

Temperance history correspondence

Section 9, Pages 241 - 270

This is correspondence sent and received by members of the Kansas State Temperance Union, including Robert Norris, secretary Topeka, Kansas;, John Marshall, attorney, Ellsworth, Kansas; and Julian K. Codding, attorney, Wamego, Kansas. A letter from H. C. Ericsson, sheriff of Wabaunsee County, lists the names of several individuals that have been "seen drinking." Frequent letters are exchanged with George H. Stuessi, an attorney in Pittsburg, Kansas, regarding legal cases involving alcohol in Girard, Kansas. Although Kansas was the first state to adopt a constitutional amendment prohibiting the sale of intoxicating liquors in 1880, the law was largely unenforced.

Date: 1906

Callnumber: Temperance History Coll. #645, Box 6 Folder 4 - Box 7 Folder 4

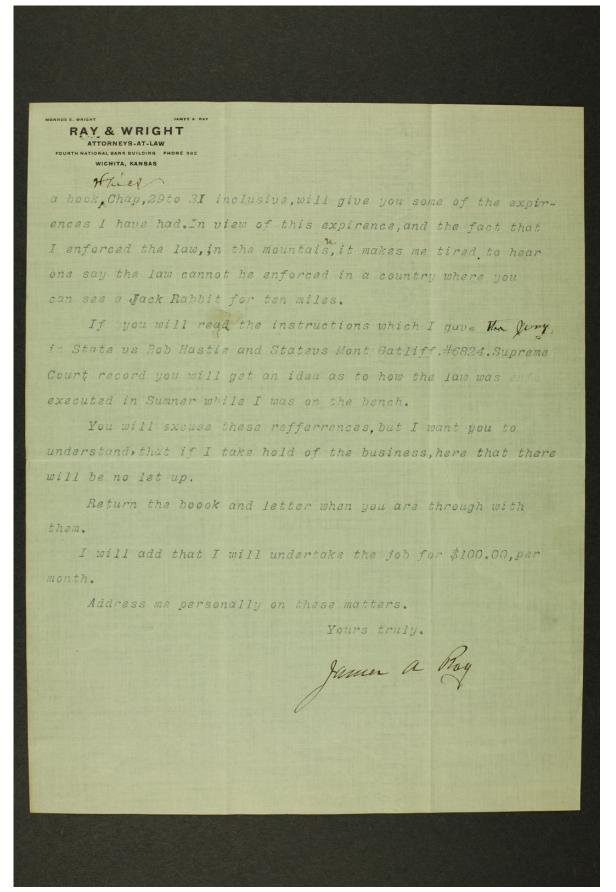
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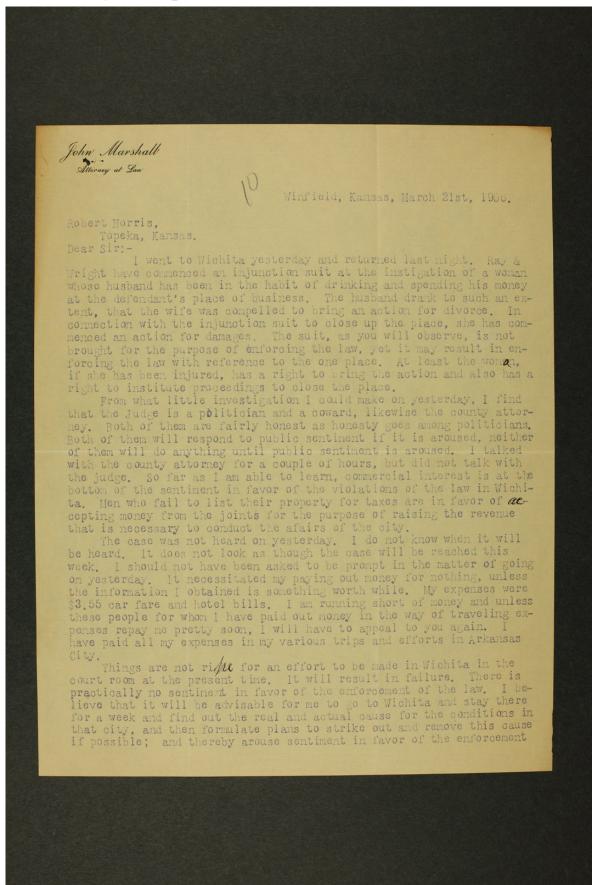
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KANSAS HISTORICAL SOCIETY

