Bank Who Wanted Money.

MAY BE TRIED FOR CONTEMPT

Case Will Come Up Today; Attorney for Bank Having the $25,000 Claim Agrees to Drop Suit If the Claim Is Settled.

1909

Oklahoma City, Oct. 4.—Notwithstanding the restraining order issued by Judge Cotteral of the federal court at Guthrie, Bank Commissioner Young, under direction of Governor C. N. Haskell, opened the Columbia bank this morning and continued payments the same as last week. Judge Cotteral will come to Oklahoma City tomorrow and hold court in the hotel Threadgill, to ascertain if the bank comsioner is in contempt.

President Norton of the bank, and his associates, have offered $800,000 to the state banking board for a return of the bank to their hands, and the banking board say tonight that the transfer of the bank to its original officers will probably take place tomorrow morning.

Commissioner Young and the other members of the state banking board take the position that the restraining order isued by Judge Cotteral last Saturday does not apply to them because they assert it enjoins them from preferring one creditor above another which they deny doing or having done in the past.

—

Guthrie, Okla., Oct. 4.—After an extended court hearing and subsequent conferences, further proceedings in the matter of a temporary injunction and application for the appointment of a receiver in the case of the Columbia Bank and Trust company of Oklahoma City was late this afternoon postponed by agreement until tomorrow at Oklahoma City.

This was done to gain time for settlement of the $25,000 claim of the plaintiff petitioner, the National Life Insurance company of Chicago, whose attorney, C. B. Ames, has agreed to withdraw from further contention upon the payment of his client's claim. The currency to meet this claim has been deposited in an Oklahoma City bank and is to be transferred to the Guthrie depository of the federal court tomorrow.

Attorney Ames late this afternoon filed two motions with the clerk of the federal court, one asking for the appointment of a receiver for the Columbia Bank and Trust company and the other asking for a citation for contempt against Bank Commissioner Young. These are to be heard at Oklahoma City tomorrow. During the hearing here today Federal Judge Cotteral announced he would not knowingly permit any man to ignore the orders of his court and go unpunished and therefore invited the submission of proofs.

Kansas City Times, Oct. 5, 1909

BANKERS DO NOT LIKE IT

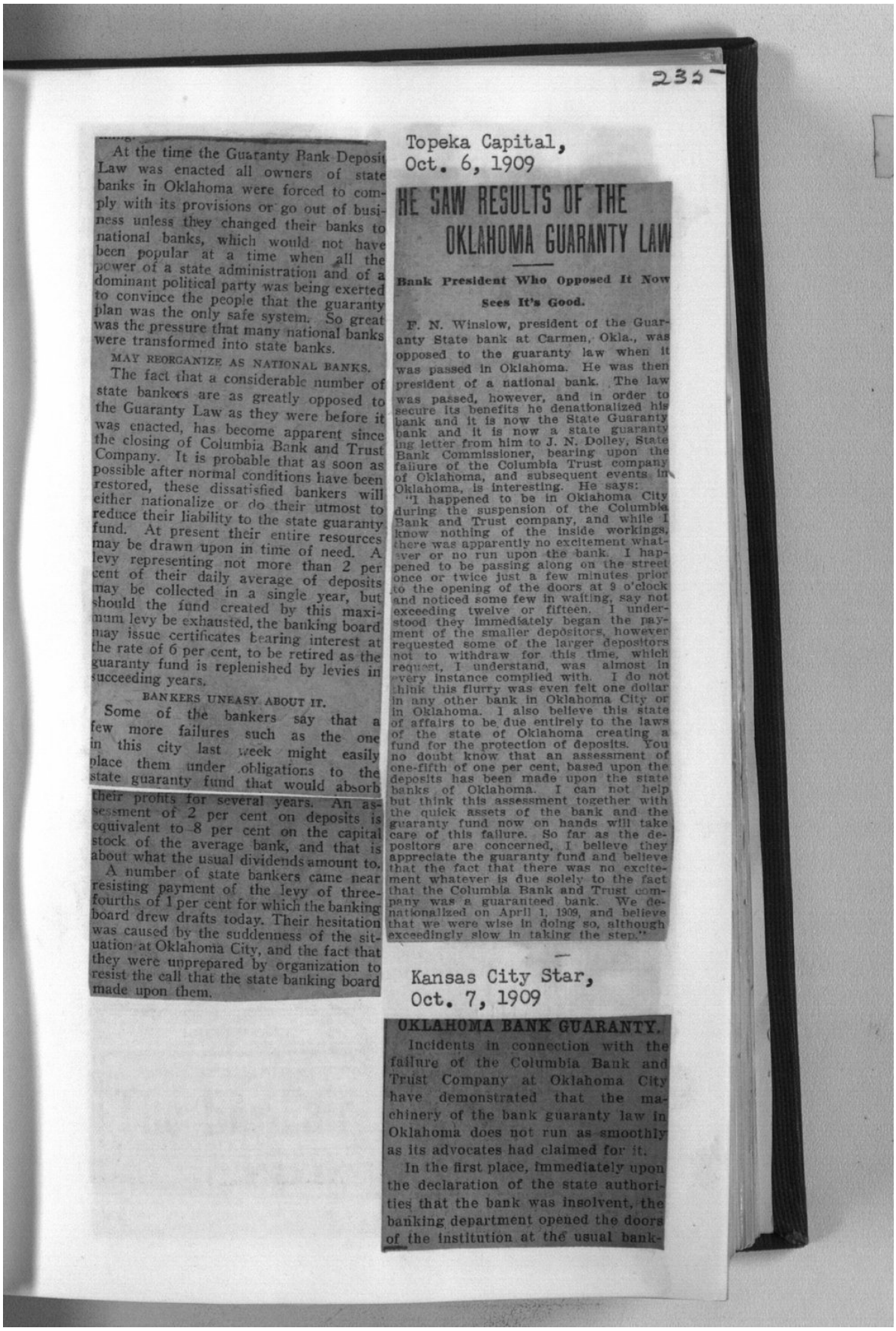
GROWING OPPOSITION TO THE OKLAHOMA DEPOSIT GUARANTY LAW.

Calling on Conservative Bankers to Pay Losses of Carelessly Managed Institutions Is Declared to Be Unjust —Another Assessment Made.

1909

OKLAHOMA CITY, OK., Oct. 5.—Dissatisfaction with the operation of the Deposit Guaranty Law is finding expression among some of the state bankers. One of them said today:

"My bank does not owe anybody a cent that it cannot pay, and that fact is due to good business management and not to the Guaranty Deposit Law. Naturally, I am unwilling that my bank's entire resources should be consumed in paying for the losses of a bank not conducted on sound principles. The three-fourths of 1 per cent levy just made by the banking board, added to the one-fifth of 1 per cent paid in the last few days, makes close to 1 per cent on the deposits of my bank. This will absorb six or seven months' earnings of many banks and their owners can figure that for six or seven months they have worked for nothing. I do not believe that good public policy may justly subject an honest conscientious banker to this kind of thing."



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At the time the Guaranty Bank Deposit Law was enacted all owners of state banks in Oklahoma were forced to comply with its provisions or go out of business unless they changed their banks to national banks, which would not have been popular at a time when all the power of a state administration and of a dominant political party was being exerted to convince the people that the guaranty plan was the only safe system. So great was the pressure that many national banks were transformed into state banks.

MAY REORGANIZE AS NATIONAL BANKS.

The fact that a considerable number of state bankers are as greatly opposed to the Guaranty Law as they were before it was enacted, has become apparent since the closing of Columbia Bank and Trust Company. It is probable that as soon as possible after normal conditions have been restored, these dissatisfied bankers will either nationalize or do their utmost to reduce their liability to the state guaranty fund. At present their entire resources may be drawn upon in time of need. A levy representing not more than 2 per cent of their daily average of deposits may be collected in a single year, but should the fund created by this maximum levy be exhausted, the banking board may issue certificates bearing interest at the rate of 6 per cent, to be retired as the guaranty fund is replenished by levies in succeeding years.

BANKERS UNEASY ABOUT IT.

Some of the bankers say that a few more failures such as the one in this city last week might easily place them under obligations to the state guaranty fund that would absorb their profits for several years. An assessment of 2 per cent on deposits is equivalent to 8 per cent on the capital stock of the average bank, and that is about what the usual dividends amount to.

A number of state bankers came near resisting payment of the levy of three-fourths of 1 per cent for which the banking board drew drafts today. Their hesitation was caused by the suddenness of the situation at Oklahoma City, and the fact that they were unprepared by organization to resist the call that the state banking board made upon them.

Topeka Capital,
Oct. 6, 1909

HE SAW RESULTS OF THE OKLAHOMA GUARANTY LAW

Bank President Who Opposed It Now Sees It's Good.

F. N. Winslow, president of the Guaranty State bank at Carmen, Okla., was opposed to the guaranty law when it was passed in Oklahoma. He was then president of a national bank. The law was passed, however, and in order to secure its benefits he denationalized his bank and it is now the State Guaranty bank and it is now a state guaranty ing letter from him to J. N. Dolley, State Bank Commissioner, bearing upon the failure of the Columbia Trust company of Oklahoma, and subsequent events in Oklahoma, is interesting. He says:

"I happened to be in Oklahoma City during the suspension of the Columbia Bank and Trust company, and while I know nothing of the inside workings, there was apparently no excitement whatever or no run upon the bank. I happened to be passing along on the street once or twice just a few minutes prior to the opening of the doors at 9 o'clock and noticed some few in waiting, say not exceeding twelve or fifteen. I understood they immediately began the payment of the smaller depositors, however requested some of the larger depositors not to withdraw for this time, which request, I understand, was almost in every instance complied with. I do not think this flurry was even felt one dollar in any other bank in Oklahoma City or in Oklahoma. I also believe this state of affairs to be due entirely to the laws of the state of Oklahoma creating a fund for the protection of deposits. You no doubt know that an assessment of one-fifth of one per cent, based upon the deposits has been made upon the state banks of Oklahoma. I can not help but think this assessment together with the quick assets of the bank and the guaranty fund now on hands will take care of this failure. So far as the depositors are concerned, I believe they appreciate the guaranty fund and believe that the fact that there was no excitement whatever is due solely to the fact that the Columbia Bank and Trust company was a guaranteed bank. We denationalized on April 1, 1909, and believe that we were wise in doing so, although exceedingly slow in taking the step."

Kansas City Star,
Oct. 7, 1909

OKLAHOMA BANK GUARANTY.

Incidents in connection with the failure of the Columbia Bank and Trust Company at Oklahoma City have demonstrated that the machinery of the bank guaranty law in Oklahoma does not run as smoothly as its advocates had claimed for it.

In the first place, immediately upon the declaration of the state authorities that the bank was insolvent, the banking department opened the doors of the institution at the usual bank-

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ing hours and began paying off depositors. While there were no panicky demonstrations, the people who had deposits in the bank wanted their money, and that right away, as evidenced by the presence in the lobby of the institution of a crowd of several hundred depositors at the very hour that the bank was opened under the management of the state. The people did not manifest confidence in the bank guaranty system sufficient to draw their money at leisure; they seemed to wish to get it immediately and before other depositors had withdrawn their funds if possible.

A peculiar feature of the situation was that smaller state banks located all over Oklahoma had deposits in the bank aggregating more than $1,000,000. An apparent confession of weakness of the guaranty law was found in the fact that telegrams were sent to these banks asking them not to make pressing demands for their reserves and offering them assistance from Kansas City banks if necessary. Under the theoretical workings of the guaranty law these depositors should have been paid at once, or as rapidly as their claims were submitted, without any coaching to induce them to leave their money in a defunct institution.

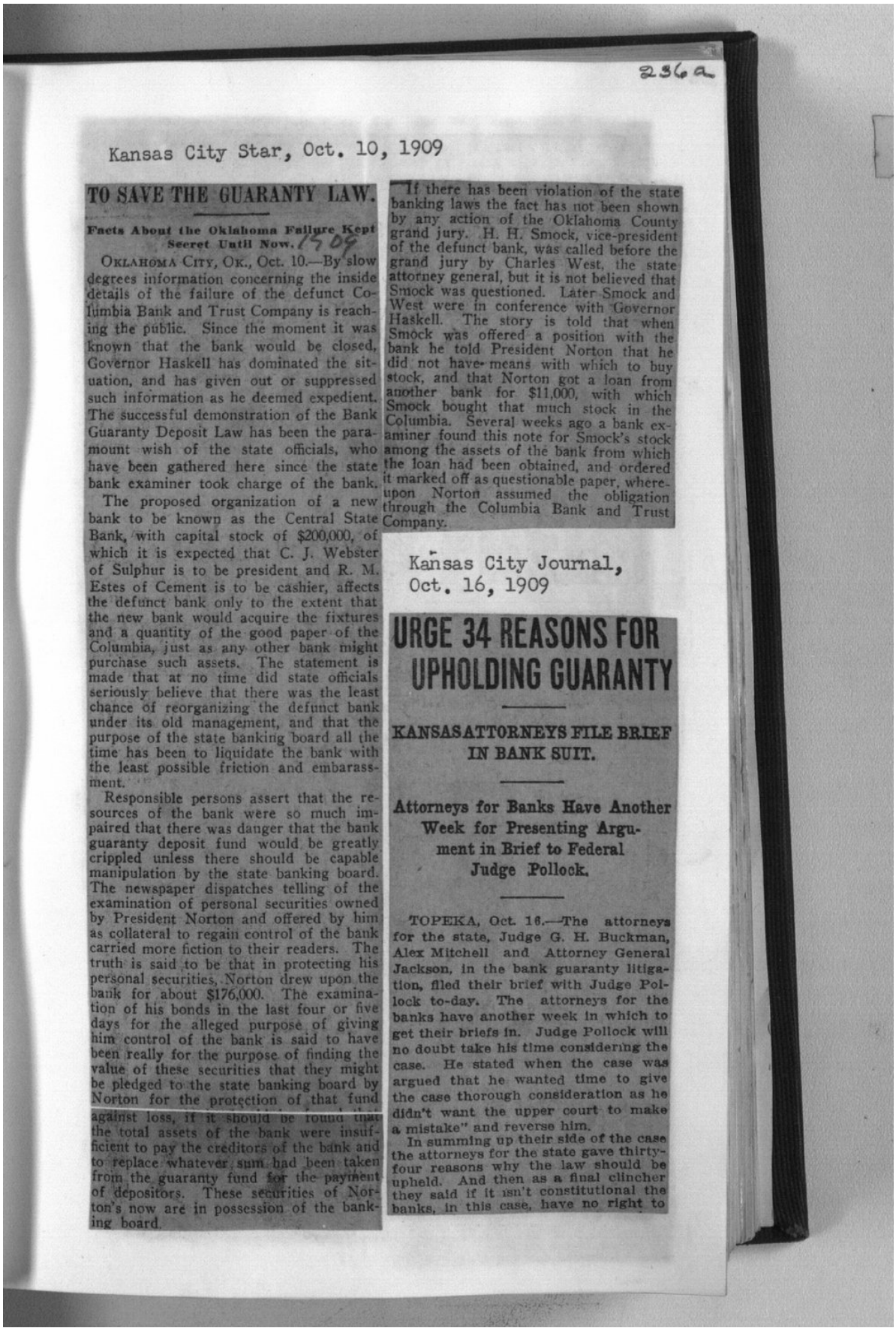
Another unexpected feature which revealed friction in the workings of the law was the undercurrent of opposition manifested by some of the state bankers to the assessment that it was announced had been authorized upon all state banks to replenish the guaranty fund. This opposition was so pronounced in some quarters that the banking board withheld the assessment and attempted to straighten out the affairs of the bank without resorting to this means of replenishing the fund. Everything went along smoothly until two of the big depositors filed suit in the federal court for an injunction to require the bank commissioner to pay all depositors alike, alleging that he was paying to some depositors and refusing the claims of the two big depositors and others, and alleging that there was not enough money in the bank to pay all in full, and asking for the appointment of a receiver.

Whether or not these allegations are true is undetermined, but the suit indicates that at least two of the big depositors failed to have confidence that the guaranty fund was large enough to enable them to get their money out of the failed institution, and they preferred to take their chances under the old system in vogue in states where there is no guaranty law—that of having a receiver appointed and securing their money pro rata out of the available assets.

Immediately upon assuming control of the bank the state authorities declined to make any official statement showing the actual condition of the institution, and the bank commissioner put a muzzle on the officers of the bank, who were then afraid to talk of its affairs. No statement has been made as to just how much of the guaranty fund has been paid out to depositors or as to how much of the assets have been used for that purpose, and no authenticated list of the securities or the stockholders in the institution could be obtained.

If the guaranty law is working so smoothly, why all this secrecy about the actual inside affairs of a bank that failed?

The Columbia Bank and Trust Company was the biggest of the state banks and grew to its condition of prominence within a short period of time under the fostering influences of the guaranty law. Smaller bankers all over the state were induced to use it as a reserve agent because of the fact that its funds were guaranteed by the new law. This swelled the deposits to nearly $3,000,000, thereby increasing its liabilities to that extent. The bank was a favorite with the administration, as evidenced by the fact that it had a larger amount of state deposits than any other in the state. The great argument of the advocates of the guaranty law has been that it guards against wildcat banking and that most rigid restrictions are placed on the officers of a state bank. Nevertheless, this institution, a creature to some extent of the guaranty law, in which the friends of the law reposed the greatest confidence, was permitted to get into bad condition, notwithstanding these rigid examinations and regulations claimed to be the safeguards of the guaranty system.



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Kansas City Star, Oct. 10, 1909

TO SAVE THE GUARANTY LAW.

Facts About the Oklahoma Failure Kept Secret Until Now. 1909

OKLAHOMA CITY, OK., Oct. 10.—By slow degrees information concerning the inside details of the failure of the defunct Columbia Bank and Trust Company is reaching the public. Since the moment it was known that the bank would be closed, Governor Haskell has dominated the situation, and has given out or suppressed such information as he deemed expedient. The successful demonstration of the Bank Guaranty Deposit Law has been the paramount wish of the state officials, who have been gathered here since the state bank examiner took charge of the bank.

The proposed organization of a new bank to be known as the Central State Bank, with capital stock of $200,000, of which it is expected that C. J. Webster of Sulphur is to be president and R. M. Estes of Cement is to be cashier, affects the defunct bank only to the extent that the new bank would acquire the fixtures and a quantity of the good paper of the Columbia, just as any other bank might purchase such assets. The statement is made that at no time did state officials seriously believe that there was the least chance of reorganizing the defunct bank under its old management, and that the purpose of the state banking board all the time has been to liquidate the bank with the least possible friction and embarassment.

Responsible persons assert that the resources of the bank were so much impaired that there was danger that the bank guaranty deposit fund would be greatly crippled unless there should be capable manipulation by the state banking board. The newspaper dispatches telling of the examination of personal securities owned by President Norton and offered by him as collateral to regain control of the bank carried more fiction to their readers. The truth is said to be that in protecting his personal securities, Norton drew upon the bank for about $176,000. The examination of his bonds in the last four or five days for the alleged purpose of giving him control of the bank is said to have been really for the purpose of finding the value of these securities that they might be pledged to the state banking board by Norton for the protection of that fund against loss, if it should be found that the total assets of the bank were insufficient to pay the creditors of the bank and to replace whatever sum had been taken from the guaranty fund for the payment of depositors. These securities of Norton's now are in possession of the banking board.

If there has been violation of the state banking laws the fact has not been shown by any action of the Oklahoma County grand jury. H. H. Smock, vice-president of the defunct bank, was called before the grand jury by Charles West, the state attorney general, but it is not believed that Smock was questioned. Later Smock and West were in conference with Governor Haskell. The story is told that when Smock was offered a position with the bank he told President Norton that he did not have means with which to buy stock, and that Norton got a loan from another bank for $11,000, with which Smock bought that much stock in the Columbia. Several weeks ago a bank examiner found this note for Smock's stock among the assets of the bank from which the loan had been obtained, and ordered it marked off as questionable paper, whereupon Norton assumed the obligation through the Columbia Bank and Trust Company.

Kansas City Journal, Oct. 16, 1909

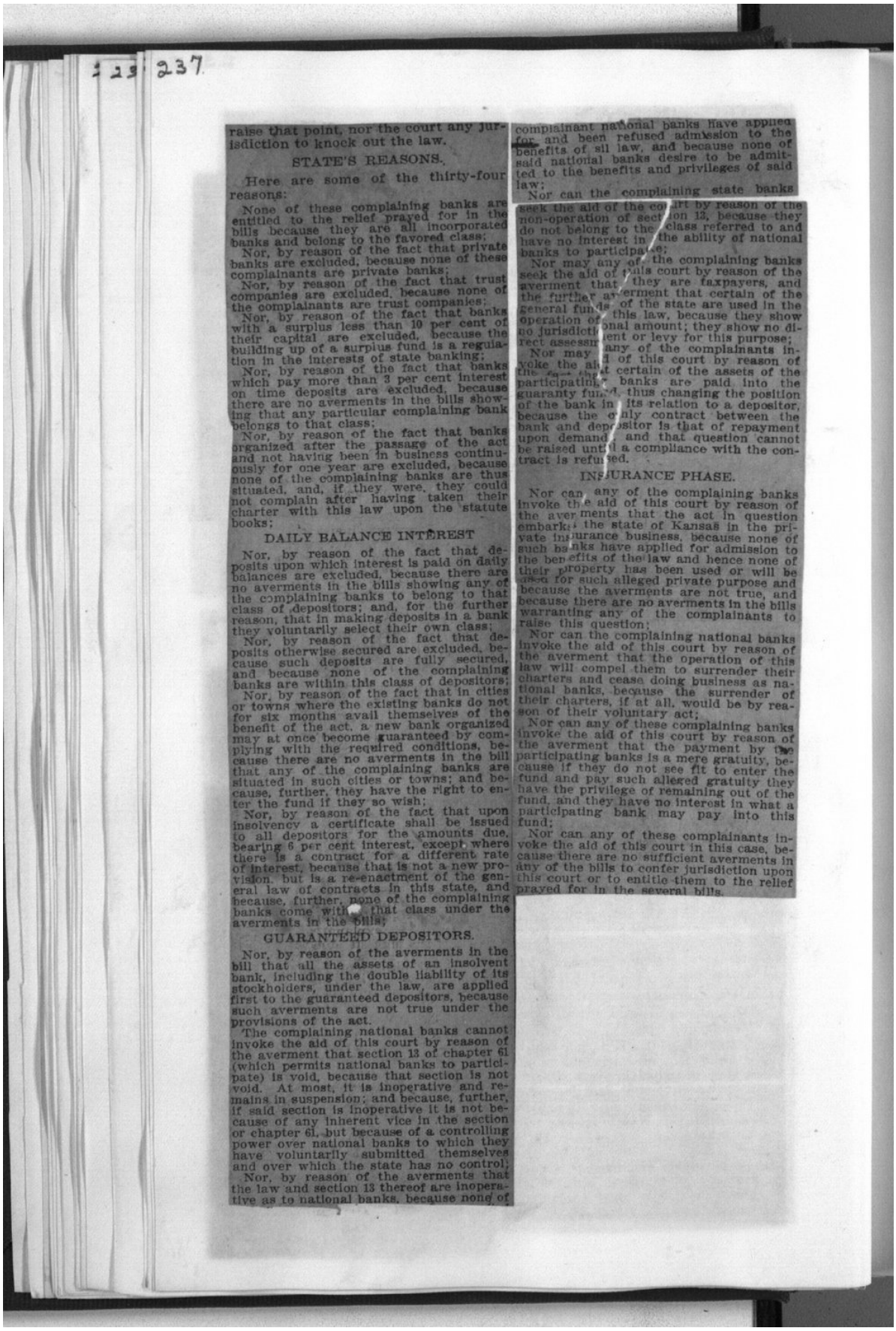
URGE 34 REASONS FOR UPHOLDING GUARANTY

KANSAS ATTORNEYS FILE BRIEF IN BANK SUIT.

Attorneys for Banks Have Another Week for Presenting Argument in Brief to Federal Judge Pollock.

TOPEKA, Oct. 16.—The attorneys for the state, Judge G. H. Buckman, Alex Mitchell and Attorney General Jackson, in the bank guaranty litigation, filed their brief with Judge Pollock to-day. The attorneys for the banks have another week in which to get their briefs in. Judge Pollock will no doubt take his time considering the case. He stated when the case was argued that he wanted time to give the case thorough consideration as he didn't want the upper court to make a mistake" and reverse him.

In summing up their side of the case the attorneys for the state gave thirty-four reasons why the law should be upheld. And then as a final clincher they said if it isn't constitutional the banks, in this case, have no right to



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raise that point, nor the court any jurisdiction to knock out the law.

STATE'S REASONS.

Here are some of the thirty-four reasons:

None of these complaining banks are entitled to the relief prayed for in the bills because they are all incorporated banks and belong to the favored class;

Nor, by reason of the fact that private banks are excluded, because none of these complainants are private banks;

Nor, by reason of the fact that trust companies are excluded, because none of the complainants are trust companies;

Nor, by reason of the fact that banks with a surplus less than 10 per cent of their capital are excluded, because the building up of a surplus fund is a regulation in the interests of state banking;

Nor, by reason of the fact that banks which pay more than 3 per cent interest on time deposits are excluded, because there are no averments in the bills showing that any particular complaining bank belongs to that class;

Nor, by reason of the fact that banks organized after the passage of the act and not having been in business continuously for one year are excluded, because none of the complaining banks are thus situated, and, if they were, they could not complain after having taken their charter with this law upon the statute books;

DAILY BALANCE INTEREST

Nor, by reason of the fact that deposits upon which interest is paid on daily balances are excluded, because there are no averments in the bills showing any of the complaining banks to belong to that class of depositors; and, for the further reason, that in making deposits in a bank they voluntarily select their own class;

Nor, by reason of the fact that deposits otherwise secured are excluded, because such deposits are fully secured, and because none of the complaining banks are within this class of depositors;

Nor, by reason of the fact that in cities or towns where the existing banks do not for six months avail themselves of the benefit of the act, a new bank organized may at once become guaranteed by complying with the required conditions, because there are no averments in the bill that any of the complaining banks are situated in such cities or towns; and because, further, they have the right to enter the fund if they so wish;

Nor, by reason of the fact that upon insolvency a certificate shall be issued to all depositors for the amounts due, bearing 6 per cent interest, except where there is a contract for a different rate of interest, because that is not a new provision, but is a re-enactment of the general law of contracts in this state, and because, further, none of the complaining banks come within that class under the averments in the bills;

GUARANTEED DEPOSITORS.

Nor, by reason of the averments in the bill that all the assets of an insolvent bank, including the double liability of its stockholders, under the law, are applied first to the guaranteed depositors, because such averments are not true under the provisions of the act.

The complaining national banks cannot invoke the aid of this court by reason of the averment that section 13 of chapter 61 (which permits national banks to participate) is void, because that section is not void. At most, it is inoperative and remains in suspension; and because, further, if said section is inoperative it is not because of any inherent vice in the section or chapter 61, but because of a controlling power over national banks to which they have voluntarily submitted themselves and over which the state has no control;

Nor, by reason of the averments that the law and section 13 thereof are inoperative as to national banks, because none of complainant national banks have applied for and been refused admission to the benefits of sil law, and because none of said national banks desire to be admitted to the benefits and privileges of said law;

Nor can the complaining state banks seek the aid of the court by reason of the non-operation of section 13, because they do not belong to the class referred to and have no interest in the ability of national banks to participate;

Nor may any of the complaining banks seek the aid of this court by reason of the averment that they are taxpayers, and the further averment that certain of the general funds of the state are used in the operation of this law, because they show no jurisdictional amount; they show no direct assessment or levy for this purpose;

Nor may any of the complainants invoke the aid of this court by reason of the fact that certain of the assets of the participating banks are paid into the guaranty fund, thus changing the position of the bank in its relation to a depositor, because the only contract between the bank and depositor is that of repayment upon demand, and that question cannot be raised until a compliance with the contract is refused.

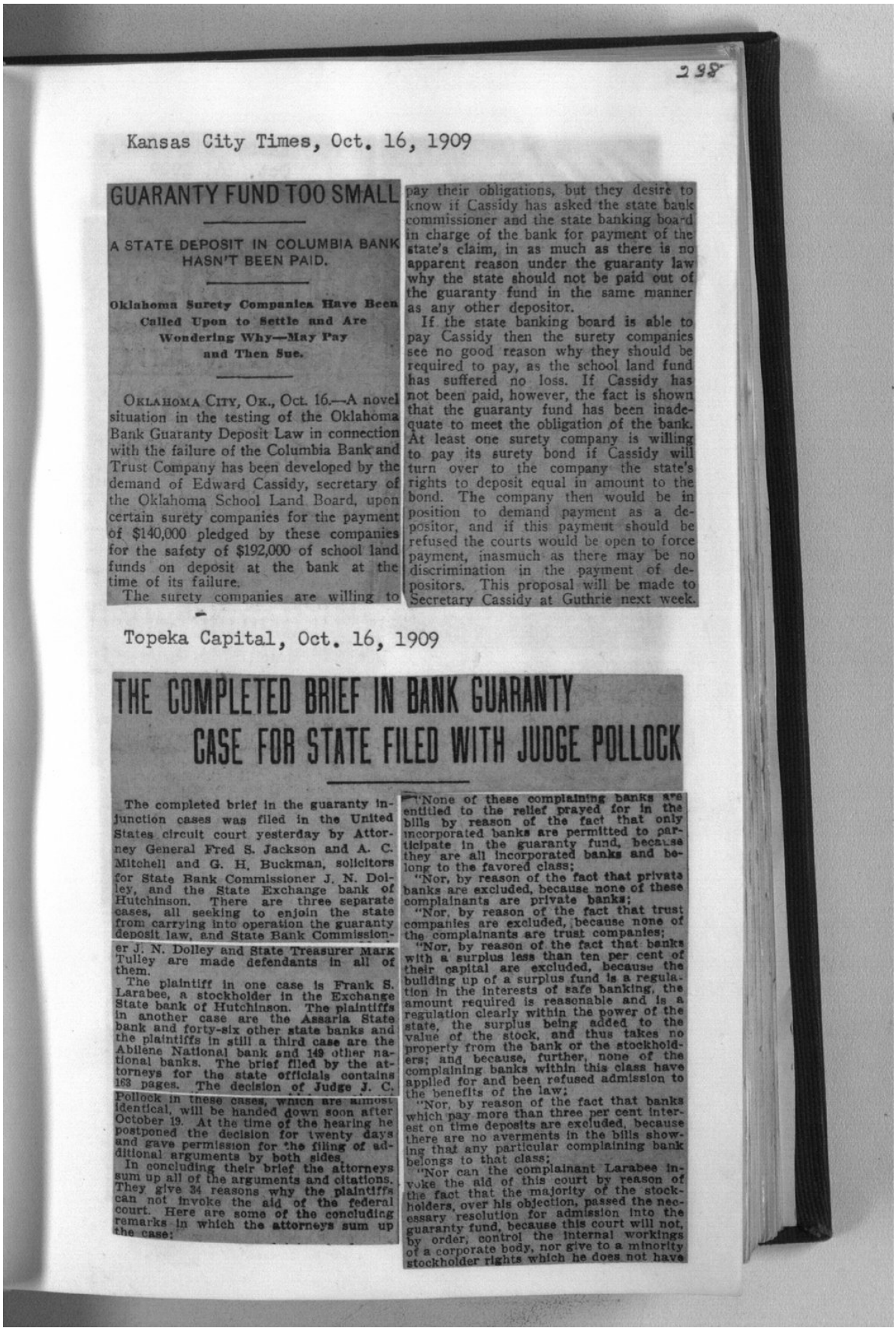
INSURANCE PHASE.

Nor can any of the complaining banks invoke the aid of this court by reason of the averments that the act in question embarks the state of Kansas in the private insurance business, because none of such banks have applied for admission to the benefits of the law and hence none of their property has been used or will be used for such alleged private purpose and because the averments are not true, and because there are no averments in the bills warranting any of the complainants to raise this question;

Nor can the complaining national banks invoke the aid of this court by reason of the averment that the operation of this law will compel them to surrender their charters and cease doing business as national banks, because the surrender of their charters, if at all, would be by reason of their voluntary act;

Nor can any of these complaining banks invoke the aid of this court by reason of the averment that the payment by the participating banks is a mere gratuity, because if they do not see fit to enter the fund and pay such alleged gratuity they have the privilege of remaining out of the fund, and they have no interest in what a participating bank may pay into this fund;

Nor can any of these complainants invoke the aid of this court in this case, because there are no sufficient averments in any of the bills to confer jurisdiction upon this court or to entitle them to the relief prayed for in the several bills.



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Kansas City Times, Oct. 16, 1909

GUARANTY FUND TOO SMALL

A STATE DEPOSIT IN COLUMBIA BANK HASN'T BEEN PAID.

Oklahoma Surety Companies Have Been Called Upon to Settle and Are Wondering Why—May Pay and Then Sue.

OKLAHOMA CITY, OK., Oct. 16.—A novel situation in the testing of the Oklahoma Bank Guaranty Deposit Law in connection with the failure of the Columbia Bank and Trust Company has been developed by the demand of Edward Cassidy, secretary of the Oklahoma School Land Board, upon certain surety companies for the payment of $140,000 pledged by these companies for the safety of $192,000 of school land funds on deposit at the bank at the time of its failure.

The surety companies are willing to pay their obligations, but they desire to know if Cassidy has asked the state bank commissioner and the state banking board in charge of the bank for payment of the state's claim, in as much as there is no apparent reason under the guaranty law why the state should not be paid out of the guaranty fund in the same manner as any other depositor.

If the state banking board is able to pay Cassidy then the surety companies see no good reason why they should be required to pay, as the school land fund has suffered no loss. If Cassidy has not been paid, however, the fact is shown that the guaranty fund has been inadequate to meet the obligation of the bank. At least one surety company is willing to pay its surety bond if Cassidy will turn over to the company the state's rights to deposit equal in amount to the bond. The company then would be in position to demand payment as a depositor, and if this payment should be refused the courts would be open to force payment, inasmuch as there may be no discrimination in the payment of depositors. This proposal will be made to Secretary Cassidy at Guthrie next week.

Topeka Capital, Oct. 16, 1909

THE COMPLETED BRIEF IN BANK GUARANTY CASE FOR STATE FILED WITH JUDGE POLLOCK

The completed brief in the guaranty injunction cases was filed in the United States circuit court yesterday by Attorney General Fred S. Jackson and A. C. Mitchell and G. H. Buckman, solicitors for State Bank Commissioner J. N. Dolley, and the State Exchange bank of Hutchinson. There are three separate cases, all seeking to enjoin the state from carrying into operation the guaranty deposit law, and State Bank Commissioner J. N. Dolley and State Treasurer Mark Tulley are made defendants in all of them.

The plaintiff in one case is Frank S. Larabee, a stockholder in the Exchange State bank of Hutchinson. The plaintiffs in another case are the Assaria State bank and forty-six other state banks and the plaintiffs in still a third case are the Abilene National bank and 149 other national banks. The brief filed by the attorneys for the state officials contains 163 pages. The decision of Judge J. C. Pollock in these cases, which are almost identical, will be handed down soon after October 19. At the time of the hearing he postponed the decision for twenty days and gave permission for the filing of additional arguments by both sides.

In concluding their brief the attorneys sum up all of the arguments and citations. They give 34 reasons why the plaintiffs can not invoke the aid of the federal court. Here are some of the concluding remarks in which the attorneys sum up the case:

"None of these complaining banks are entitled to the relief prayed for in the bills by reason of the fact that only incorporated banks are permitted to participate in the guaranty fund, because they are all incorporated banks and belong to the favored class;

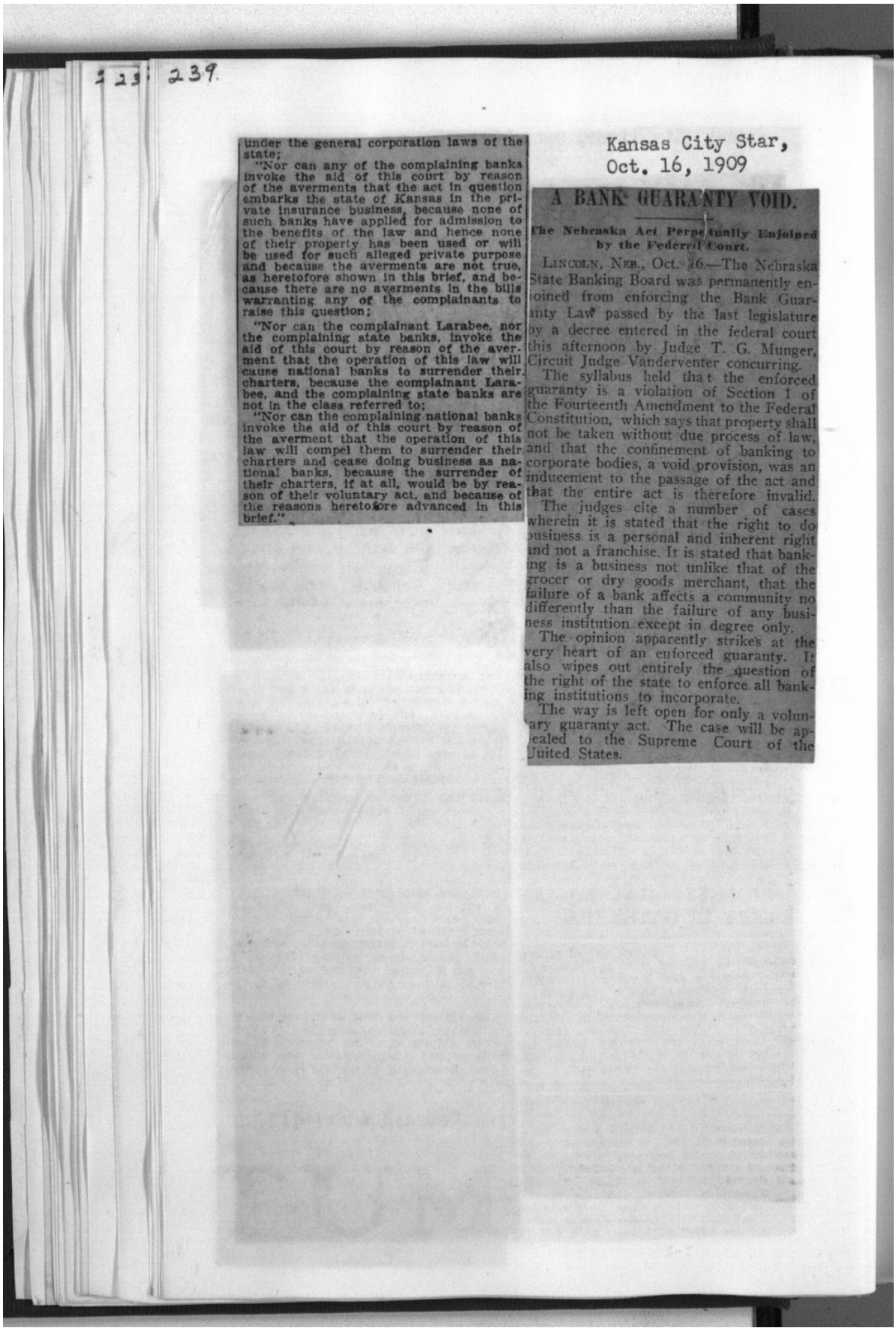
"Nor, by reason of the fact that private banks are excluded, because none of these complainants are private banks;

"Nor, by reason of the fact that trust companies are excluded, because none of the complainants are trust companies;

"Nor, by reason of the fact that banks with a surplus less than ten per cent of their capital are excluded, because the building up of a surplus fund is a regulation in the interests of safe banking, the amount required is reasonable and is a regulation clearly within the power of the state, the surplus being added to the value of the stock, and thus takes no property from the bank or the stockholders; and because, further, none of the complaining banks within this class have applied for and been refused admission to the benefits of the law;

"Nor, by reason of the fact that banks which pay more than three per cent interest on time deposits are excluded, because there are no averments in the bills showing that any particular complaining bank belongs to that class;

"Nor can the complainant Larabee invoke the aid of this court by reason of the fact that the majority of the stockholders, over his objection, passed the necessary resolution for admission into the guaranty fund, because this court will not, by order, control the internal workings of a corporate body, nor give to a minority stockholder rights which he does not have



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under the general corporation laws of the state;

"Nor can any of the complaining banks invoke the aid of this court by reason of the averments that the act in question embarks the state of Kansas in the private insurance business, because none of such banks have applied for admission to the benefits of the law and hence none of their property has been used or will be used for such alleged private purpose and because the averments are not true, as heretofore shown in this brief, and because there are no averments in the bills warranting any of the complainants to raise this question;

"Nor can the complainant Larabee, nor the complaining state banks, invoke the aid of this court by reason of the averment that the operation of this law will cause national banks to surrender their charters, because the complainant Larabee, and the complaining state banks are not in the class referred to;

"Nor can the complaining national banks invoke the aid of this court by reason of the averment that the operation of this law will compel them to surrender their charters and cease doing business as national banks, because the surrender of their charters, if at all, would be by reason of their voluntary act, and because of the reasons heretofore advanced in this brief."

Kansas City Star,
Oct. 16, 1909

A BANK GUARANTY VOID.

The Nebraska Act Perpetually Enjoined by the Federal Court.