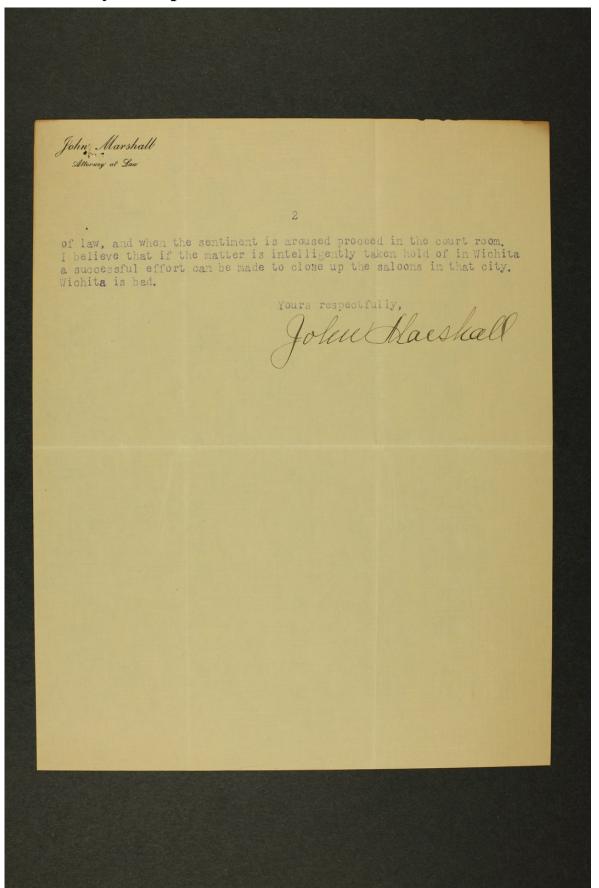




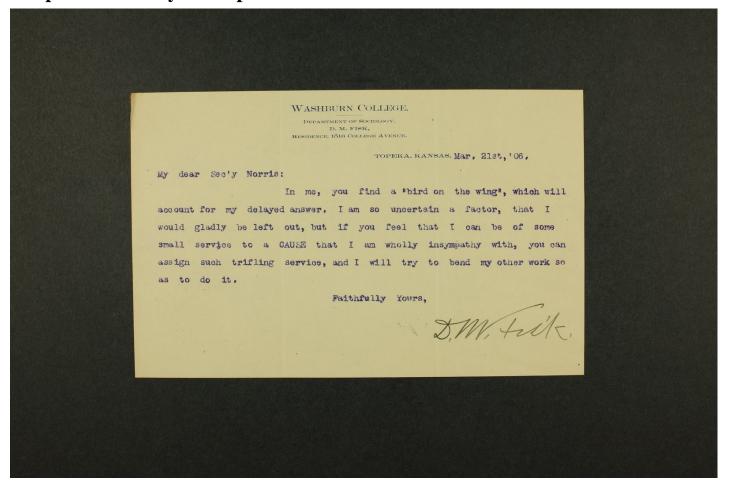




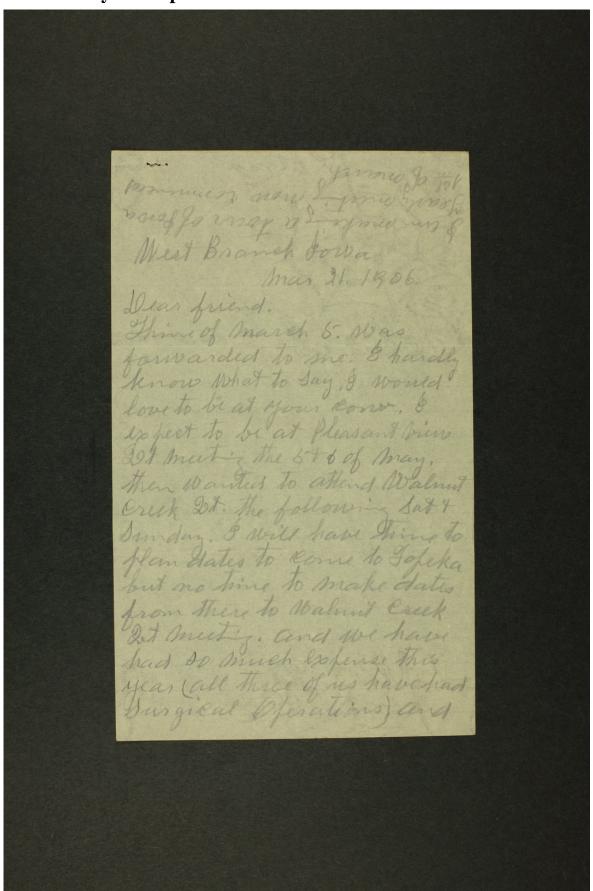




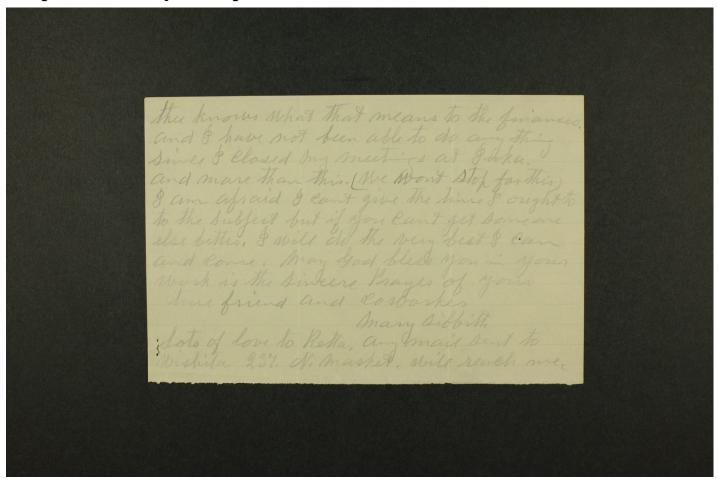




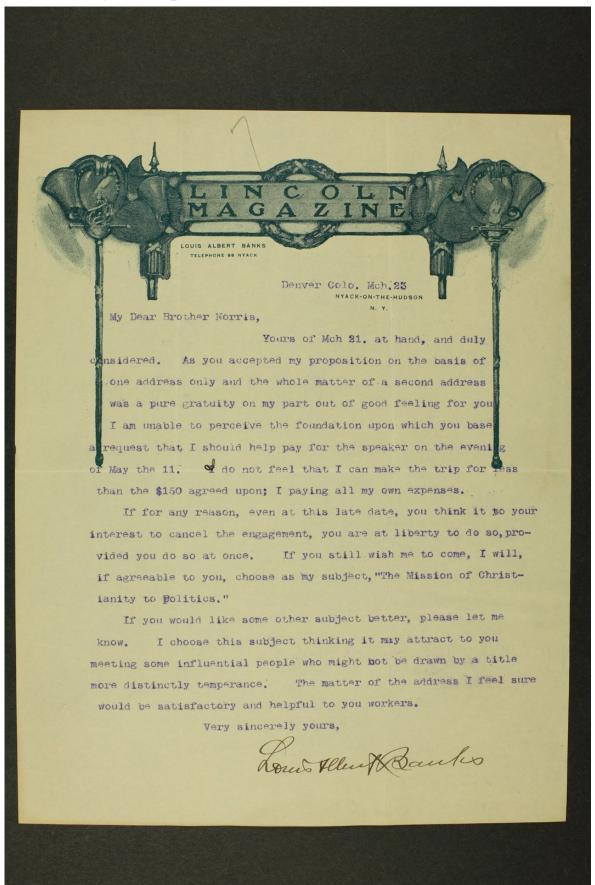








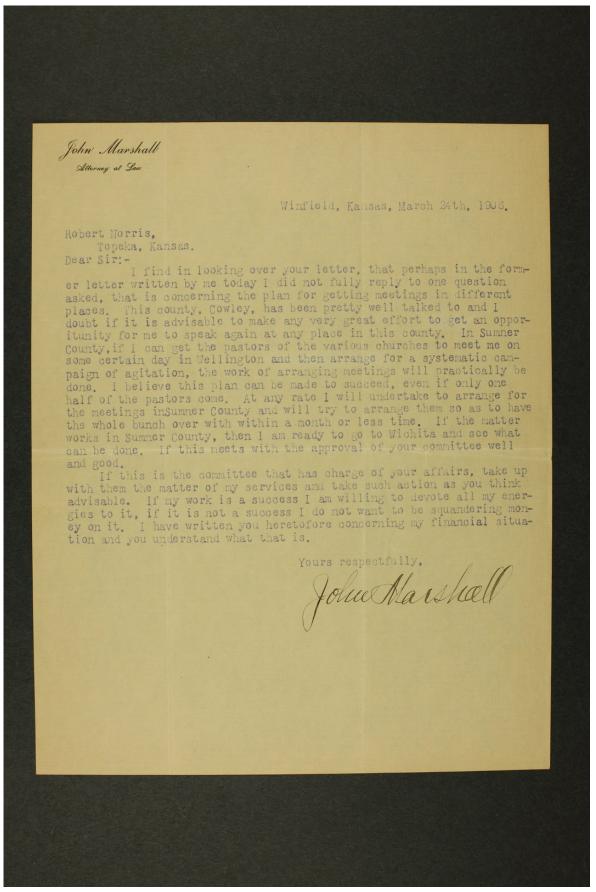




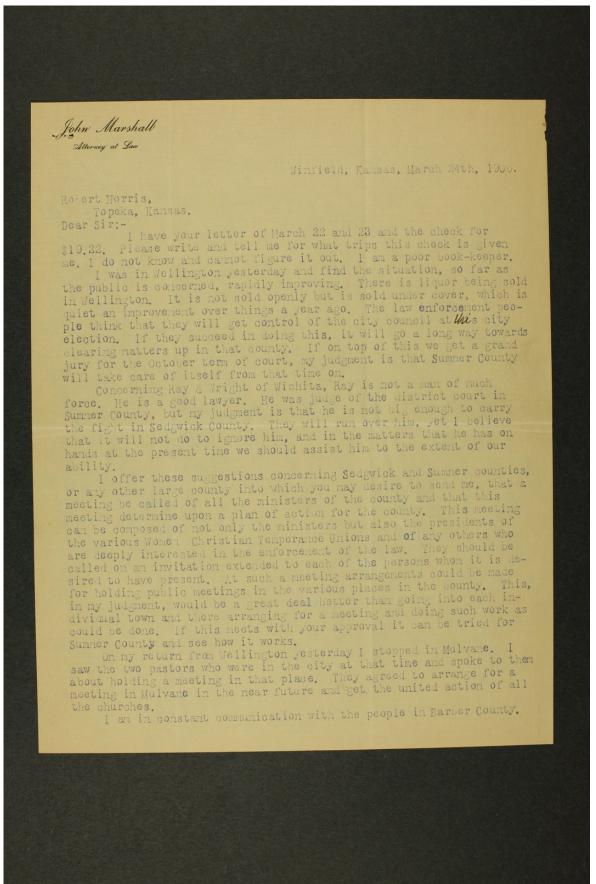


A. M. Smith,	
-DEALER IN- AGRICULTURAL IMPLEMENTS, Wagons and Buggies.	
Final Kansas 3/23 1906	
Your State Freepronee Union	
Girard, Kansas, 3/23 1906 Kow State Fruspronee Union Topeka Kano Dentema	
Replying to your 2 22 orgarding	
the Expenses of Mer Morchall will Roy.	
That - Our Sienton and Frasorres was neither present on the night; the meeting - and	
our cash sollection only amounted to 52	
So I faid him #422 my cely- and told him & would send him the #1150 when the scentery	
our Traser or + seentony on soforaport.	
if tolses quite avhile to orrough this	
all 011 and or com or wrong of the bills	
allowed. In an intending to Keep of the	
mass temperance meetings once a mouth .	
That cow full the bill put us next.	
Ho on making a fight in the city elections whise	