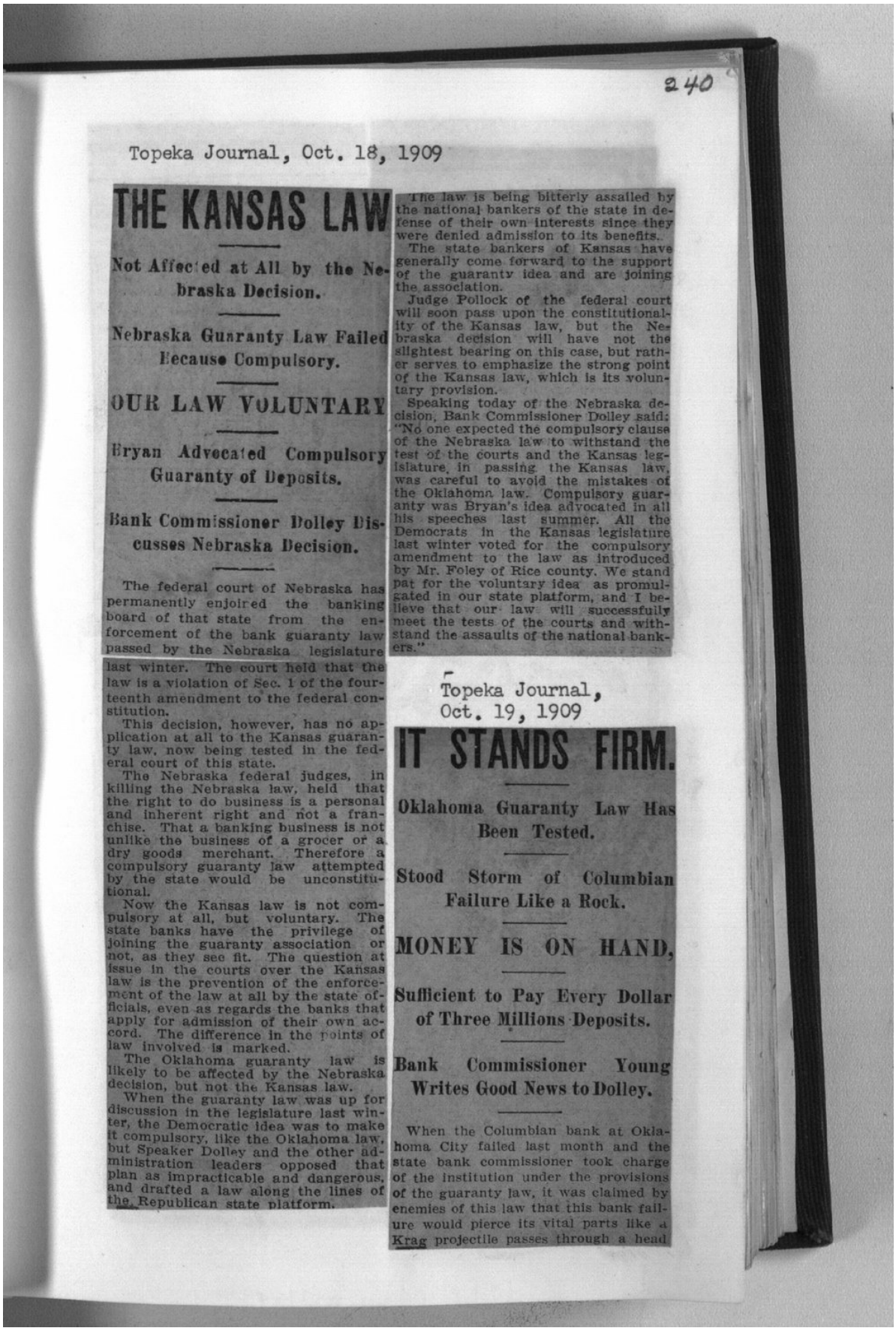
LINCOLN, NEB., Oct. 16.—The Nebraska State Banking Board was permanently enjoined from enforcing the Bank Guaranty Law passed by the last legislature by a decree entered in the federal court this afternoon by Judge T. G. Munger, Circuit Judge Vanderventer concurring.

The syllabus held that the enforced guaranty is a violation of Section 1 of the Fourteenth Amendment to the Federal Constitution, which says that property shall not be taken without due process of law, and that the confinement of banking to corporate bodies, a void provision, was an inducement to the passage of the act and that the entire act is therefore invalid.

The judges cite a number of cases wherein it is stated that the right to do business is a personal and inherent right and not a franchise. It is stated that banking is a business not unlike that of the grocer or dry goods merchant, that the failure of a bank affects a community no differently than the failure of any business institution except in degree only.

The opinion apparently strikes at the very heart of an enforced guaranty. It also wipes out entirely the question of the right of the state to enforce all banking institutions to incorporate.

The way is left open for only a voluntary guaranty act. The case will be appealed to the Supreme Court of the United States.



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Topeka Journal, Oct. 18, 1909

THE KANSAS LAW

Not Affected at All by the Nebraska Decision.

Nebraska Guaranty Law Failed Because Compulsory.

OUR LAW VOLUNTARY

Bryan Advocated Compulsory Guaranty of Deposits.

Bank Commissioner Dolley Discusses Nebraska Decision.

The federal court of Nebraska has permanently enjoined the banking board of that state from the enforcement of the bank guaranty law passed by the Nebraska legislature last winter. The court held that the law is a violation of Sec. 1 of the fourteenth amendment to the federal constitution.

This decision, however, has no application at all to the Kansas guaranty law, now being tested in the federal court of this state.

The Nebraska federal judges, in killing the Nebraska law, held that the right to do business is a personal and inherent right and not a franchise. That a banking business is not unlike the business of a grocer or a dry goods merchant. Therefore a compulsory guaranty law attempted by the state would be unconstitutional.

Now the Kansas law is not compulsory at all, but voluntary. The state banks have the privilege of joining the guaranty association or not, as they see fit. The question at issue in the courts over the Kansas law is the prevention of the enforcement of the law at all by the state officials, even as regards the banks that apply for admission of their own accord. The difference in the points of law involved is marked.

The Oklahoma guaranty law is likely to be affected by the Nebraska decision, but not the Kansas law.

When the guaranty law was up for discussion in the legislature last winter, the Democratic idea was to make it compulsory, like the Oklahoma law, but Speaker Dolley and the other administration leaders opposed that plan as impracticable and dangerous, and drafted a law along the lines of the Republican state platform.

The law is being bitterly assailed by the national bankers of the state in defense of their own interests since they were denied admission to its benefits.

The state bankers of Kansas have generally come forward to the support of the guaranty idea and are joining the association.

Judge Pollock of the federal court will soon pass upon the constitutionality of the Kansas law, but the Nebraska decision will have not the slightest bearing on this case, but rather serves to emphasize the strong point of the Kansas law, which is its voluntary provision.

Speaking today of the Nebraska decision, Bank Commissioner Dolley said: "No one expected the compulsory clause of the Nebraska law to withstand the test of the courts and the Kansas legislature, in passing the Kansas law, was careful to avoid the mistakes of the Oklahoma law. Compulsory guaranty was Bryan's idea advocated in all his speeches last summer. All the Democrats in the Kansas legislature last winter voted for the compulsory amendment to the law as introduced by Mr. Foley of Rice county. We stand pat for the voluntary idea as promulgated in our state platform, and I believe that our law will successfully meet the tests of the courts and withstand the assaults of the national bankers."

Topeka Journal, Oct. 19, 1909

IT STANDS FIRM.

Oklahoma Guaranty Law Has Been Tested.

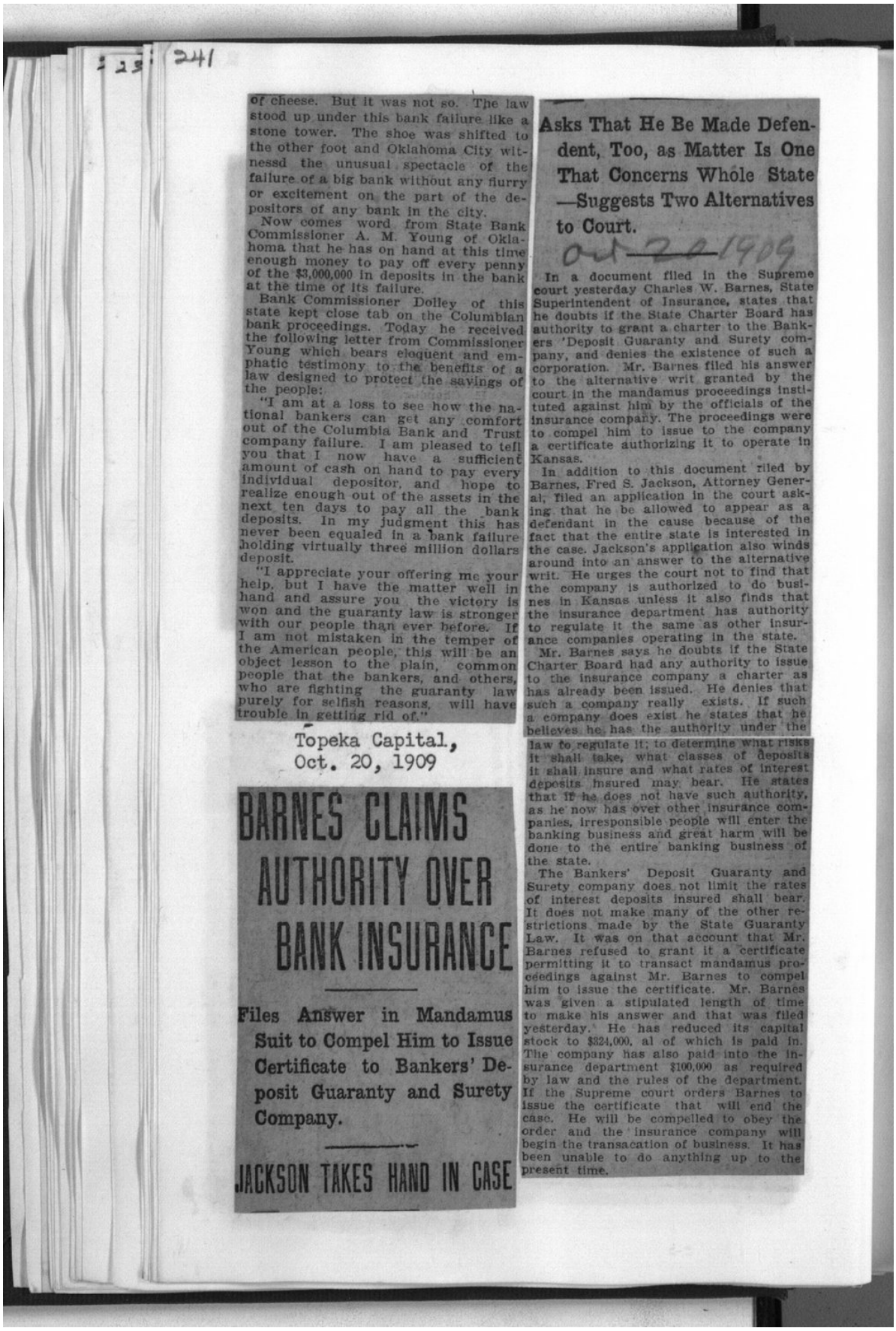
Stood Storm of Columbian Failure Like a Rock.

MONEY IS ON HAND,

Sufficient to Pay Every Dollar of Three Millions Deposits.

Bank Commissioner Young Writes Good News to Dolley.

When the Columbian bank at Oklahoma City failed last month and the state bank commissioner took charge of the institution under the provisions of the guaranty law, it was claimed by enemies of this law that this bank failure would pierce its vital parts like a Krag projectile passes through a head



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of cheese. But it was not so. The law stood up under this bank failure like a stone tower. The shoe was shifted to the other foot and Oklahoma City witnessd the unusual spectacle of the failure of a big bank without any flurry or excitement on the part of the depositors of any bank in the city.

Now comes word from State Bank Commissioner A. M. Young of Oklahoma that he has on hand at this time enough money to pay off every penny of the $3,000,000 in deposits in the bank at the time of its failure.

Bank Commissioner Dolley of this state kept close tab on the Columbian bank proceedings. Today he received the following letter from Commissioner Young which bears eloquent and emphatic testimony to the benefits of a law designed to protect the savings of the people:

"I am at a loss to see how the national bankers can get any comfort out of the Columbia Bank and Trust company failure. I am pleased to tell you that I now have a sufficient amount of cash on hand to pay every individual depositor, and hope to realize enough out of the assets in the next ten days to pay all the bank deposits. In my judgment this has never been equaled in a bank failure holding virtually three million dollars deposit.

"I appreciate your offering me your help, but I have the matter well in hand and assure you the victory is won and the guaranty law is stronger with our people than ever before. If I am not mistaken in the temper of the American people, this will be an object lesson to the plain, common people that the bankers, and others, who are fighting the guaranty law purely for selfish reasons, will have trouble in getting rid of."

Topeka Capital,
Oct. 20, 1909

BARNES CLAIMS AUTHORITY OVER BANK INSURANCE

Files Answer in Mandamus Suit to Compel Him to Issue Certificate to Bankers' Deposit Guaranty and Surety Company.

JACKSON TAKES HAND IN CASE

Asks That He Be Made Defendent, Too, as Matter Is One That Concerns Whole State —Suggests Two Alternatives to Court.

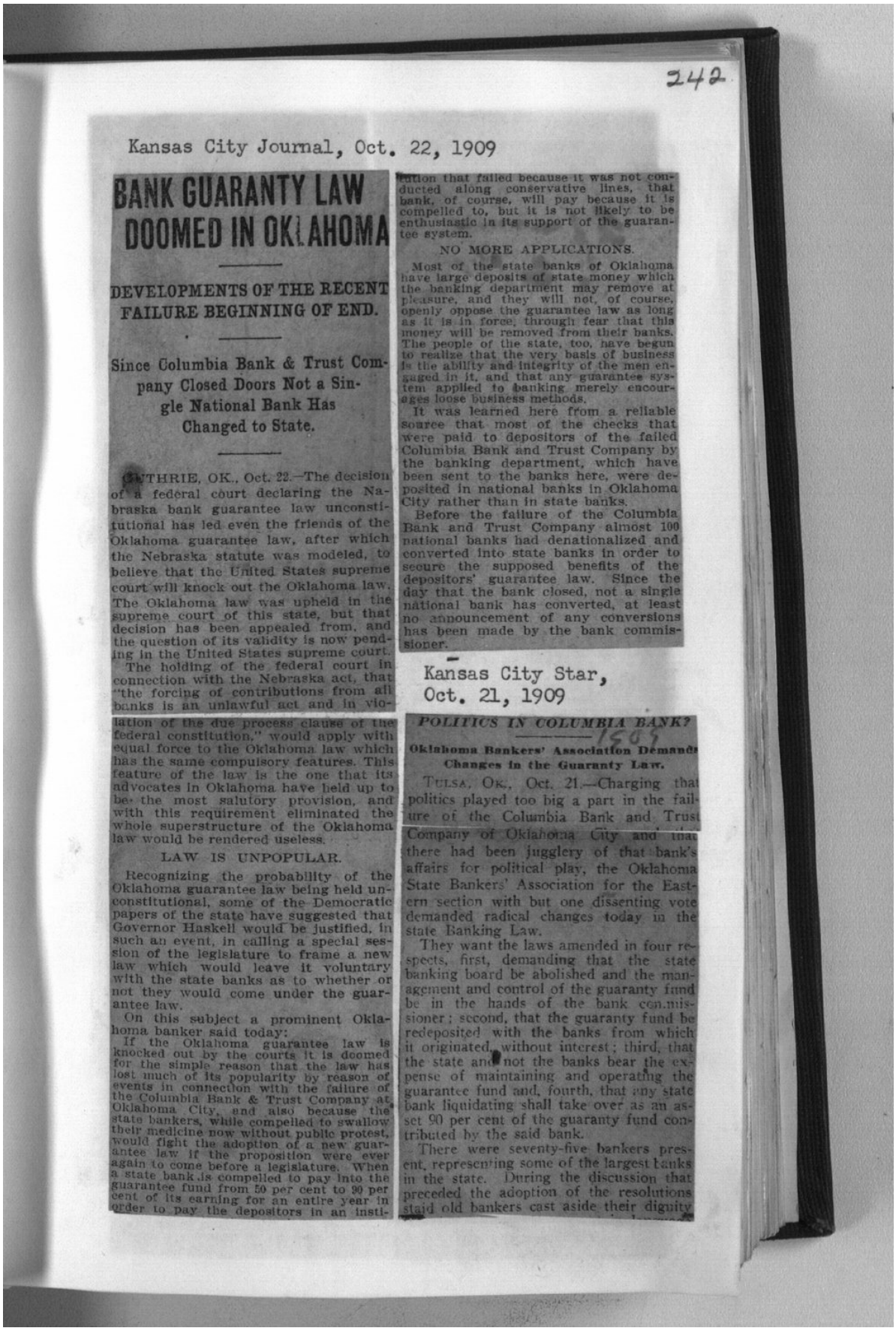
Oct 20 1909

In a document filed in the Supreme court yesterday Charles W. Barnes, State Superintendent of Insurance, states that he doubts if the State Charter Board has authority to grant a charter to the Bankers 'Deposit Guaranty and Surety company, and denies the existence of such a corporation. Mr. Barnes filed his answer to the alternative writ granted by the court in the mandamus proceedings instituted against him by the officials of the insurance company. The proceedings were to compel him to issue to the company a certificate authorizing it to operate in Kansas.

In addition to this document filed by Barnes, Fred S. Jackson, Attorney General, filed an application in the court asking that he be allowed to appear as a defendant in the cause because of the fact that the entire state is interested in the case. Jackson's application also winds around into an answer to the alternative writ. He urges the court not to find that the company is authorized to do busines in Kansas unless it also finds that the insurance department has authority to regulate it the same as other insurance companies operating in the state.

Mr. Barnes says he doubts if the State Charter Board had any authority to issue to the insurance company a charter as has already been issued. He denies that such a company really exists. If such a company does exist he states that he believes he has the authority under the law to regulate it; to determine what risks it shall take, what classes of deposits it shall insure and what rates of interest deposits insured may bear. He states that if he does not have such authority, as he now has over other insurance companies, irresponsible people will enter the banking business and great harm will be done to the entire banking business of the state.

The Bankers' Deposit Guaranty and Surety company does not limit the rates of interest deposits insured shall bear. It does not make many of the other restrictions made by the State Guaranty Law. It was on that account that Mr. Barnes refused to grant it a certificate permitting it to transact mandamus proceedings against Mr. Barnes to compel him to issue the certificate. Mr. Barnes was given a stipulated length of time to make his answer and that was filed yesterday. He has reduced its capital stock to $324,000, al of which is paid in. The company has also paid into the insurance department $100,000 as required by law and the rules of the department. If the Supreme court orders Barnes to issue the certificate that will end the case. He will be compelled to obey the order and the insurance company will begin the transacation of business. It has been unable to do anything up to the present time.



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Kansas City Journal, Oct. 22, 1909

BANK GUARANTY LAW DOOMED IN OKLAHOMA

DEVELOPMENTS OF THE RECENT FAILURE BEGINNING OF END.

Since Columbia Bank & Trust Company Closed Doors Not a Single National Bank Has Changed to State.

GUTHRIE, OK., Oct. 22.—The decision of a federal court declaring the Nebraska bank guarantee law unconstitutional has led even the friends of the Oklahoma guarantee law, after which the Nebraska statute was modeled, to believe that the United States supreme court will knock out the Oklahoma law. The Oklahoma law was upheld in the supreme court of this state, but that decision has been appealed from, and the question of its validity is now pending in the United States supreme court.

The holding of the federal court in connection with the Nebraska act, that "the forcing of contributions from all banks is an unlawful act and in violation of the due process clause of the federal constitution," would apply with equal force to the Oklahoma law which has the same compulsory features. This feature of the law is the one that its advocates in Oklahoma have held up to be the most salutory provision, and with this requirement eliminated the whole superstructure of the Oklahoma law would be rendered useless.

LAW IS UNPOPULAR.

Recognizing the probability of the Oklahoma guarantee law being held unconstitutional, some of the Democratic papers of the state have suggested that Governor Haskell would be justified, in such an event, in calling a special session of the legislature to frame a new law which would leave it voluntary with the state banks as to whether or not they would come under the guarantee law.

On this subject a prominent Oklahoma banker said today:

If the Oklahoma guarantee law is knocked out by the courts it is doomed for the simple reason that the law has lost much of its popularity by reason of events in connection with the failure of the Columbia Bank & Trust Company at Oklahoma City, and also because the state bankers, while compelled to swallow their medicine now without public protest, would fight the adoption of a new guarantee law if the proposition were ever again to come before a legislature. When a state bank is compelled to pay into the guarantee fund from 50 per cent to 90 per cent of its earning for an entire year in order to pay the depositors in an institution that failed because it was not conducted along conservative lines, that bank, of course, will pay because it is compelled to, but it is not likely to be enthusiastic in its support of the guarantee system.

NO MORE APPLICATIONS.

Most of the state banks of Oklahoma have large deposits of state money which the banking department may remove at pleasure, and they will not, of course, openly oppose the guarantee law as long as it is in force, through fear that this money will be removed from their banks. The people of the state, too, have begun to realize that the very basis of business is the ability and integrity of the men engaged in it, and that any guarantee system applied to banking merely encourages loose business methods.

It was learned here from a reliable source that most of the checks that were paid to depositors of the failed Columbia Bank and Trust Company by the banking department, which have been sent to the banks here, were deposited in national banks in Oklahoma City rather than in state banks.

Before the failure of the Columbia Bank and Trust Company almost 100 national banks had denationalized and converted into state banks in order to secure the supposed benefits of the depositors' guarantee law. Since the day that the bank closed, not a single national bank has converted, at least no announcement of any conversions has been made by the bank commissioner.

Kansas City Star, Oct. 21, 1909

1909

POLITICS IN COLUMBIA BANK?

Oklahoma Bankers' Association Demands Changes in the Guaranty Law.

TULSA, OK., Oct. 21.—Charging that politics played too big a part in the failure of the Columbia Bank and Trust Company of Oklahoma City and that there had been jugglery of that bank's affairs for political play, the Oklahoma State Bankers' Association for the Eastern section with but one dissenting vote demanded radical changes today in the state Banking Law.

They want the laws amended in four respects, first, demanding that the state banking board be abolished and the management and control of the guaranty fund be in the hands of the bank commissioner; second, that the guaranty fund be redeposited with the banks from which it originated, without interest; third, that the state and not the banks bear the expense of maintaining and operating the guarantee fund and, fourth, that any state bank liquidating shall take over as an asset 90 per cent of the guaranty fund contributed by the said bank.

There were seventy-five bankers present, representing some of the largest banks in the state. During the discussion that preceded the adoption of the resolutions staid old bankers cast aside their dignity

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and denounced in no uncertain language the working of the Guaranty Deposit Law as exemplified in the failure of the Oklahoma City bank. Many of the bankers favored the abolition of the Guaranty Law.

Kansas City Journal,
Oct. 25, 1909

FEDERAL COURT OPINION IN BANK GUARANTY CASE

Nebraska Law Is Teld in Conflict With Section 1 of the Fourteenth Amendment.

TOPEKA, Oct. 25.—The opinion of the federal court in the Nebraska bank guaranty case has at last been printed and copies have been received here.

The gist of the decision follows:

The Nebraska act of March 25, 1909, which prohibits individuals from engaging in the banking business unless they do so through the agency of corporations, and which also conditions the right to engage in that business in that form upon making contributions from time to time to a depositors' guarant fund to be employed in the payment of the clams of depastors of any bank which shall become insolvent, is in conflict with Section 1 of the Fourteenth amendment of the constitution of the United States.

The case was heard by Judge Van Devanter of the court of appeals and Judge Munger, district judge. The opinion of the two judges was delivered by Judge Munger:

By the express terms of the act in question, individuals may transact the banking business only under corporate form and management, and such corporations must also submit to the payment out of their funds of the claims of the private creditors of other banks when such banks become insolvent, although the banks required to make such payment have had no supervision or control of the acts of such insolvent bank. It is said that this requirement is not a deprivation of the property of the citizen engaged in the banking business, but is merely a reasonable regulation of the business under the police power of the state; that banks are subject to regulation by the state, and that the failure of banks to pay their depositors causes such widespread financial loss and attendant suffering, and so impairs business confidence, that the state has an especial interest in the prevention of such disasters.

It is apparent that the effect upon the community of the insolvency of banks can differ only in degree and not in kind from the effect of the insolvency of any other debtor.

In fact the failure of large railway, insurance, mercantile or manufacturing companies may, and often does, more profoundly affect the business community than the failure of a small bank. If the state possesses the power to single out a certain form of business activity and to compel the citizen who engages in it to pay the losses of strangers, whose only relation to him is that their business is known by the same general bane, why may it not require all those engaged in one occupation to pay the losses of those engaged in other occupations? And if the state may require those of one class to contribute to the losses of the same class, it is but a step farther to require the fortunate to bear the financial losses of the less fortunate, as often as inequality of fortune may arise.

The provision relating to the depositors' guaranty fund cannot be sustained on the theory that society is discharging an obligation it owes to those pauper and dependent classes who have always been regarded as proper subjects of its bounty and care. The creditors of banks are like the crediotors of any other debtor, and this act is not confined to the relief of paupers, but payment is required of all depositors, whatever their financial condition may be. It is insisted that the provision in question is similar to those regulatory measures often imposed upon banking and other business interests, whereby the state lawfully imposes license fees, requires frequent examinations or inspections, designates the character of investments that may be held, prescribes the amount of capital necessary to engage in a designated business, and the like.

It is sufficient to say that these and similar measures are founded on the theory that they merely require the one upon whom they are imposed, to pay the expense of inspection of his own business, and to safeguard those who deal with him.

tI is entirely clear that this act of the legislature does deprive the citizen of his right to engage n a lawful business except upon the terms that the state will take of his property, without his consent, for the private use of others, and without due process of law. This is not accomplished by requiring that A shall pay directly to B or B's creditors, a certain sum of money, for the financial relief of B or of his creditors, but the same result is effected through a process akin to taxation. It is well settled that the state cannot, under the form of taxation, ake he property of its citizens and give it to build up the private fortunes of others.

Kansas City Journal,
Oct. 27, 1909

FAVORS NEW STATE BANK BOARD OF 7

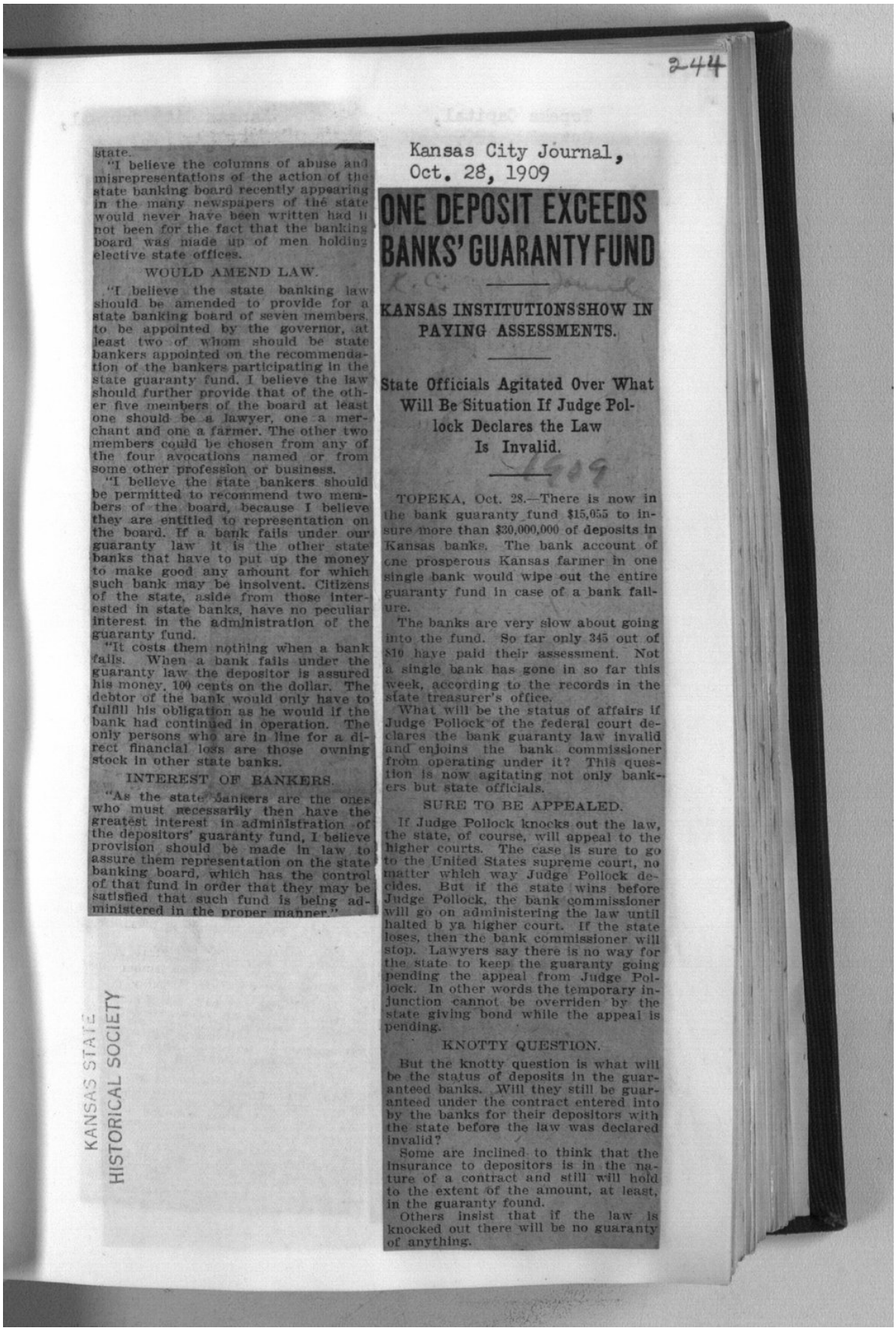
OKLAHOMA AUDITOR DISCUSSES GUARANTY LAW.

M. E. Trapp Declares That Oklahoma City Failure Demonstrates Necessity of Commission Not Holding Other State Place.

GUTHRIE, OK., Oct. 27.—State Auditor M. E. Trapp who is a member of the present banking board today declared in favor of the creation of a new banking board of seven members which should include at least two state bankers, one lawyer, one merchant and one farmer.

"I believe that the closing up of the affairs of the Columbia Bank and Trust Company without the loss to a single depositor of one dollar in money or delay of one hour is a complete vindication of the principle of a bank deposit guaranty law," said Mr. Trapp.

"As a member of the state banking board, however, I have become convinced that the law would be more satisfactorily administered if a banking board should be composed of citizens holding no other official position in the



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state.

"I believe the columns of abuse and misrepresentations of the action of the state banking board recently appearing in the many newspapers of the state would never have been written had it not been for the fact that the banking board was made up of men holding elective state offices.

WOULD AMEND LAW.

"I believe the state banking law should be amended to provide for a state banking board of seven members, to be appointed by the governor, at least two of whom should be state bankers appointed on the recommendation of the bankers participating in the state guaranty fund. I believe the law should further provide that of the other five members of the board at least one should be a lawyer, one a merchant and one a farmer. The other two members could be chosen from any of the four avocations named or from some other profession or business.

"I believe the state bankers should be permitted to recommend two members of the board, because I believe they are entitled to representation on the board. If a bank fails under our guaranty law it is the other state banks that have to put up the money to make good any amount for which such bank may be insolvent. Citizens of the state, aside from those interested in state banks, have no peculiar interest in the administration of the guaranty fund.

"It costs them nothing when a bank fails. When a bank fails under the guaranty law the depositor is assured his money, 100 cents on the dollar. The debtor of the bank would only have to fulfill his obligation as he would if the bank had continued in operation. The only persons who are in line for a direct financial loss are those owning stock in other state banks.

INTEREST OF BANKERS.

"As the state bankers are the ones who must necessarily then have the greatest interest in administration of the depositors' guaranty fund, I believe provision should be made in law to assure them representation on the state banking board, which has the control of that fund in order that they may be satisfied that such fund is being administered in the proper manner."

KANSAS STATE HISTORICAL SOCIETY

Kansas City Journal,
Oct. 28, 1909

ONE DEPOSIT EXCEEDS BANKS' GUARANTY FUND

KANSAS INSTITUTIONS SHOW IN PAYING ASSESSMENTS.

State Officials Agitated Over What Will Be Situation If Judge Pollock Declares the Law Is Invalid.

TOPEKA, Oct. 28.—There is now in the bank guaranty fund $15,055 to insure more than $30,000,000 of deposits in Kansas banks. The bank account of one prosperous Kansas farmer in one single bank would wipe out the entire guaranty fund in case of a bank failure.

The banks are very slow about going into the fund. So far only 345 out of 810 have paid their assessment. Not a single bank has gone in so far this week, according to the records in the state treasurer's office.

What will be the status of affairs if Judge Pollock of the federal court declares the bank guaranty law invalid and enjoins the bank commissioner from operating under it? This question is now agitating not only bankers but state officials.

SURE TO BE APPEALED.

If Judge Pollock knocks out the law, the state, of course, will appeal to the higher courts. The case is sure to go to the United States supreme court, no matter which way Judge Pollock decides. But if the state wins before Judge Pollock, the bank commissioner will go on administering the law until halted b ya higher court. If the state loses, then the bank commissioner will stop. Lawyers say there is no way for the state to keep the guaranty going pending the appeal from Judge Pollock. In other words the temporary injunction cannot be overriden by the state giving bond while the appeal is pending.

KNOTTY QUESTION.

But the knotty question is what will be the status of deposits in the guaranteed banks. Will they still be guaranteed under the contract entered into by the banks for their depositors with the state before the law was declared invalid?

Some are inclined to think that the insurance to depositors is in the nature of a contract and still will hold to the extent of the amount, at least, in the guaranty found.

Others insist that if the law is knocked out there will be no guaranty of anything.

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Topeka Capital,
Oct. 30, 1909

365 STATE BANKS NOW HAVE THE GUARANTY

OF THIS NUMBER 25 CAME IN DURING THIS WEEK.

There Is $259,492 on Deposit With State Treasurer in Collateral Security.

Of the 800 state banks in Kansas, 365 have deposited their guaranty bonds and assessments with the state and 25 of the 365 became participants in the guaranty fund this week. This statement was made last night by State Bank Commissioner J. N. Dolley in reply to the published charge that there had not been a state bank apply for admission in a week.

"There are 365 state banks that have their bonds and assessments deposited with the state treasurer at this time," said Mr. Dolley last night. "There is deposited in the state treasury $259,492.20 in the bond account. There is deposited in the state treasury in the assessment account $15,873.08. The said sums being placed to the credit of these 365 banks. Under the guaranty law, which permits five assessments per annum, there is available at this time in cash $79,365.40, the payment of which is guaranteed by bond deposits with the state treasurer to the amount of $259,492.20 as above stated. The records of the banking department show tht during the last ten years less than $25,000 per annum has been lost to the depositors through failed state banks. On this basis, there is at this time enough in the assessment fund to pay the average losses for three years to come, as shown by the records during the past 10 years, and these losses during the past 10 years comprise all of the banks of Kansas, which were double the number of banks as are now in the assessment fund. In other words, the ratio of losses for half of the banks would not be nearly $25,000 per annum. We have many other applications for participation under the guaranty law, but they have not as yet been examined and accepted.

"One of the very strongest features of the Kansas guaranty law is the wise provision for much more money than past history shows will be needed. This is as it should be. The depositors should be assured that their deposits are absolutely guaranteed beyond question, and that they will receive 100 cents on the dollar for every dollar on deposit with a state bank that should fail which is guaranteed, under the provisions of the Kansas guaranty law.

"There were bonds and cash deposited in the state treasury this week for 25 banks. Twenty-five banks came under the guaranty law during the week."

Kansas City Journal,
Oct. 29, 1909

GUARANTY DECLARED BURDEN UPON BANKS

CLOSING ARGUMENT IN PROCEEDINGS TO TEST THE LAW.

In Final Brief, J. W. Gleed, for Complainants, Indicates Status of Affected Banks Before and After Passage.

TOPEKA, Oct. 29.—Attorney J. W. Gleed, in behalf of himself and other attorneys employed by the Kansas bankers, to test the constitutionality of the bank guaranty law, today filed the brief of the complaining bankers with the federal court.

This ends all arguments on the cases and Judge Pollock will now go through the briefs. This is a big task. On account of the time it will take to consider the briefs of both sides and the work attending the holding of a term of federal court at Fort Scott, beginning next week, no decision in the bank guaranty cases is expected for at least two weeks. The decision may not come down until December.

In their brief the attorneys for the bankers devote much space to the question of jurisdiction. In fact, that is the chief point in the case since the Nebraska decision came down, knocking out bank guaranty in that state. The Nebraska decision practically says the Kansas law is invalid. So the big question left in the Kansas case is whether the complaining bankers can maintain their suits. Their attorneys believe they can and cite numerous decisions to uphold that position.

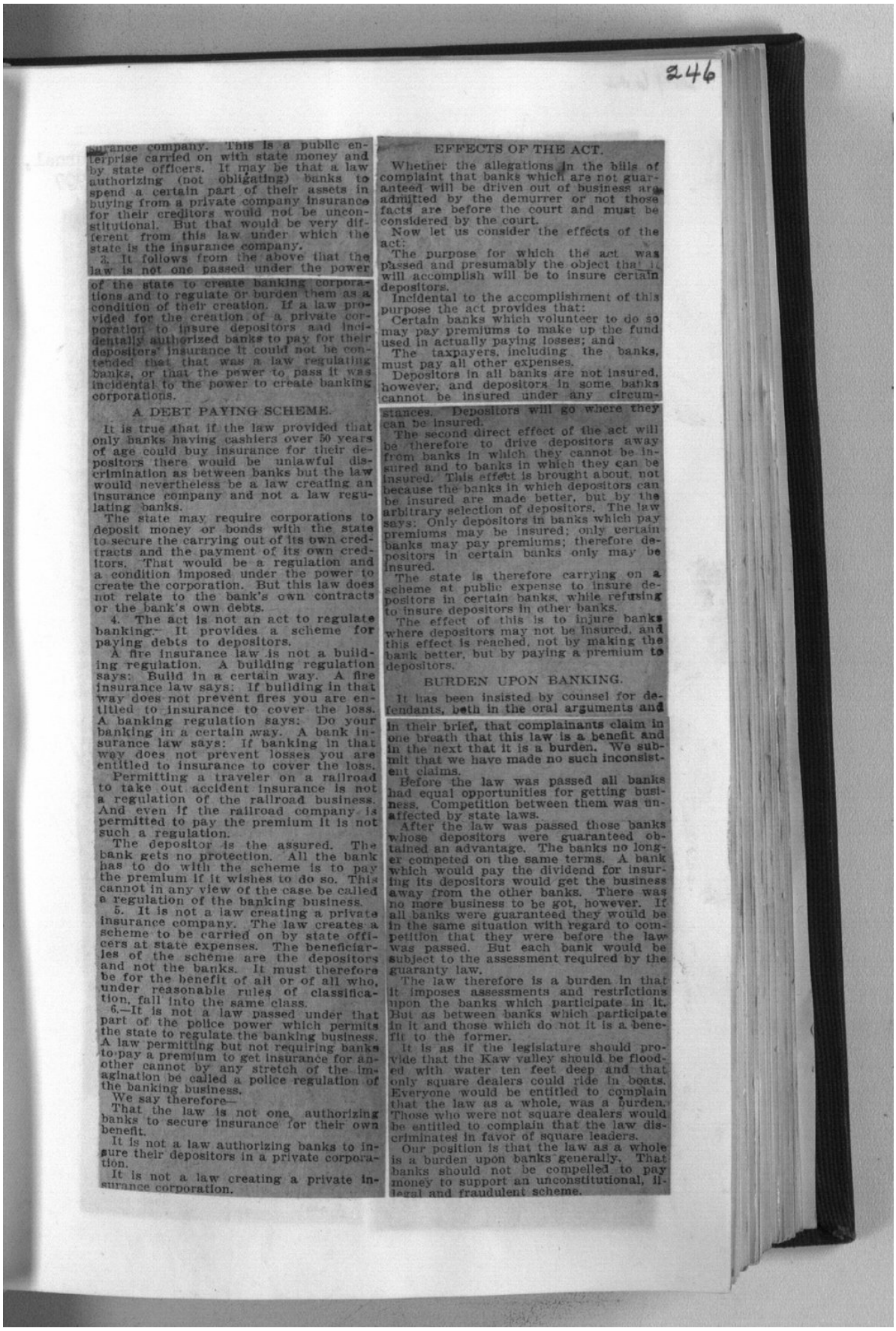
WHAT THE LAW IS NOT.

Discussing the Kansas bank guaranty law and just what it does and does not do, Mr. Gleed in his brief says:

In endeavoring the decide just what the law is it may be helpful to first consider what it is not.

1. It is not a law authorizing banks to obtain insurance for their own benefits. The insurance is purely and solely for the benefit of a certain class of creditors of banks—their depositors—and the insurance in nowise benefits the banks or lessens their liabilities. When everything the banks or their stockholders have or can be made to contribute is exhausted—when these creditors' remedies against the bank and its stockholders are exhausted—when the bank and its stockholders have no longer any interest in the payment of its debts—the law is supposed to step in and pay those debts. This does not benefit the bank and its stockholders in any way.

2. It is not a law authorizing banks to insure their depositors in a private in-



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surance company. This is a public enterprise carried on with state money and by state officers. It may be that a law authorizing (not obligating) banks to spend a certain part of their assets in buying from a private company insurance for their creditors would not be unconstitutional. But that would be very different from this law under which the state is the insurance company.

3. It follows from the above that the law is not one passed under the power of the state to create banking corporations and to regulate or burden them as a condition of their creation. If a law provided for the creation of a private corporation to insure depositors and incidentally authorized banks to pay for their depositors' insurance it could not be contended that that was a law regulating banks, or that the power to pass it was incidental to the power to create banking corporations.

A DEBT PAYING SCHEME.

It is true that if the law provided that only banks having cashiers over 50 years of age could buy insurance for their depositors there would be unlawful discrimination as between banks but the law would nevertheless be a law creating an insurance company and not a law regulating banks.

The state may require corporations to deposit money or bonds with the state to secure the carrying out of its own contracts and the payment of its own creditors. That would be a regulation and a condition imposed under the power to create the corporation. But this law does not relate to the bank's own contracts or the bank's own debts.

4. The act is not an act to regulate banking. It provides a scheme for paying debts to depositors.

A fire insurance law is not a building regulation. A building regulation says: Build in a certain way. A fire insurance law says: If building in that way does not prevent fires you are entitled to insurance to cover the loss. A banking regulation says: Do your banking in a certain way. A bank insurance law says: If banking in that way does not prevent losses you are entitled to insurance to cover the loss.

Permitting a traveler on a railroad to take out accident insurance is not a regulation of the railroad business. And even if the railroad company is permitted to pay the premium it is not such a regulation.