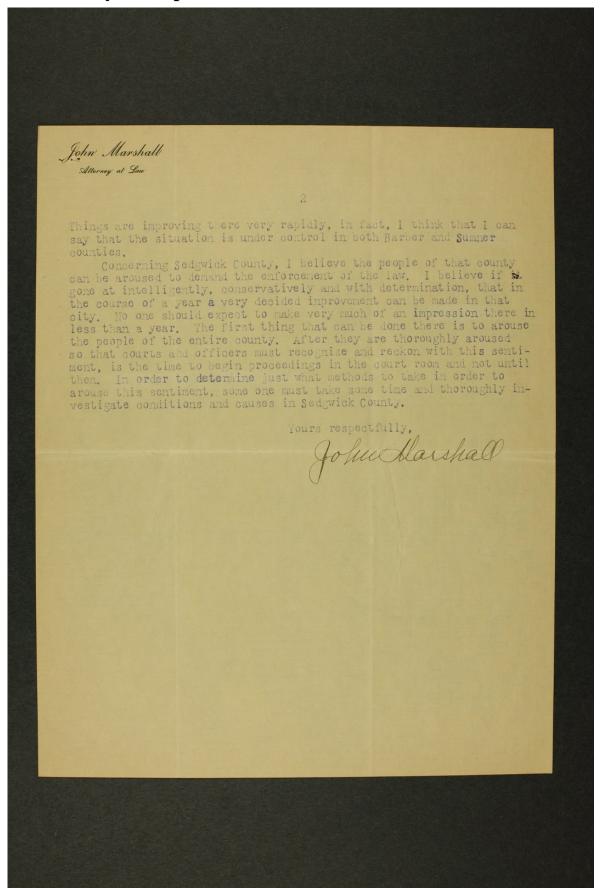




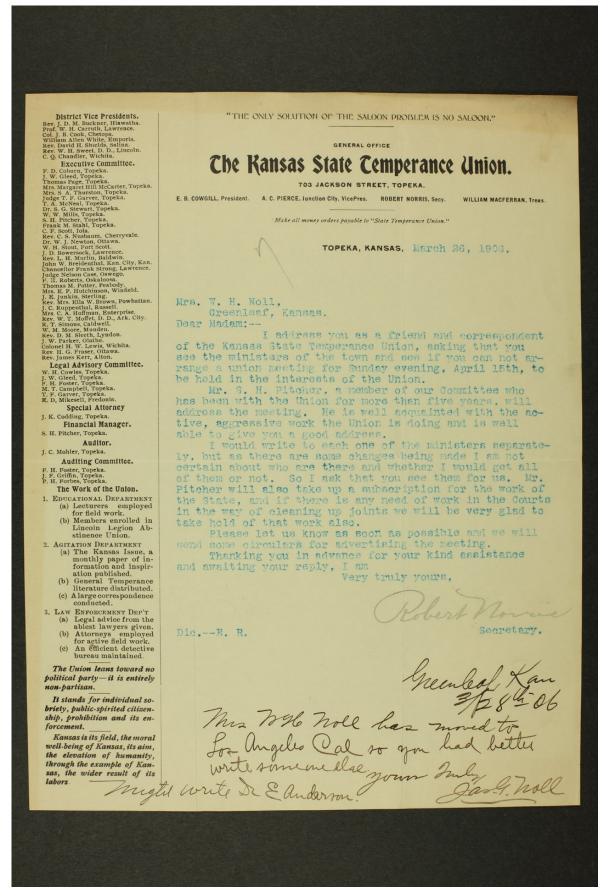








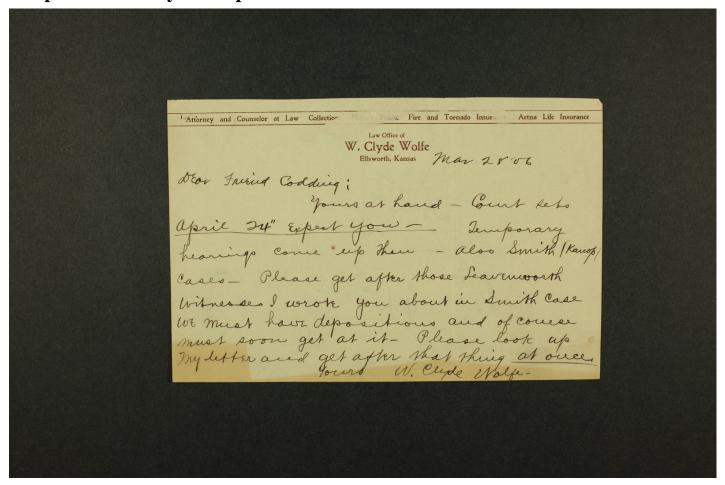




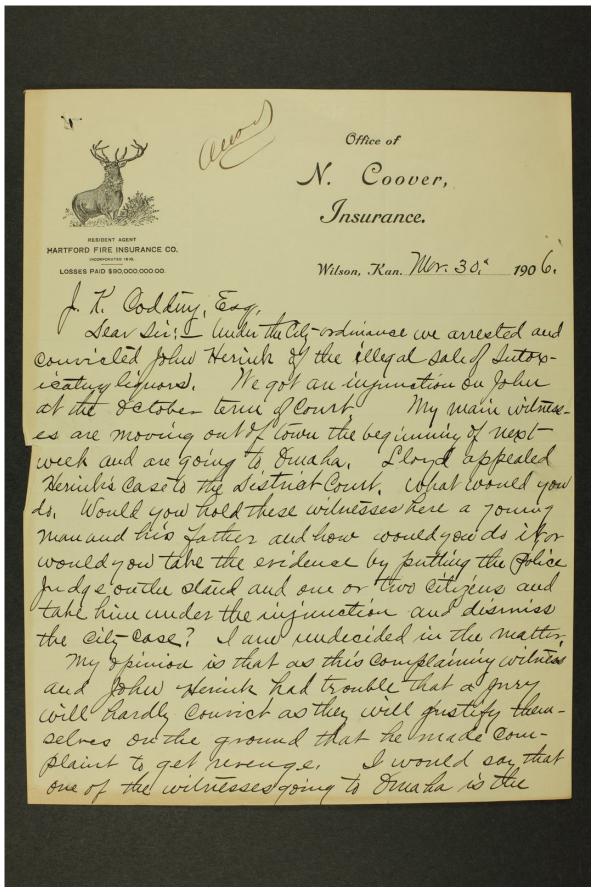


	INFORMATION TO COUNTY ATTORNEY.
	Now on this 2 y the day of March , 1906, comes Reverted Miller and gives notice
	to the County Attorney of Atchison County, Kansas,
	that M. I. Waldren and others of the County of
	Atchison , said State, is guilty of a violation of
	the prohibitory liquor law of the State of Kansas. That the
	said M. I. Waldren and others has been and is
	now maintaining a muisance in a certain hotel
	now maintaining a muisance in a certain hotel building on fauntain for Street, in the city of Arrington
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	County of Atchison , State of Kansas.
MINER	And your informant, Rev Hannerd J. Miller,