The depositor is the assured. The bank gets no protection. All the bank has to do with the scheme is to pay the premium if it wishes to do so. This cannot in any view of the case be called a regulation of the banking business.

5. It is not a law creating a private insurance company. The law creates a scheme to be carried on by state officers at state expenses. The beneficiaries of the scheme are the depositors and not the banks. It must therefore be for the benefit of all or of all who, under reasonable rules of classification, fall into the same class.

6.—It is not a law passed under that part of the police power which permits the state to regulate the banking business. A law permitting but not requiring banks to pay a premium to get insurance for another cannot by any stretch of the imagination be called a police regulation of the banking business.

We say therefore—

That the law is not one authorizing banks to secure insurance for their own benefit.

It is not a law authorizing banks to insure their depositors in a private corporation.

It is not a law creating a private insurance corporation.

EFFECTS OF THE ACT.

Whether the allegations in the bills of complaint that banks which are not guaranteed will be driven out of business are admitted by the demurrer or not those facts are before the court and must be considered by the court.

Now let us consider the effects of the act:

The purpose for which the act was passed and presumably the object that it will accomplish will be to insure certain depositors.

Incidental to the accomplishment of this purpose the act provides that:

Certain banks which volunteer to do so may pay premiums to make up the fund used in actually paying losses; and

The taxpayers, including the banks, must pay all other expenses.

Depositors in all banks are not insured, however, and depositors in some banks cannot be insured under any circumstances. Depositors will go where they can be insured.

The second direct effect of the act will be therefore to drive depositors away from banks in which they cannot be insured and to banks in which they can be insured. This effect is brought about, not because the banks in which depositors can be insured are made better, but by the arbitrary selection of depositors. The law says: Only depositors in banks which pay premiums may be insured; only certain banks may pay premiums; therefore depositors in certain banks only may be insured.

The state is therefore carrying on a scheme at public expense to insure depositors in certain banks, while refusing to insure depositors in other banks.

The effect of this is to injure banks where depositors may not be insured, and this effect is reached, not by making the bank better, but by paying a premium to depositors.

BURDEN UPON BANKING.

It has been insisted by counsel for defendants, both in the oral arguments and in their brief, that complainants claim in one breath that this law is a benefit and in the next that it is a burden. We submit that we have made no such inconsistent claims.

Before the law was passed all banks had equal opportunities for getting business. Competition between them was unaffected by state laws.

After the law was passed those banks whose depositors were guaranteed obtained an advantage. The banks no longer competed on the same terms. A bank which would pay the dividend for insuring its depositors would get the business away from the other banks. There was no more business to be got, however. If all banks were guaranteed they would be in the same situation with regard to competition that they were before the law was passed. But each bank would be subject to the assessment required by the guaranty law.

The law therefore is a burden in that it imposes assessments and restrictions upon the banks which participate in it. But as between banks which participate in it and those which do not it is a benefit to the former.

It is as if the legislature should provide that the Kaw valley should be flooded with water ten feet deep and that only square dealers could ride in boats. Everyone would be entitled to complain that the law as a whole, was a burden. Those who were not square dealers would be entitled to complain that the law discriminates in favor of square leaders.

Our position is that the law as a whole is a burden upon banks generally. That banks should not be compelled to pay money to support an unconstitutional, illegal and fraudulent scheme.

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Our position is further that because the scheme is backed by the state and all its officials and is thoroughly advertised it will attract the people and that those banks who go into it will be benefited and those banks that stay out of it will be injured. The law therefore is primarily a burden. If it is enforced it becomes a benefit to the banks who participate because they lose only their assessments and it becomes a burden to those who do not participate, because they lose their business.

STATUS BEFORE AND AFTER.

To ascertain the effect of this law we must compare the status of the parties interested before the law with the status of the same parties after the law. And the precise change accomplished can perhaps be most easily comprehended if stated as follows:

National banks—status before:
No tax for support of guaranty.
No contribution to guaranty fund.
Equal treatment by the law.
Equal chance commercially.
No depositor guaranteed.
Status after:
Tax to support guaranty.
No contribution to guarant· fund.
Unequal treatment by the law.
Unequal chance commercially.
Business destroyed.
No depositor guaranteed.

State bank without 10 per cent surplus.
Status before: No tax for support of guaranty; no contribution to guaranty fund; equal treatment by the law; equal chance commercially; no depositor guaranteed.
Status after: Tax to support guaranty; unequal treatment by the law; unequal chance commercially; business destroyed; no depositor guaranteed.

State bank qualified to "enjoy the benefits" of guaranty law.
Status before:
No tax for support of guaranty.
No contribution to guaranty fund.
Equal treatment by the law.
Equal chance commercially.
No depositor guaranteed.
Status after:
Tax to support guaranty.
Contribution to guaranty fund.
Necessary to accept and use a false certificate.
Necessary to discriminate among depositors.
Some depositors partially and contingently guaranteed;
Or—
Tax to suport guaranty.
No contribution to guaranty fund.
Unequal treatment by the law.
Unequal chance commercially.
Business destroyed.
No depositor guaranteed.

Kansas City Journal,
Oct. or Nov. 1909

LAW WRONG IN PRINCIPLE

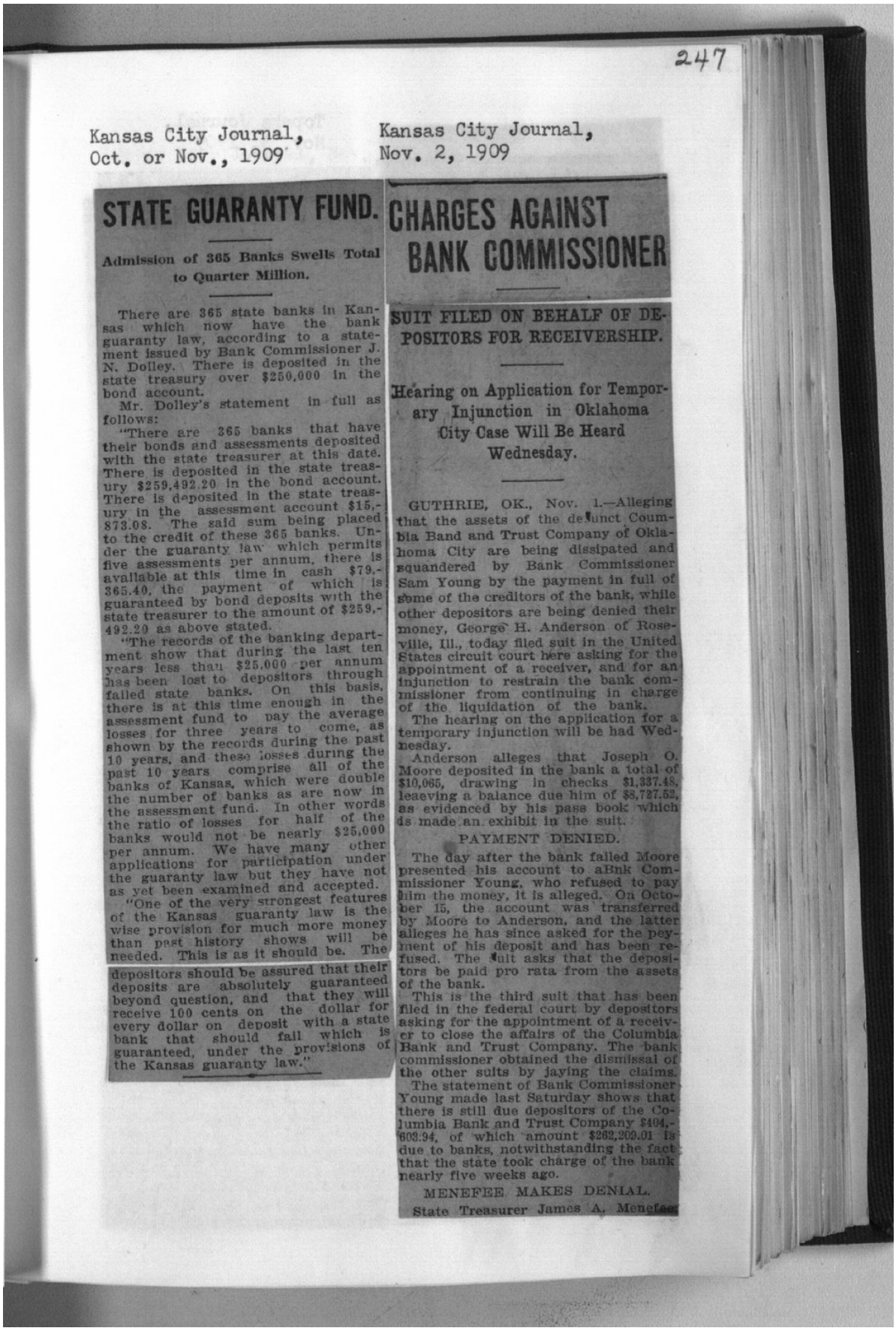
Present Bank Deposit Guaranty Measure Is Doomed in Kansas Declares Senator Chester I. Long.

"I firmly believe that we will succeed in having the Kansas bank guaranty law declared unconstitutional," said Senator Chester I. Long of Medicine Lodge, Kas., at the Hotel Baltimore last evening.

"Few of us ever thought very much of the law, and as the time went on we thought less. It has absolutely no merit at all and would be the worst sort of a failure if it were put into operation. It is wrong in principle. If a bank guaranty law is essential to the banking of Kansas, a new law must be evolved which will be free from the objections which have been raised to this one."

'Our state, as well as Missouri, is as prosperous as at any time in its history," continued the senator. "Our crops are all good and the good old Republican doctrine as exemplified by President Taft certainly has had its part in this era of prosperity. We believe that the Payne law as now in force is the best law that ever was passed, and we have the utmost confidence in our assertion that President Taft has made good all along the line.

'While in the East I read a reference to the insurgent Republicans of Kansas, in which it was said that they called themselves McKinley Republicans. This is either a joke or a misnomer. McKinley was a protectionist, and to follow in his footsteps and call themselves McKinley Republicans I am inclined to think that they would have to accept some of his doctrines."



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Kansas City Journal,
Oct. or Nov., 1909

STATE GUARANTY FUND.

Admission of 365 Banks Swells Total to Quarter Million.

There are 365 state banks in Kansas which now have the bank guaranty law, according to a statement issued by Bank Commissioner J. N. Dolley. There is deposited in the state treasury over $250,000 in the bond account.

Mr. Dolley's statement in full as follows:

"There are 365 banks that have their bonds and assessments deposited with the state treasurer at this date. There is deposited in the state treasury $259,492.20 in the bond account. There is deposited in the state treasury in the assessment account $15,873.08. The said sum being placed to the credit of these 365 banks. Under the guaranty law which permits five assessments per annum, there is available at this time in cash $79,365.40, the payment of which is guaranteed by bond deposits with the state treasurer to the amount of $259,492.20 as above stated.

"The records of the banking department show that during the last ten years less than $25,000 per annum has been lost to depositors through failed state banks. On this basis, there is at this time enough in the assessment fund to pay the average losses for three years to come, as shown by the records during the past 10 years, and these losses during the past 10 years comprise all of the banks of Kansas, which were double the number of banks as are now in the assessment fund. In other words the ratio of losses for half of the banks would not be nearly $25,000 per annum. We have many other applications for participation under the guaranty law but they have not as yet been examined and accepted.

"One of the very strongest features of the Kansas guaranty law is the wise provision for much more money than past history shows will be needed. This is as it should be. The depositors should be assured that their deposits are absolutely guaranteed beyond question, and that they will receive 100 cents on the dollar for every dollar on deposit with a state bank that should fail which is guaranteed, under the provisions of the Kansas guaranty law."

Kansas City Journal,
Nov. 2, 1909

CHARGES AGAINST BANK COMMISSIONER

SUIT FILED ON BEHALF OF DEPOSITORS FOR RECEIVERSHIP.

Hearing on Application for Temporary Injunction in Oklahoma City Case Will Be Heard Wednesday.

GUTHRIE, OK., Nov. 1.—Alleging that the assets of the defunct Columbia Band and Trust Company of Oklahoma City are being dissipated and squandered by Bank Commissioner Sam Young by the payment in full of some of the creditors of the bank, while other depositors are being denied their money, George H. Anderson of Roseville, Ill., today filed suit in the United States circuit court here asking for the appointment of a receiver, and for an injunction to restrain the bank commissioner from continuing in charge of the liquidation of the bank.

The hearing on the application for a temporary injunction will be had Wednesday.

Anderson alleges that Joseph O. Moore deposited in the bank a total of $10,065, drawing in checks $1,337.48, leaeving a balance due him of $8,727.52, as evidenced by his pass book which is made an exhibit in the suit.

PAYMENT DENIED.

The day after the bank failed Moore presented his account to aBnk Commissioner Young, who refused to pay him the money, it is alleged. On October 15, the account was transferred by Moore to Anderson, and the latter alleges he has since asked for the peyment of his deposit and has been refused. The suit asks that the depositors be paid pro rata from the assets of the bank.

This is the third suit that has been filed in the federal court by depositors asking for the appointment of a receiver to close the affairs of the Columbia Bank and Trust Company. The bank commissioner obtained the dismissal of the other suits by jaying the claims.

The statement of Bank Commissioner Young made last Saturday shows that there is still due depositors of the Columbia Bank and Trust Company $404,603.94, of which amount $262,209.01 is due to banks, notwithstanding the fact that the state took charge of the bank nearly five weeks ago.

MENEFEE MAKES DENIAL.

State Treasurer James A. Menefee

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Topeka Journal,
Nov. 5, 1909

today gave out a statement replying to criticisms of his connection with the Columbia Bank and Trust Company in which he denies that he is interested in any other bank, or that he owes any other bank money, but admits that he was a stockholder in the Columbia, and that he paid for his stock with notes.

"I did buy from an individual some stck in the Columbia Bank and Trust Company," says Mr. Manefee, for which I game him three notes. One of these notes if for $10,000, which is amply secured and now is in the Columbia Bank and Trust Company and will be paid before it matures, the note having been sold to the bank by the payee.

"The statement that the state treasurer had something like half a million dollars in the bank is untrue. The state treasurer's balance in the bank was $189,999, secured by state warrants, municipal bonds and farm loanss amounting to $196,000, said securities being authorized by law.

"As treasurer of the state banking board I had $76,000 in the Columbia secured by a surety bond of $50,000 and $27,000 municipal bonds. The surety company paid the bond the day following the suspension of the bank, and the municipal bonds were sold, and I have not one dollar of funds of the state banking board on deposit in the Columbia."

COMMISSIONER TALKS.

OKLAHOMA CITY, OK., Nov. 1.—Bank Commissioner Young this evening discussed the application for receiver for the failed Columbia Bank and Trust Company, filed in Guthrie by George H. Anderson of Roseville, Ill., assignee of Joseph L. More. In his petition Anderson charged that the bank is indebted to him in the sum of $8,227.52. Bank Commissioner Young says: "The books of this bank show that More had on deposit $1,727.52 when I took charge of the bank. Mr. More demanded the sum of me when I took charge and also an extra $7,000. I offered to pay the amount less the $7,000, and he refused to take it. I also talked with Mr. Anderson and told him that the bank owed Mr. More the $1,727.52. If he bought the claim of Mr. More he did so with perfect knowledge in the matter and cannot take the position of an innocent purchaser. The bank officers stand ready to pay the claim minus the $7,000 extra."

NEARLY 100 MILLIONS

State Banks Make Grand Showing in Deposits in September Statement.

The bank statement issued by Bank Commissioner Dolley based upon the call sent out Sept. 29 shows that the state banks of Kansas had on deposit at that time $96,696,897.89. This is an increase of eight millions over the statement of June 30.

The statement in detail shows that the loans of state banks now reach $75,000,000, an increase of $3,000,000 over June and an increase of $17,000,000 over last year. The total cash in state banks now is $35,971,846.08, an increase of $4,000,000 since June 30, and $5,000,000 during the past year.

The reserve is 37 per cent as against 36 per cent in June. The 819 banks have $2,839,641.91 invested in bank buildings, furniture and fixtures.

The guaranteed banks on September 29 had $232,664 deposited with the state treasurer as a good faith fund.

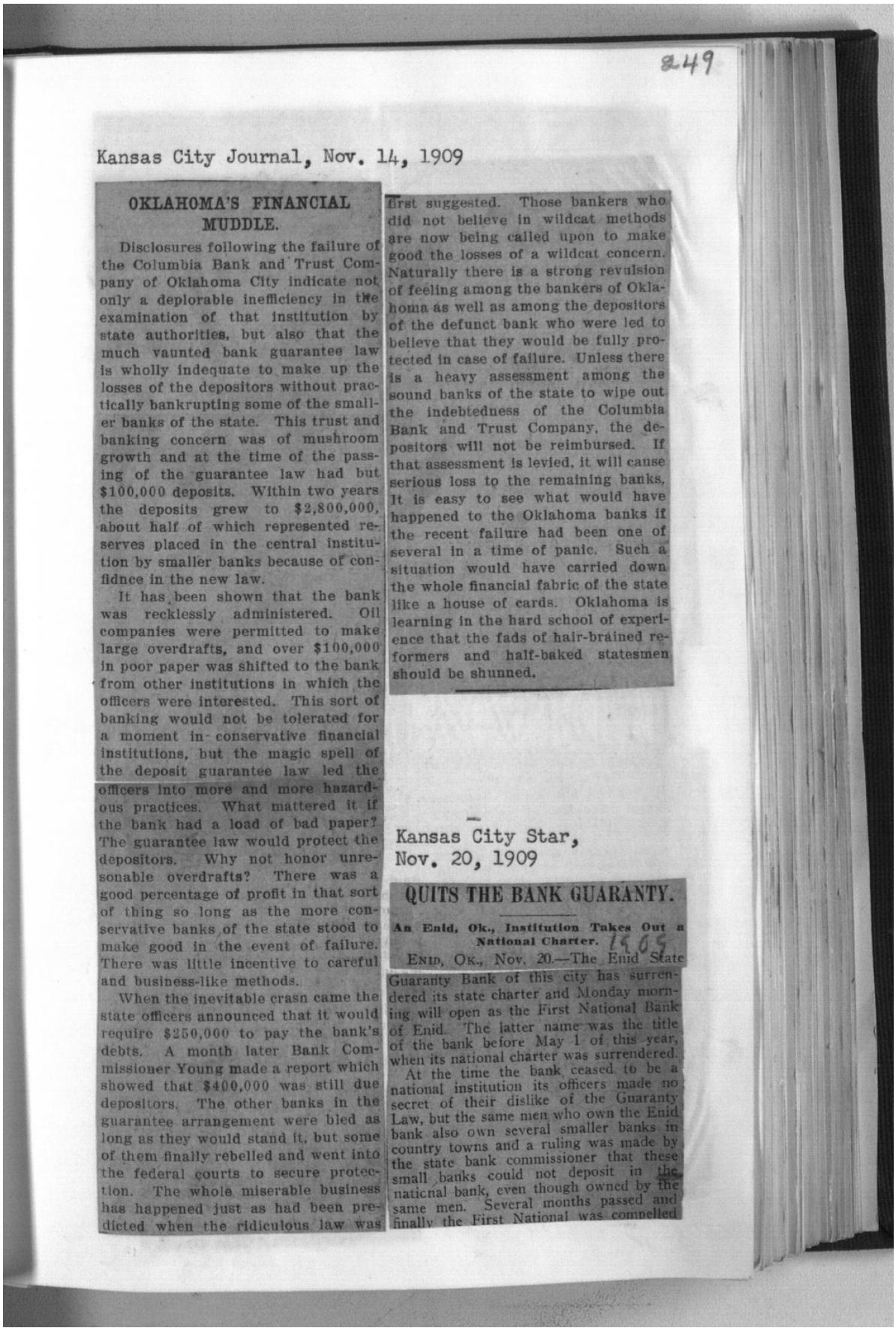
The actual amount of money on hand aggregated $3,912,825 in currency, $1,890,441 in gold and $979,084 in silver and fractional coin, making a total of actual cash of $6,782,351. The total resources of the banks amount to $121,749,903. The capital stock aggregates $15,810,000 and the surplus fund $3,957,936. The profits reach $2,988,668.

Of the deposits, $70,811,769 were individual deposits, $3,541,321 were county and state deposits, $3,255,414 were bank and bankers' deposits, $2,873,176 demand certificates, $15,816,417 time certificates and $398,795 certified checks.

Commenting on the splendid showing made by the state banks in the above statement, Commissioner Dolley said:

"I estimate that the people of Kansas have at least $40,000,000 in cash working outside of the banks. The Kansas banks were never in a more strong, healthy condition than they are today. This very strong increase is shown at a time when only a small part of the 1909 wheat crop and other agricultural products have been marketed.

"No state in the Union can show more healthy and absolutely sound banking conditions than Kansas, as shown by this report. Again I repeat 'there is nothing on earth the matter with Kansas or the Kansas people.'"



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Kansas City Journal, Nov. 14, 1909

OKLAHOMA'S FINANCIAL MUDDLE.

Disclosures following the failure of the Columbia Bank and Trust Company of Oklahoma City indicate not only a deplorable inefficiency in the examination of that institution by state authorities, but also that the much vaunted bank guarantee law is wholly indequate to make up the losses of the depositors without practically bankrupting some of the smaller banks of the state. This trust and banking concern was of mushroom growth and at the time of the passing of the guarantee law had but $100,000 deposits. Within two years the deposits grew to $2,800,000, about half of which represented reserves placed in the central institution by smaller banks because of confidnce in the new law.

It has been shown that the bank was recklessly administered. Oil companies were permitted to make large overdrafts, and over $100,000 in poor paper was shifted to the bank from other institutions in which the officers were interested. This sort of banking would not be tolerated for a moment in conservative financial institutions, but the magic spell of the deposit guarantee law led the officers into more and more hazardous practices. What mattered it if the bank had a load of bad paper? The guarantee law would protect the depositors. Why not honor unresonable overdrafts? There was a good percentage of profit in that sort of thing so long as the more conservative banks of the state stood to make good in the event of failure. There was little incentive to careful and business-like methods.

When the inevitable crasn came the state officers announced that it would require $250,000 to pay the bank's debts. A month later Bank Commissioner Young made a report which showed that $400,000 was still due depositors. The other banks in the guarantee arrangement were bled as long as they would stand it, but some of them finally rebelled and went into the federal courts to secure protection. The whole miserable business has happened just as had been predicted when the ridiculous law was first suggested. Those bankers who did not believe in wildcat methods are now being called upon to make good the losses of a wildcat concern. Naturally there is a strong revulsion of feeling among the bankers of Oklahoma as well as among the depositors of the defunct bank who were led to believe that they would be fully protected in case of failure. Unless there is a heavy assessment among the sound banks of the state to wipe out the indebtedness of the Columbia Bank and Trust Company, the depositors will not be reimbursed. If that assessment is levied, it will cause serious loss to the remaining banks. It is easy to see what would have happened to the Oklahoma banks if the recent failure had been one of several in a time of panic. Such a situation would have carried down the whole financial fabric of the state like a house of cards. Oklahoma is learning in the hard school of experience that the fads of hair-brained reformers and half-baked statesmen should be shunned.

Kansas City Star, Nov. 20, 1909

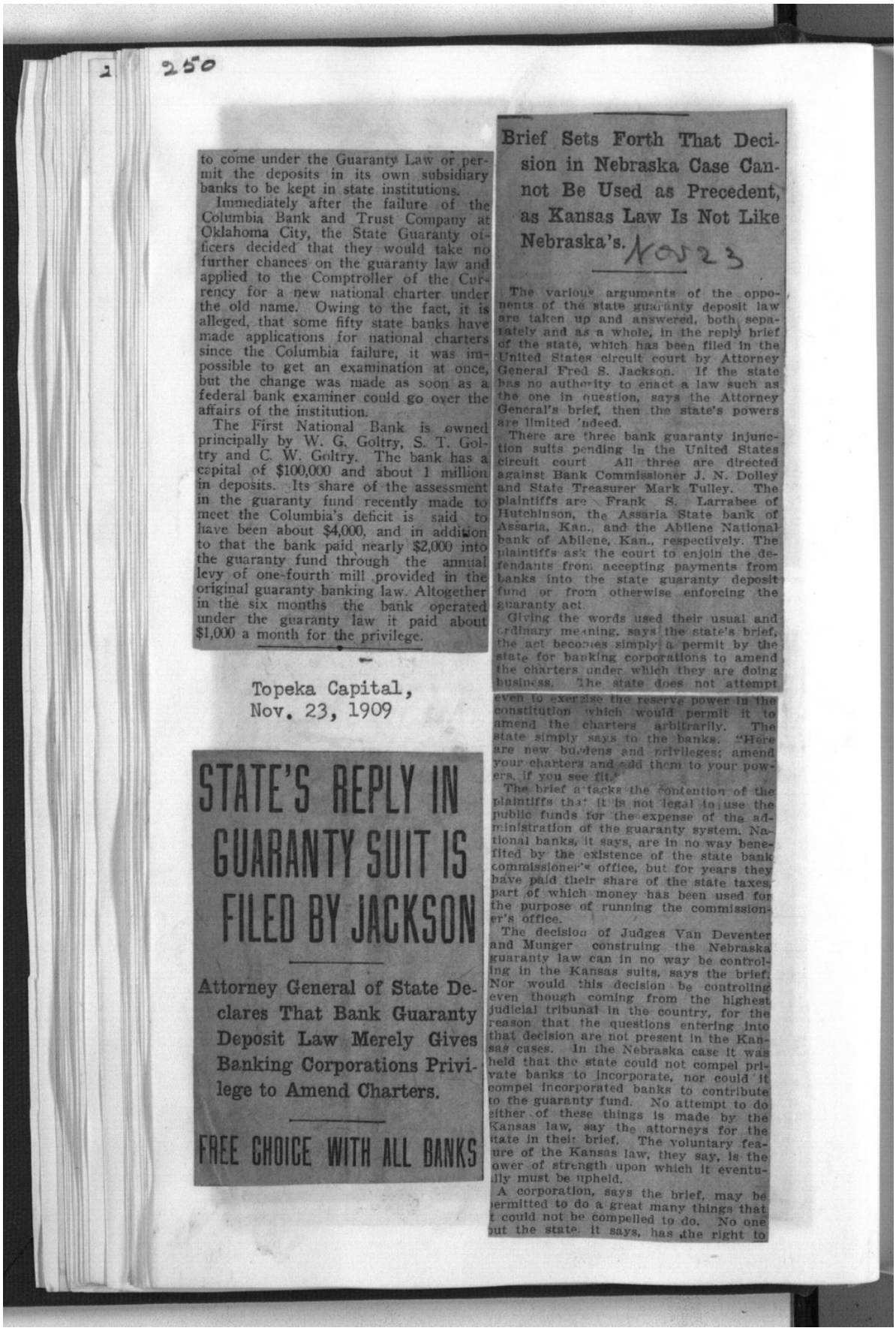
QUITS THE BANK GUARANTY.

An Enid, Ok., Institution Takes Out a National Charter.

1909

ENID, OK., Nov. 20.—The Enid State Guaranty Bank of this city has surrendered its state charter and Monday morning will open as the First National Bank of Enid. The latter name was the title of the bank before May 1 of this year, when its national charter was surrendered.

At the time the bank ceased to be a national institution its officers made no secret of their dislike of the Guaranty Law, but the same men who own the Enid bank also own several smaller banks in country towns and a ruling was made by the state bank commissioner that these small banks could not deposit in the national bank, even though owned by the same men. Several months passed and finally the First National was compelled



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to come under the Guaranty Law or permit the deposits in its own subsidiary banks to be kept in state institutions.

Immediately after the failure of the Columbia Bank and Trust Company at Oklahoma City, the State Guaranty officers decided that they would take no further chances on the guaranty law and applied to the Comptroller of the Currency for a new national charter under the old name. Owing to the fact, it is alleged, that some fifty state banks have made applications for national charters since the Columbia failure, it was impossible to get an examination at once, but the change was made as soon as a federal bank examiner could go over the affairs of the institution.

The First National Bank is owned principally by W. G. Goltry, S. T. Goltry and C. W. Goltry. The bank has a capital of $100,000 and about 1 million in deposits. Its share of the assessment in the guaranty fund recently made to meet the Columbia's deficit is said to have been about $4,000, and in addition to that the bank paid nearly $2,000 into the guaranty fund through the annual levy of one-fourth mill provided in the original guaranty banking law. Altogether in the six months the bank operated under the guaranty law it paid about $1,000 a month for the privilege.

Topeka Capital,
Nov. 23, 1909

STATE'S REPLY IN GUARANTY SUIT IS FILED BY JACKSON

Attorney General of State Declares That Bank Guaranty Deposit Law Merely Gives Banking Corporations Privilege to Amend Charters.

FREE CHOICE WITH ALL BANKS

Brief Sets Forth That Decision in Nebraska Case Cannot Be Used as Precedent, as Kansas Law Is Not Like Nebraska's. 1905 23

The various arguments of the opponents of the state guaranty deposit law are taken up and answered, both separately and as a whole, in the reply brief of the state, which has been filed in the United States circuit court by Attorney General Fred S. Jackson. If the state has no authority to enact a law such as the one in question, says the Attorney General's brief, then the state's powers are limited indeed.

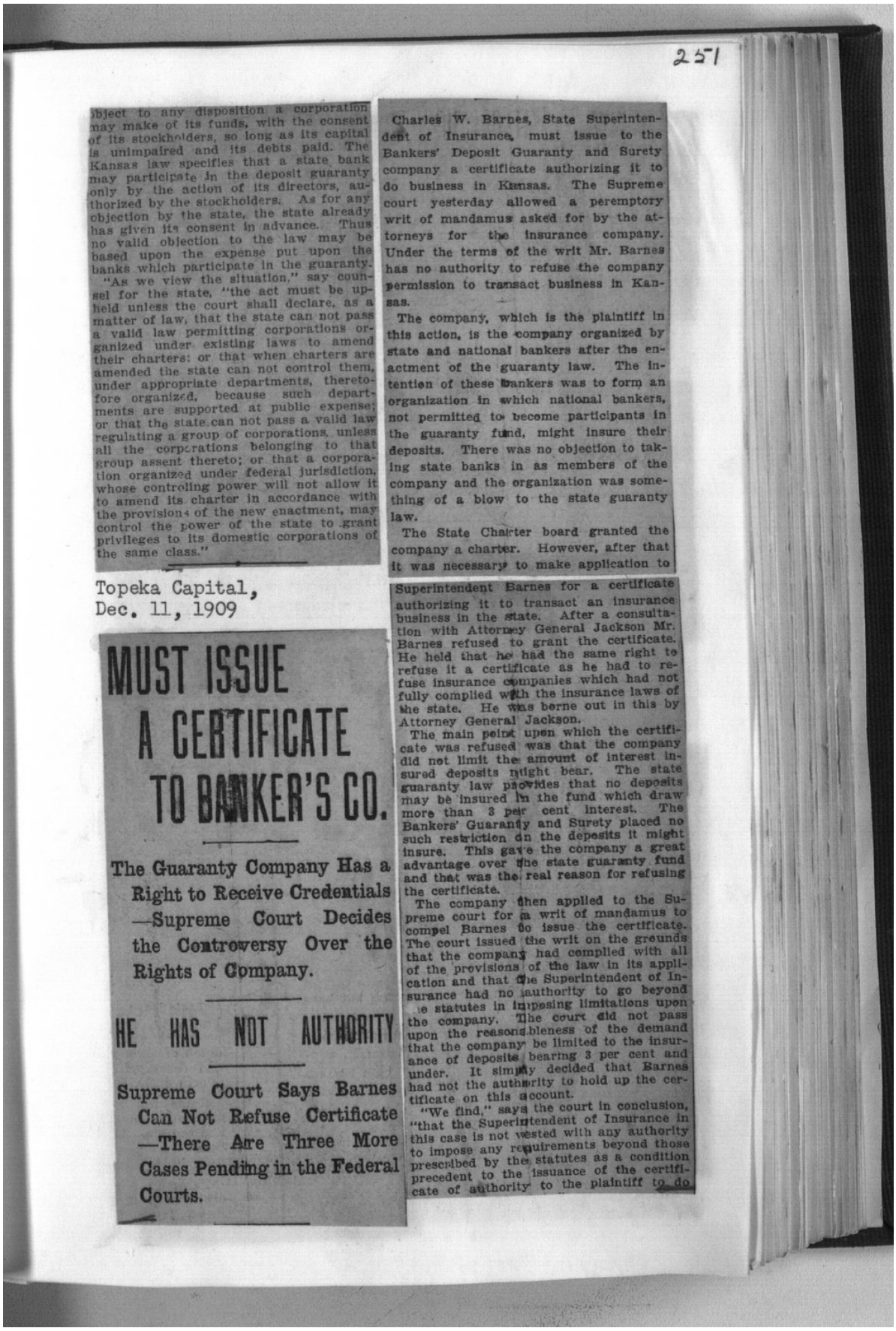
There are three bank guaranty injunction suits pending in the United States circuit court. All three are directed against Bank Commissioner J. N. Dolley and State Treasurer Mark Tulley. The plaintiffs are Frank S. Larrabee of Hutchinson, the Assaria State bank of Assaria, Kan., and the Abilene National bank of Abilene, Kan., respectively. The plaintiffs ask the court to enjoin the defendants from accepting payments from banks into the state guaranty deposit fund or from otherwise enforcing the guaranty act.

Giving the words used their usual and ordinary meaning, says the state's brief, the act becomes simply a permit by the state for banking corporations to amend the charters under which they are doing business. The state does not attempt even to exercise the reserve power in the constitution which would permit it to amend the charters arbitrarily. The state simply says to the banks: "Here are new burdens and privileges; amend your charters and add them to your powers, if you see fit."

The brief attacks the contention of the plaintiffs that it is not legal to use the public funds for the expense of the administration of the guaranty system. National banks, it says, are in no way benefited by the existence of the state bank commissioner's office, but for years they have paid their share of the state taxes, part of which money has been used for the purpose of running the commissioner's office.

The decision of Judges Van Deventer and Munger construing the Nebraska guaranty law can in no way be controlling in the Kansas suits, says the brief. Nor would this decision be controlling even though coming from the highest judicial tribunal in the country, for the reason that the questions entering into that decision are not present in the Kansas cases. In the Nebraska case it was held that the state could not compel private banks to incorporate, nor could it compel incorporated banks to contribute to the guaranty fund. No attempt to do either of these things is made by the Kansas law, say the attorneys for the state in their brief. The voluntary feature of the Kansas law, they say, is the power of strength upon which it eventually must be upheld.

A corporation, says the brief, may be permitted to do a great many things that it could not be compelled to do. No one but the state, it says, has the right to



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bject to any disposition a corporation may make of its funds, with the consent of its stockholders, so long as its capital is unimpaired and its debts paid. The Kansas law specifies that a state bank may participate in the deposit guaranty only by the action of its directors, authorized by the stockholders. As for any objection by the state, the state already has given its consent in advance. Thus no valid objection to the law may be based upon the expense put upon the banks which participate in the guaranty.

"As we view the situation," say counsel for the state, "the act must be upheld unless the court shall declare, as a matter of law, that the state can not pass a valid law permitting corporations organized under existing laws to amend their charters; or that when charters are amended the state can not control them, under appropriate departments, theretofore organized, because such departments are supported at public expense; or that the state can not pass a valid law regulating a group of corporations, unless all the corporations belonging to that group assent thereto; or that a corporation organized under federal jurisdiction, whose controling power will not allow it to amend its charter in accordance with the provisions of the new enactment, may control the power of the state to grant privileges to its domestic corporations of the same class."

Topeka Capital,
Dec. 11, 1909

MUST ISSUE A CERTIFICATE TO BANKER'S CO.

The Guaranty Company Has a Right to Receive Credentials —Supreme Court Decides the Controversy Over the Rights of Company.

HE HAS NOT AUTHORITY

Supreme Court Says Barnes Can Not Refuse Certificate —There Are Three More Cases Pending in the Federal Courts.

Charles W. Barnes, State Superintendent of Insurance, must issue to the Bankers' Deposit Guaranty and Surety company a certificate authorizing it to do business in Kansas. The Supreme court yesterday allowed a peremptory writ of mandamus asked for by the attorneys for the insurance company. Under the terms of the writ Mr. Barnes has no authority to refuse the company permission to transact business in Kansas.

The company, which is the plaintiff in this action, is the company organized by state and national bankers after the enactment of the guaranty law. The intention of these bankers was to form an organization in which national bankers, not permitted to become participants in the guaranty fund, might insure their deposits. There was no objection to taking state banks in as members of the company and the organization was something of a blow to the state guaranty law.

The State Charter board granted the company a charter. However, after that it was necessary to make application to Superintendent Barnes for a certificate authorizing it to transact an insurance business in the state. After a consultation with Attorney General Jackson Mr. Barnes refused to grant the certificate. He held that he had the same right to refuse it a certificate as he had to refuse insurance companies which had not fully complied with the insurance laws of the state. He was borne out in this by Attorney General Jackson.

The main point upon which the certificate was refused was that the company did not limit the amount of interest insured deposits might bear. The state guaranty law provides that no deposits may be insured in the fund which draw more than 3 per cent interest. The Bankers' Guaranty and Surety placed no such restriction on the deposits it might insure. This gave the company a great advantage over the state guaranty fund and that was the real reason for refusing the certificate.

The company then applied to the Supreme court for a writ of mandamus to compel Barnes to issue the certificate. The court issued the writ on the grounds that the company had complied with all of the provisions of the law in its application and that the Superintendent of Insurance had no authority to go beyond the statutes in imposing limitations upon the company. The court did not pass upon the reasonableness of the demand that the company be limited to the insurance of deposits bearing 3 per cent and under. It simply decided that Barnes had not the authority to hold up the certificate on this account.

"We find," says the court in conclusion, "that the Superintendent of Insurance in this case is not vested with any authority to impose any requirements beyond those prescribed by the statutes as a condition precedent to the issuance of the certificate of authority to the plaintiff to do

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business in this state."

This decision does not end the litigation in connection with the Bankers' Guaranty and Surety company. There are three more cases pending in the federal circuit courts. Decisions are expected in these cases soon. They were brought by the people interested in the Bankers' Guaranty and Surety company to enjoin State Bank Commissioner J. N. Dolley and State Treasurer Mark Tulley from the enforcement of the state guaranty law. No matter which way these latter cases are decided they will be appealed to the Supreme court of the United States for a final decision.

Topeka Capital,
Dec. 16, 1909

BANKERS GUARANTY COMPANY READY TO BEGIN BUSINESS

President E. E. Ames Says Deposit of $100,000 Will Be Made With State Superintendent of Insurance Charles W. Barnes Today.

BEGIN BUSINESS AT ONCE

Since Decision of Supreme Court Was Rendered Favorable to Company Plans Have Been Under Way for Starting Active Operations.

Following the decision of the Supreme court to the effect that it had complied with the law and that it must be granted a certificate to do business in Kansas the Bankers' Deposit Guaranty and Surety company is making preparations to begin business at once. President E. E. Ames of the company stated yesterday that he would deposit with State Superintendent of Insurance Barnes today $100,000 as an evidence of good faith and would then begin business.

Since the court rendered a favorable decision last Saturday holding that the company had authority to transact business in Kansas Mr. Ames has been busy attending to the work preliminary to opening up for business. He has had his force of examiners together and has been getting out blanks.

"We have fought our battle through or at least I hope it is through," said President Ames yesterday, "and we will begin business as soon as I can make the deposit with the Superintendent of Insurance. I will make this deposit tomorrow and we will then be ready to write policies; that is as soon as our examiners go through the books of the banks to be insured. Blanks are being printed and we will be ready for business by the last of the week."

Topeka Journal,
Dec. 24, 1909

KNOCKS IT OUT.

Judge Pollock Delivers Blow to Guaranty Law.

Holds That It Is Inoperative Today.

GRANTS INJUNCTION.

Holds That Provisions of Law Can Not Be Enforced.

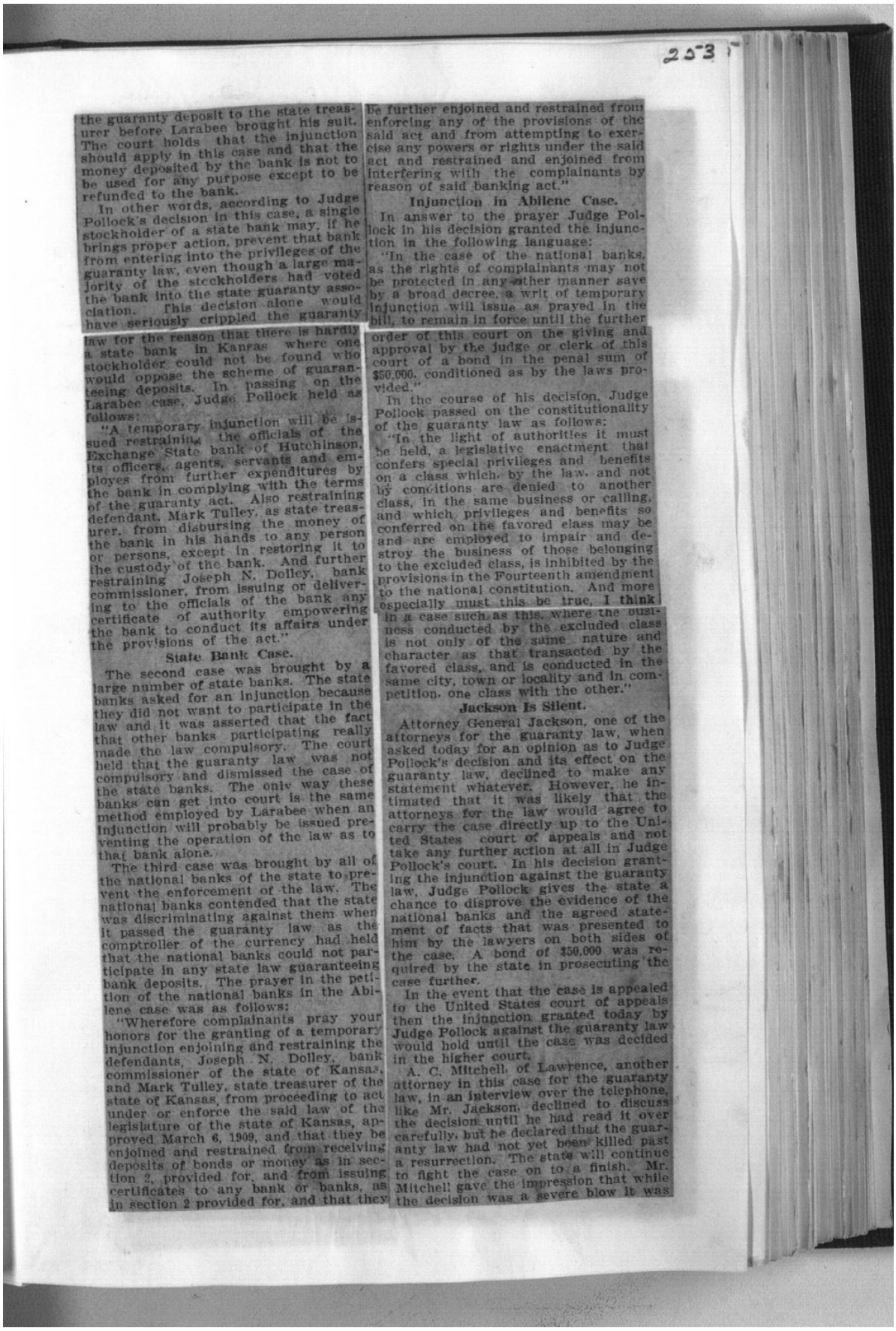
Two Points Are Covered in the Decision.

Judge John C. Pollock of the United States circuit court in a decision handed down today granted a temporary injunction preventing J. N. Dolley, state bank commissioner, and Mark Tulley, state treasurer, from enforcing the provisions of the Kansas bank deposit guaranty law.

The court provides, however, that the state may deposit a bond of fifty thousand dollars during the January term of the court and the question of a final hearing will be determined. As the case stands now Judge Pollock holds that the guaranty law is invalid. If the state can prove that the national banks that brought the suit are wrong in their contentions and that the petition filed with the court is not true the injunction may be dissolved.

Three Cases Submitted.

There were three cases submitted to the court. One was brought by Frank S. Larabee, a stockholder of the Exchange State bank of Hutchinson. He asked for an injunction preventing the bank commissioner from enforcing the law as to that bank. This injunction was granted. The bank directors and stockholders had voted to participate in the guaranty law and had paid in



the guaranty deposit to the state treasurer before Larabee brought his suit. The court holds that the injunction should apply in this case and that the money deposited by the bank is not to be used for any purpose except to be refunded to the bank.

In other words, according to Judge Pollock's decision in this case, a single stockholder of a state bank may, if he brings proper action, prevent that bank from entering into the privileges of the guaranty law, even though a large majority of the stockholders had voted the bank into the state guaranty association. This decision alone would have seriously crippled the guaranty law for the reason that there is hardly a state bank in Kansas where one stockholder could not be found who would oppose the scheme of guaranteeing deposits. In passing on the Larabee case, Judge Pollock held as follows:

"A temporary injunction will be issued restraining the officials of the Exchange State bank of Hutchinson, its officers, agents, servants and employes from further expenditures by the bank in complying with the terms of the guaranty act. Also restraining defendant, Mark Tulley, as state treasurer, from disbursing the money of the bank in his hands to any person or persons, except in restoring it to the custody of the bank. And further restraining Joseph N. Dolley, bank commissioner, from issuing or delivering to the officials of the bank any certificate of authority empowering the bank to conduct its affairs under the provisions of the act."

State Bank Case.

The second case was brought by a large number of state banks. The state banks asked for an injunction because they did not want to participate in the law and it was asserted that the fact that other banks participating really made the law compulsory. The court held that the guaranty law was not compulsory and dismissed the case of the state banks. The only way these banks can get into court is the same method employed by Larabee when an injunction will probably be issued preventing the operation of the law as to that bank alone.

The third case was brought by all of the national banks of the state to prevent the enforcement of the law. The national banks contended that the state was discriminating against them when it passed the guaranty law as the comptroller of the currency had held that the national banks could not participate in any state law guaranteeing bank deposits. The prayer in the petition of the national banks in the Abilene case was as follows:

"Wherefore complainants pray your honors for the granting of a temporary injunction enjoining and restraining the defendants, Joseph N. Dolley, bank commissioner of the state of Kansas, and Mark Tulley, state treasurer of the state of Kansas, from proceeding to act under or enforce the said law of the legislature of the state of Kansas, approved March 6, 1909, and that they be enjoined and restrained from receiving deposits of bonds or money as in section 2, provided for, and from issuing certificates to any bank or banks, as in section 2 provided for, and that they be further enjoined and restrained from enforcing any of the provisions of the said act and from attempting to exercise any powers or rights under the said act and restrained and enjoined from interfering with the complainants by reason of said banking act."

Injunction in Abilene Case.

In answer to the prayer Judge Pollock in his decision granted the injunction in the following language:

"In the case of the national banks, as the rights of complainants may not be protected in any other manner save by a broad decree, a writ of temporary injunction will issue as prayed in the bill, to remain in force until the further order of this court on the giving and approval by the judge or clerk of this court of a bond in the penal sum of $50,000, conditioned as by the laws provided."

In the course of his decision, Judge Pollock passed on the constitutionality of the guaranty law as follows:

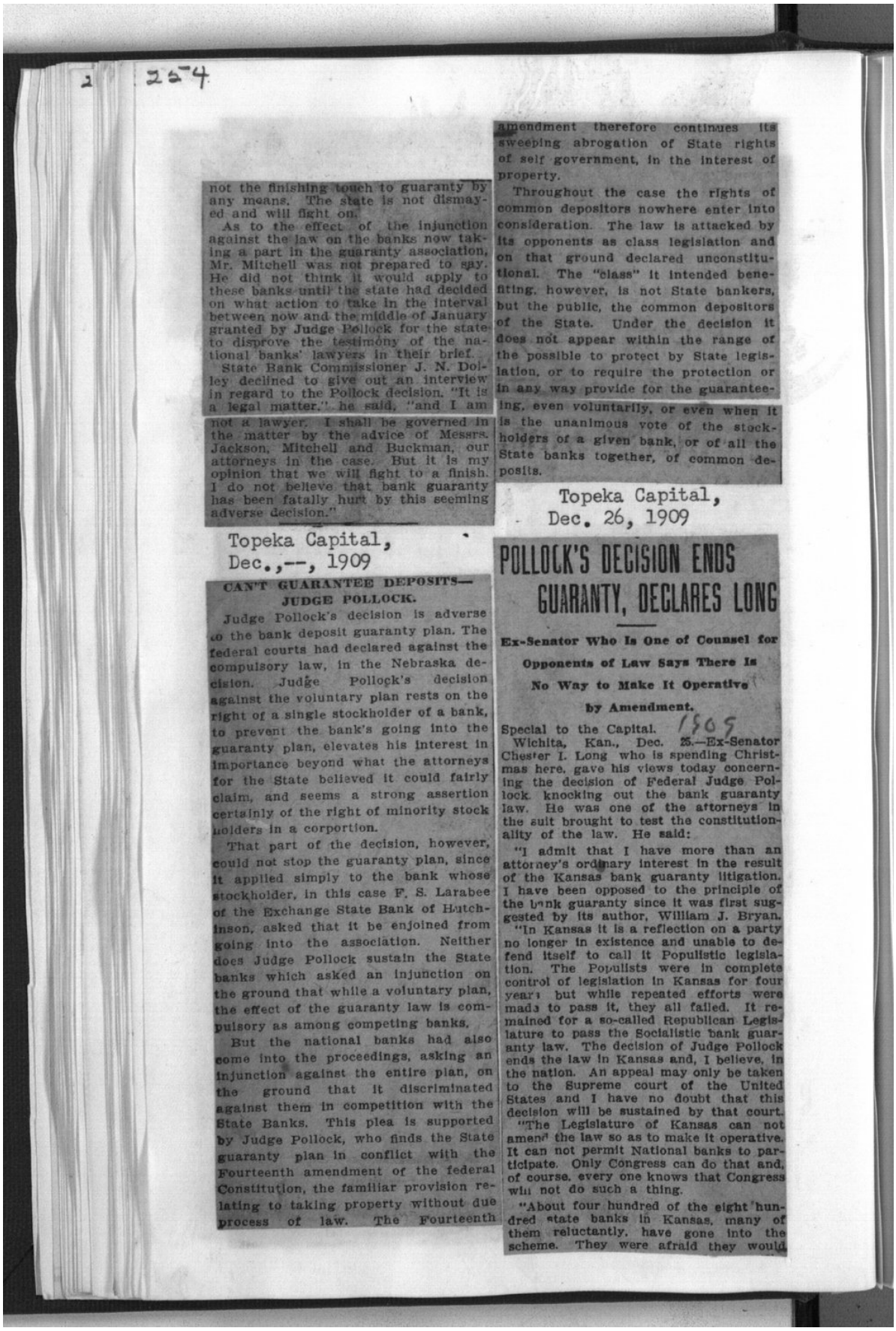
"In the light of authorities it must be held, a legislative enactment that confers special privileges and benefits on a class which, by the law, and not by conditions are denied to another class, in the same business or calling, and which privileges and benefits so conferred on the favored class may be and are employed to impair and destroy the business of those belonging to the excluded class, is inhibited by the provisions in the Fourteenth amendment to the national constitution. And more especially must this be true, I think in a case such as this, where the business conducted by the excluded class is not only of the same nature and character as that transacted by the favored class, and is conducted in the same city, town or locality and in competition, one class with the other."

Jackson Is Silent.

Attorney General Jackson, one of the attorneys for the guaranty law, when asked today for an opinion as to Judge Pollock's decision and its effect on the guaranty law, declined to make any statement whatever. However, he intimated that it was likely that the attorneys for the law would agree to carry the case directly up to the United States court of appeals and not take any further action at all in Judge Pollock's court. In his decision granting the injunction against the guaranty law, Judge Pollock gives the state a chance to disprove the evidence of the national banks and the agreed statement of facts that was presented to him by the lawyers on both sides of the case. A bond of $50,000 was required by the state in prosecuting the case further.

In the event that the case is appealed to the United States court of appeals then the injunction granted today by Judge Pollock against the guaranty law would hold until the case was decided in the higher court.

A. C. Mitchell, of Lawrence, another attorney in this case for the guaranty law, in an interview over the telephone, like Mr. Jackson, declined to discuss the decision until he had read it over carefully, but he declared that the guaranty law had not yet been killed past a resurrection. The state will continue to fight the case on to a finish. Mr. Mitchell gave the impression that while the decision was a severe blow it was



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not the finishing touch to guaranty by any means. The state is not dismayed and will fight on.

As to the effect of the injunction against the law on the banks now taking a part in the guaranty association, Mr. Mitchell was not prepared to say. He did not think it would apply to these banks until the state had decided on what action to take in the interval between now and the middle of January granted by Judge Pollock for the state to disprove the testimony of the national banks' lawyers in their brief.

State Bank Commissioner J. N. Dolley declined to give out an interview in regard to the Pollock decision. "It is a legal matter," he said, "and I am not a lawyer. I shall be governed in the matter by the advice of Messrs. Jackson, Mitchell and Buckman, our attorneys in the case. But it is my opinion that we will fight to a finish. I do not believe that bank guaranty has been fatally hurt by this seeming adverse decision."

Topeka Capital,
Dec.,--, 1909

CAN'T GUARANTEE DEPOSITS—JUDGE POLLOCK.

Judge Pollock's decision is adverse to the bank deposit guaranty plan. The federal courts had declared against the compulsory law, in the Nebraska decision. Judge Pollock's decision against the voluntary plan rests on the right of a single stockholder of a bank, to prevent the bank's going into the guaranty plan, elevates his interest in importance beyond what the attorneys for the State believed it could fairly claim, and seems a strong assertion certainly of the right of minority stock holders in a corportion.

That part of the decision, however, could not stop the guaranty plan, since it applied simply to the bank whose stockholder, in this case F. S. Larabee of the Exchange State Bank of Hutchinson, asked that it be enjoined from going into the association. Neither does Judge Pollock sustain the State banks which asked an injunction on the ground that while a voluntary plan, the effect of the guaranty law is compulsory as among competing banks.

But the national banks had also come into the proceedings, asking an injunction against the entire plan, on the ground that it discriminated against them in competition with the State Banks. This plea is supported by Judge Pollock, who finds the State guaranty plan in conflict with the Fourteenth amendment of the federal Constitution, the familiar provision relating to taking property without due process of law. The Fourteenth amendment therefore continues its sweeping abrogation of State rights of self government, in the interest of property.

Throughout the case the rights of common depositors nowhere enter into consideration. The law is attacked by its opponents as class legislation and on that ground declared unconstitutional. The "class" it intended benefiting, however, is not State bankers, but the public, the common depositors of the State. Under the decision it does not appear within the range of the possible to protect by State legislation, or to require the protection or in any way provide for the guaranteeing, even voluntarily, or even when it is the unanimous vote of the stockholders of a given bank, or of all the State banks together, of common deposits.

Topeka Capital,
Dec. 26, 1909

POLLOCK'S DECISION ENDS GUARANTY, DECLARES LONG

Ex-Senator Who Is One of Counsel for Opponents of Law Says There Is No Way to Make It Operative by Amendment.

Special to the Capital. 1909

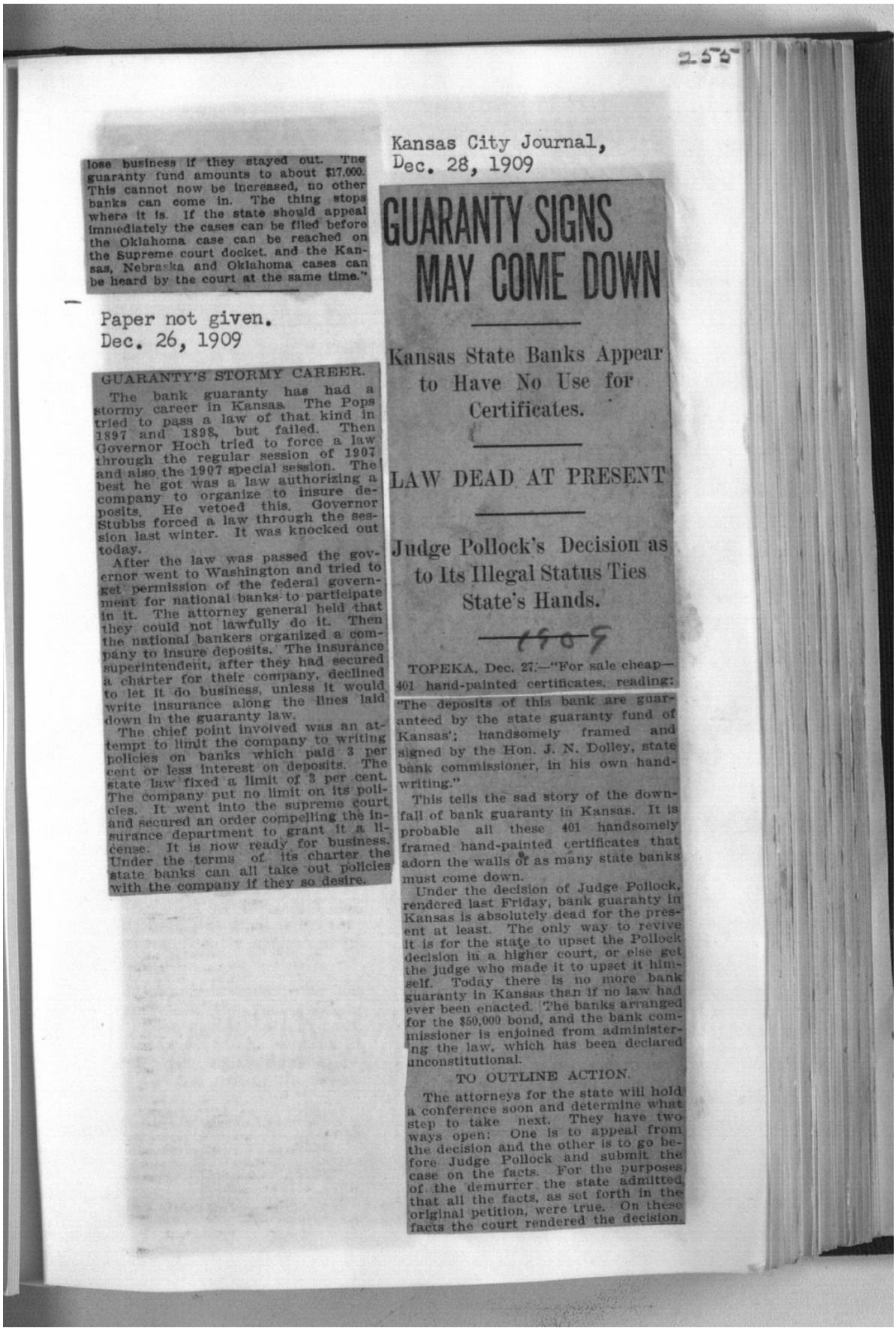
Wichita, Kan., Dec. 25.—Ex-Senator Chester I. Long who is spending Christmas here, gave his views today concerning the decision of Federal Judge Pollock knocking out the bank guaranty law. He was one of the attorneys in the suit brought to test the constitutionality of the law. He said:

"I admit that I have more than an attorney's ordinary interest in the result of the Kansas bank guaranty litigation. I have been opposed to the principle of the bank guaranty since it was first suggested by its author, William J. Bryan.

"In Kansas it is a reflection on a party no longer in existence and unable to defend itself to call it Populistic legislation. The Populists were in complete control of legislation in Kansas for four years but while repeated efforts were made to pass it, they all failed. It remained for a so-called Republican Legislature to pass the Socialistic bank guaranty law. The decision of Judge Pollock ends the law in Kansas and, I believe, in the nation. An appeal may only be taken to the Supreme court of the United States and I have no doubt that this decision will be sustained by that court.

"The Legislature of Kansas can not amend the law so as to make it operative. It can not permit National banks to participate. Only Congress can do that and, of course, every one knows that Congress will not do such a thing.

"About four hundred of the eight hundred state banks in Kansas, many of them reluctantly, have gone into the scheme. They were afraid they would



lose business if they stayed out. The guaranty fund amounts to about $17,000. This cannot now be increased, no other banks can come in. The thing stops where it is. If the state should appeal immediately the cases can be filed before the Oklahoma case can be reached on the Supreme court docket, and the Kansas, Nebraska and Oklahoma cases can be heard by the court at the same time."

Paper not given.
Dec. 26, 1909

GUARANTY'S STORMY CAREER.

The bank guaranty has had a stormy career in Kansas. The Pops tried to pass a law of that kind in 1897 and 1898, but failed. Then Governor Hoch tried to force a law through the regular session of 1907 and also the 1907 special session. The best he got was a law authorizing a company to organize to insure deposits. He vetoed this. Governor Stubbs forced a law through the session last winter. It was knocked out today.

After the law was passed the governor went to Washington and tried to get permission of the federal government for national banks to participate in it. The attorney general held that they could not lawfully do it. Then the national bankers organized a company to insure deposits. The insurance superintendent, after they had secured a charter for their company, declined to let it do business, unless it would write insurance along the lines laid down in the guaranty law.

The chief point involved was an attempt to limit the company to writing policies on banks which paid 3 per cent or less interest on deposits. The state law fixed a limit of 3 per cent. The company put no limit on its policies. It went into the supreme court and secured an order compelling the insurance department to grant it a license. It is now ready for business. Under the terms of its charter the state banks can all take out policies with the company if they so desire.

Kansas City Journal,
Dec. 28, 1909

GUARANTY SIGNS MAY COME DOWN

Kansas State Banks Appear to Have No Use for Certificates.

LAW DEAD AT PRESENT

Judge Pollock's Decision as to Its Illegal Status Ties State's Hands.

1909

TOPEKA, Dec. 27.—"For sale cheap—401 hand-painted certificates, reading: "The deposits of this bank are guaranteed by the state guaranty fund of Kansas'; handsomely framed and signed by the Hon. J. N. Dolley, state bank commissioner, in his own handwriting."

This tells the sad story of the downfall of bank guaranty in Kansas. It is probable all these 401 handsomely framed hand-painted certificates that adorn the walls of as many state banks must come down.

Under the decision of Judge Pollock, rendered last Friday, bank guaranty in Kansas is absolutely dead for the present at least. The only way to revive it is for the state to upset the Pollock decision in a higher court, or else get the judge who made it to upset it himself. Today there is no more bank guaranty in Kansas than if no law had ever been enacted. The banks arranged for the $50,000 bond, and the bank commissioner is enjoined from administering the law, which has been declared unconstitutional.

TO OUTLINE ACTION.

The attorneys for the state will hold a conference soon and determine what step to take next. They have two ways open: One is to appeal from the decision and the other is to go before Judge Pollock and submit the case on the facts. For the purposes of the demurrer the state admitted that all the facts, as set forth in the original petition, were true. On these facts the court rendered the decision.

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Now the state can combat the facts if it wants to and if i shows the court that they were not really true, although it admitted that they were true once, Judge Pollock might again consider the case.

The indications are that the state will take the other shoot and appeal direct to the United States court of appeals from the Pollock decision. It has until the first week in January to determine which way it will proceed.

WOULD NOT STIPULATE.

When the issues were being made up in the case some weeks ago there was talk of a stipulation which provided that this decision would be final, so far as the federal circuit court is concerned. In other words, the whole case was to rest on the decision on the demurrers.

But the attorneys for the state backed out at the last moment and wouldn't sign the stipulation. In his decision, after declaring the law unconstitutional on the facts as admitted by the state, and granting the injunction, Judge Pollock gave the state until the first week in January to file answer and attack the facts as set forth in the decision.

Leading lawyers say it is not a question of fact to determine now, but simply a question of law and that question of law is whether the state can a law discriminating against banks, which are citizens of it, but which are created by national charters to perform a national purpose and which cannot come into a state guaranty fund, if they wanted to, on account of national laws prohibiting it.

Kansas City Journal,
Dec.,--, 1909

HE LAUDS POLLOCK DECISION

G. S. Jobes Says Ruling Is Consistent With Good Banking.

"I regard Judge Pollock's decision on the Kansas guaranty deposit law as being consisten wtih every sound banking principle," said G. S. Jobes, vice president of the Pioneer Trust Co., yesterday afternoon. "It is not only consistent with banking principles, but it is also a substantiation of the principles themselves."

The decision of Judge Pollock on the guaranty law has caused a good deal of commenet on the part of all the bankers in the city; and for that matter in all parts of the country. It has been the general feeling among national bankers especially that there could be no other outcome to such banking principles as those set forth in the law.

In every case, with the exception of Mr. Jobes, the bankers do not care to express their opinions in the matter. Some have declined because they do not consider themselves lawyers and can not see the legal aspect of the case. However, they all unite in pronouncing the decision of Judge Pollock as a return to sound banking principles once more.

"I regard the decision of Judge Pollock in this case as a prophecy of what is going to happen to the Oklahoma law in a very short time," remarked a prominent banker, who refused to permit his name to be mentioned in the interview. "It can be the only way out for the simple reason that if a voluntary guaranty law won't hold water when viewed in the light of constitutional law, most certainly a compulsory guaranty law can't. "

The prevailing sentiment is in favor of the decision. Yet all seem to have a kindly feeling for those who have pinned their banking faith in the Kansas law and who are seeing the star of their hopes eclipsed so effectively.

"The end is not yet," so some of the bankers think, " and there will be more to follow." There is little doubt that the case will be taken to the supreme court of the United States for final settlement.

Topeka Journal,
ec. 28, 1909

GUARANTY GOSSIP

Square Deal Leader Says Pollock Decision Blow at State Rights.

Presents Logic and Analysis of Case to Back Assertion.

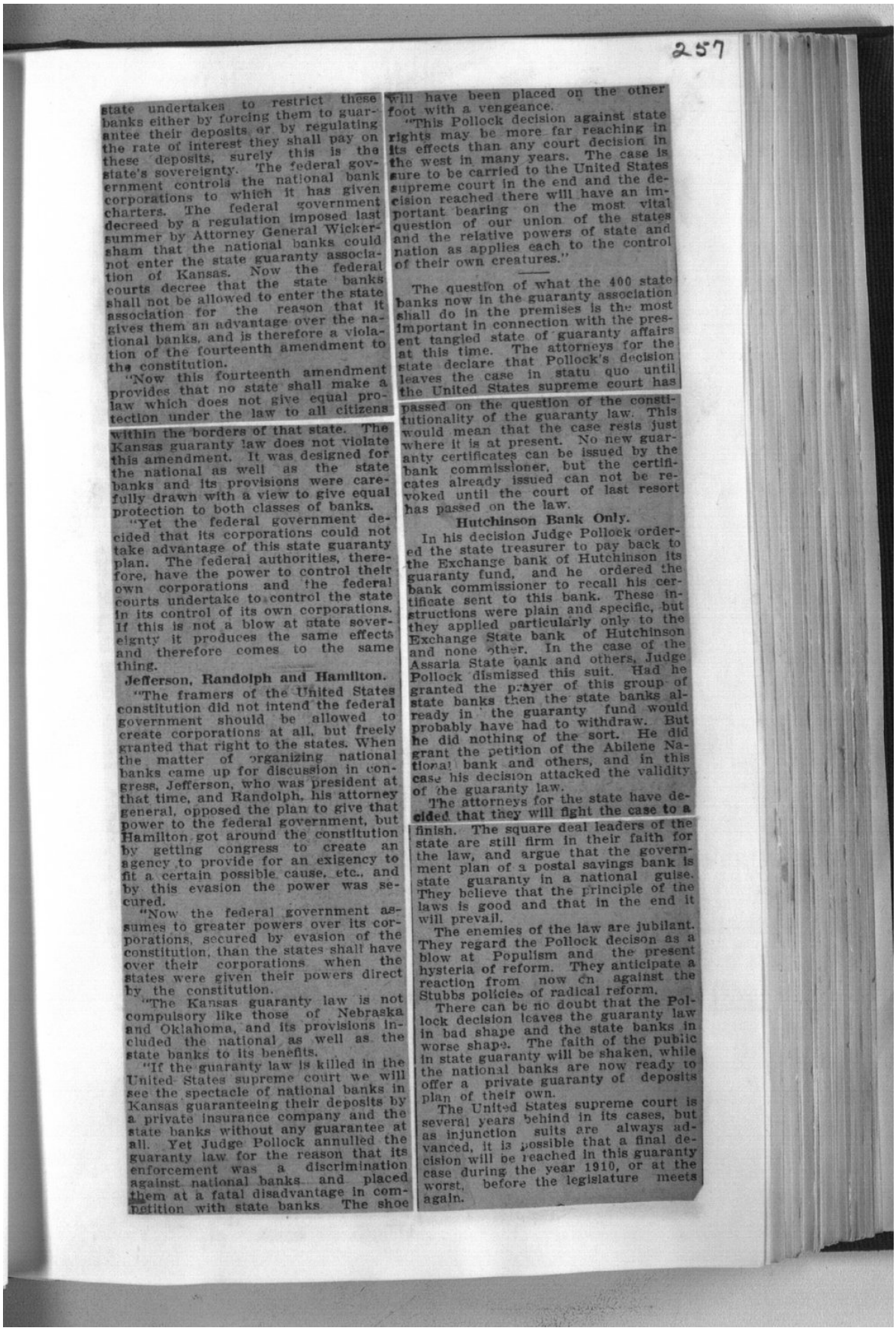
STATUS OF THE CASE.

Will Rest as It Is Now Until Appeal Passed Upon.

State Banks Hold Guaranty Certificate in Meantime.

A well known Kansas lawyer, who is a square deal leader and therefore friendly to the bank guaranty law, while in Topeka today expressed himself in emphatic and interesting fashion regarding Judge Pollock's recent decision. According to this attorney, the judgment of the federal court in this guaranty case is an infringement on state rights. He argues like this:

"If the federal government continues to grant powers to corporations and recognizes these corporations and controls them, why should this government, through its courts, seek to prevent a state from exercising the same rights and powers in regard to the corporations that the state creates? Both the federal government and the state government create corporations and surely both should have the right to control their own creatures. The state of Kansas grants charters to state banks and if the



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state undertaken to restrict these banks either by forcing them to guarantee their deposits or by regulating the rate of interest they shall pay on these deposits, surely this is the state's sovereignty. The federal government controls the national bank corporations to which it has given charters. The federal government decreed by a regulation imposed last summer by Attorney General Wickersham that the national banks could not enter the state guaranty association of Kansas. Now the federal courts decree that the state banks shall not be allowed to enter the state association for the reason that it gives them an advantage over the national banks, and is therefore a violation of the fourteenth amendment to the constitution.

"Now this fourteenth amendment provides that no state shall make a law which does not give equal protection under the law to all citizens within the borders of that state. The Kansas guaranty law does not violate this amendment. It was designed for the national as well as the state banks and its provisions were carefully drawn with a view to give equal protection to both classes of banks.

"Yet the federal government decided that its corporations could not take advantage of this state guaranty plan. The federal authorities, therefore, have the power to control their own corporations and the federal courts undertake to control the state in its control of its own corporations. If this is not a blow at state sovereignty it produces the same effects and therefore comes to the same thing.

Jefferson, Randolph and Hamilton.

"The framers of the United States constitution did not intend the federal government should be allowed to create corporations at all, but freely granted that right to the states. When the matter of organizing national banks came up for discussion in congress, Jefferson, who was president at that time, and Randolph, his attorney general, opposed the plan to give that power to the federal government, but Hamilton got around the constitution by getting congress to create an agency to provide for an exigency to fit a certain possible cause, etc., and by this evasion the power was secured.

"Now the federal government assumes to greater powers over its corporations, secured by evasion of the constitution, than the states shall have over their corporations when the states were given their powers direct by the constitution.

"The Kansas guaranty law is not compulsory like those of Nebraska and Oklahoma, and its provisions included the national as well as the state banks to its benefits.

"If the guaranty law is killed in the United States supreme court we will see the spectacle of national banks in Kansas guaranteeing their deposits by a private insurance company and the state banks without any guarantee at all. Yet Judge Pollock annulled the guaranty law for the reason that its enforcement was a discrimination against national banks and placed them at a fatal disadvantage in competition with state banks. The shoe will have been placed on the other foot with a vengeance.

"This Pollock decision against state rights may be more far reaching in its effects than any court decision in the west in many years. The case is sure to be carried to the United States supreme court in the end and the decision reached there will have an important bearing on the most vital question of our union of the states and the relative powers of state and nation as applies each to the control of their own creatures."

The question of what the 400 state banks now in the guaranty association shall do in the premises is the most important in connection with the present tangled state of guaranty affairs at this time. The attorneys for the state declare that Pollock's decision leaves the case in statu quo until the United States supreme court has passed on the question of the constitutionality of the guaranty law. This would mean that the case rests just where it is at present. No new guaranty certificates can be issued by the bank commissioner, but the certificates already issued can not be revoked until the court of last resort has passed on the law.

Hutchinson Bank Only.

In his decision Judge Pollock ordered the state treasurer to pay back to the Exchange bank of Hutchinson its guaranty fund, and he ordered the bank commissioner to recall his certificate sent to this bank. These instructions were plain and specific, but they applied particularly only to the Exchange State bank of Hutchinson and none other. In the case of the Assaria State bank and others, Judge Pollock dismissed this suit. Had he granted the prayer of this group of state banks then the state banks already in the guaranty fund would probably have had to withdraw. But he did nothing of the sort. He did grant the petition of the Abilene National bank and others, and in this case his decision attacked the validity of the guaranty law.

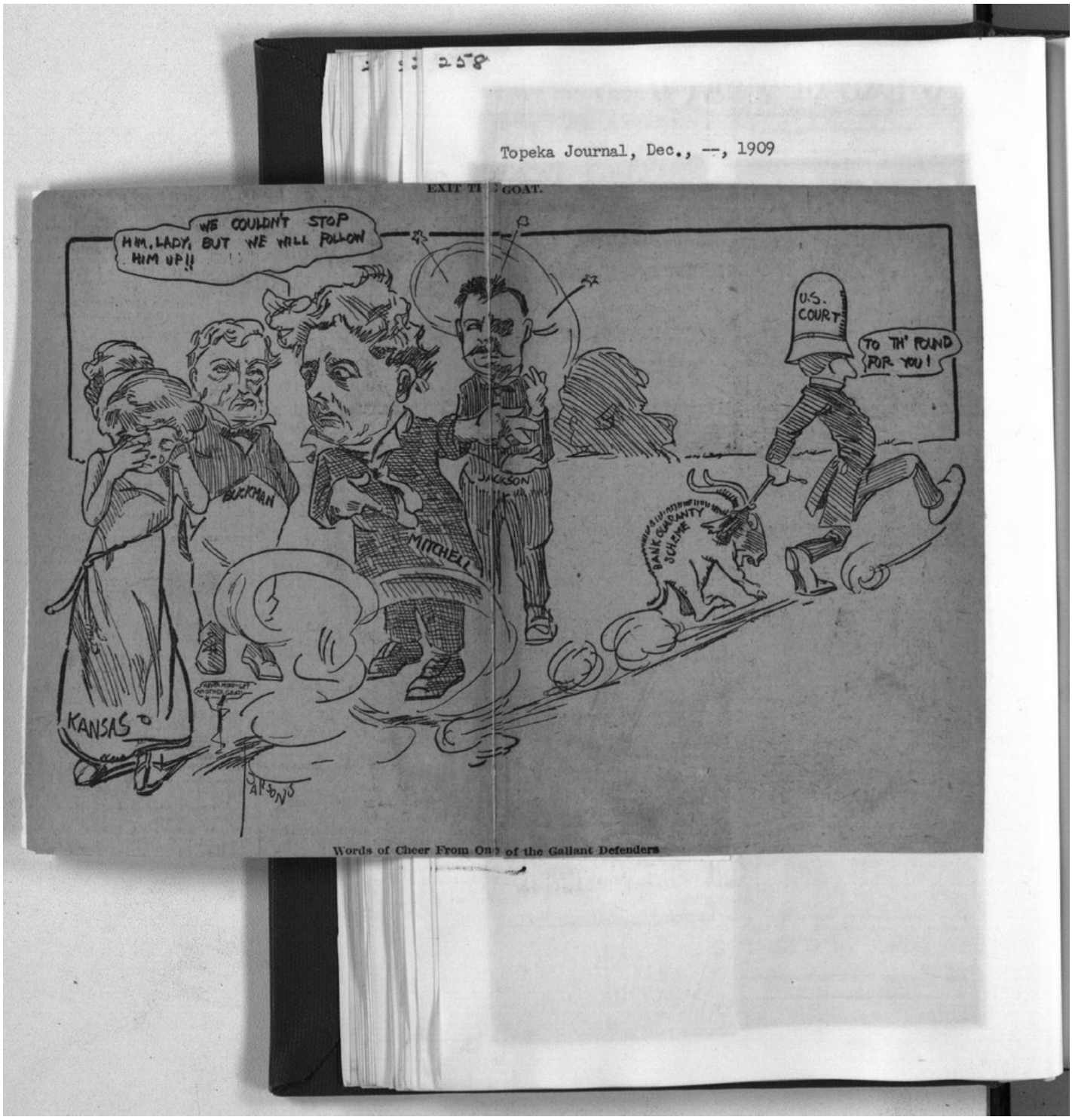
The attorneys for the state have decided that they will fight the case to a finish. The square deal leaders of the state are still firm in their faith for the law, and argue that the government plan of a postal savings bank is state guaranty in a national guise. They believe that the principle of the laws is good and that in the end it will prevail.

The enemies of the law are jubilant. They regard the Pollock decison as a blow at Populism and the present hysteria of reform. They anticipate a reaction from now on against the Stubbs policies of radical reform.

There can be no doubt that the Pollock decision leaves the guaranty law in bad shape and the state banks in worse shape. The faith of the public in state guaranty will be shaken, while the national banks are now ready to offer a private guaranty of deposits plan of their own.

The United States supreme court is several years behind in its cases, but as injunction suits are always advanced, it is possible that a final decision will be reached in this guaranty case during the year 1910, or at the worst, before the legislature meets again.

Banks and banking newspaper articles



Banks and banking newspaper articles

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Topeka Capital,
Dec. 30, 1909

WANTS THREE STATES TO FIGHT FOR THE GUARANTY

Governor Haskell Would Have Oklahoma, Kansas and Nebraska Join.

Governor C. N. Haskell of Oklahoma, wants Kansas and Nebraska to join Oklahoma in an action in the federal court to save the guaranty law of that state. He sent a telegram to this effect to Governor Stubbs yesterday. Governor Stubbs will not reply to it until after the guaranty conference Friday.

The federal courts have knocked out the guaranty laws of Kansas, Nebraska and Oklahoma. The Kansas case will be appealed to the Supreme court of the United States undoubtedly, but because of the great difference between the Kansas and Oklahoma laws it is doubtful if a decision in a case from one state would have any bearing upon the law in the other state. Kansas bankers are not greatly impressed with the Oklahoma guaranty law, and it is doubtful if any assistance will come from this state.

However, no action will be taken until Friday. At that time there will be a meeting of the attorneys for the state in the guaranty litigation, and members of the Kansas State Bankers' association. At that time the question of joining forces with Oklahoma will be taken up.

Topeka Capital,
Dec. 31, 1909

WANTS THE GUARANTY QUESTION SETTLED

Dec 31
6409

Secretary of State Board Anxious for Final Decision.

Secretary of State C. E. Denton, one of the leading bankers of the state, is anxious to have the question as to the constitutionality of the state guaranty law finally determined at once. Judge John C. Pollock of the federal circuit court holds that the state law is unconstitutional. Without commenting one way or the other on the merits of Judge Pollock's decision, Mr. Denton made the following statement yesterday:

"It is urged by some that the question of guarantee of bank deposits is one in which the people of Kansas are greatly interested, by others it is claimed that this question is not receiving much attention from the people. My individual views upon this phase of the question would not be of material benefit, because at best they could only be considered in connection with one or the other of the opposing factions, but of one thing I feel very confident; and that is, that this question should be finally settled at the earliest possible moment. Judge Pollock's decision in this case is, as I understand it, that according to the evidence presented to him, the law is unconstitutional. He is either right or wrong, and it seems to me that unnecessary delay by either side in finally determining this question would be inexcusable, and be met with condemnation by the people generally, regardless of political beliefs or business pursuits. I am satisfied that the best interests of the state and the people in it will be best subserved by quick action and a speedy settlement of the matter."

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Kansas City Journal, Jan. 1, 1910

WILL SEEK TRIAL OF GUARANTY CASE

Kansas Attorney General in Favor of Trying to Disprove Allegations.

TAFT'S STAND DISLIKED

State Bankers Want Fight Taken to Supreme Court If It Is Necessary.

TOPEKA, Dec. 31.—The state will file an answer in the bank guaranty case and seek to have Judge Pollock, of the federal court, set aside his temporary injunction on a trial of the case on its merits. This decision was arrived at this afternoon at a conference of the attorneys for the state and Bank Commissioner Dolley. While the conferees declined to make a statement for publication concerning the matter, it leaked out from a reliable source as to their intentions.

When Judge Pollock handed down his opinion, Attorney General Jackson indicated that the state would appeal from that decision. But today's action indicates that he has changed his mind.

"There are some allegations in the bill, on which the decision was rendered, that would no doubt prejudice the state's case if we appealed from the decision on the demurrer," said A. C. Mitchell, one of the attorneys for the state.

WON'T ADMIT CHARGE.

"For instance that allegation which charges that the guarancy law would force all national banks in Kansas to surrender their charters. Rather than go to a higher court admitting that as a fact, it seems to me that we should go to trial on the merits of the case. I believe the facts will disprove that allegation."

The executive committee of the Association of State Bankers met with Bank Commissioner Dolley and the rtorneys for th stat and disscussed in a general way the situation. The attorneys wanted to get the ideas of the bankers from a business viewpoint before they went into the legal question as to the next step to take. Among the bankers present were A. F. Wallace of White City, M. E. Light of Winfield, Senator Fred Quincy of Salina, and W. E. Wilson of Washington.

The state bankers insisted on the fight going to the United States supreme court if necessary. However, they did not give any advice as to how the atorneys should proceed.

TAFT IS OPPOSED.

Some of them didn't take kindly to the utterances of President Taft in his message, in which he opposed bank guaranty. In that message the president said that postal savings banks would, in his opinion, back bank guaranty off the boards in the West.

The state bankers present at today's conference are in favor of guaranty and are opposed to postal banks. So the Taft message doesn't set well with them. The attorneys will spend another day going over the Pollock decision, but unless they run against some unforseen snak to change their minds they will file the answer to the suit and proceed with its trial in the regular way, rather than appeal from the decision already rendered.

WAS MADE POLITICAL CLUB.

Kansas Bank Guaranty Law Didn't Protect, Says Clyde Knox.

SEDAN, KAS., Jan. 1.—Voicing the sentiments of the country press, especially in the Third district, Clyde Knox, in his paper, the Sedan Times-Star, has this to say in support of Judge Pollock's decision knocking out the bank guaranty law:

In a decision rendered late last week Judge Pollock of the federal court declared the Kansas bank guaranty law illegal because it is a contravention of the fourteenth amendment to the United States constitution. This decision will undoubtedly end the experiment in Kansas and will probably discourage similar attempts in other states.

At no time has there ever been any reason why the state should undertake to stand as sponsor for the insurance of bank deposits. It would be just as legal and just as consistent for it to engage in the insurance of life or other property. The insurance of these is left to private enterprise and that is exactly where the insurance of bank deposits belongs.

On the other hand there is just as much reason why all good banks should protect their depositors from loss by mismanagement and failure as from loss by fire and burglary. Most banks are now offering fire and burglary protection and they are getting it from well managed private insurance companies. They should now secure deposit insurance from the same sources.

The Kansas bank guaranty law has been made a political club from its very inception. Aside from this it has been weak and impractical, at no time affording the protection which its certificates promised. It would soon have proven a pitiful failure because it was founded upon an insecure basis. That it has been relegated to the legislative scrap heap along with the "state oil refinery" and other abortive attempts to plunge the state into paternalism, should cause profound rejoicing all over Kansas.