	has reason to believe that the following named persons, to-wit:
THE REAL PROPERTY.	Henry Montgomery, P. H. Cawley, J. H. Best, Sam'l Ernest, Charls
	Shifflet, Chas. Kemp, Harlin Butts, J. D. McNeese, Rob G. Hass,
	A. J. Peterson, Al Hetlick, Frank Moore, John Cawley, A. B. Evans,
1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Geo. Ernest, Ed. L. Kathrens. Will Medlock,
	have some knowledge of such violation, and your informant asks
	that such persons be subpoensed to be and appear before the
	County Attorney of the said County of Atchison
	said State, then and there to testify concerning any violations
	of the prohibitory liquor law and of section 101 of the General
A	Statutes of Kansas of 1897, as amended by the Act of 1901.
	signed:
	Rev Heward & Miller-
1 2 2 7 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	
The state of the s	

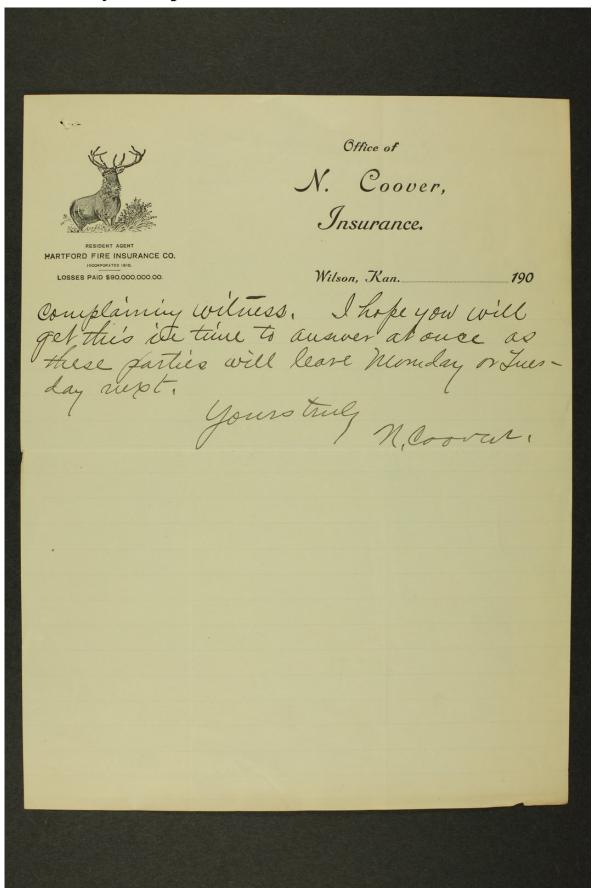




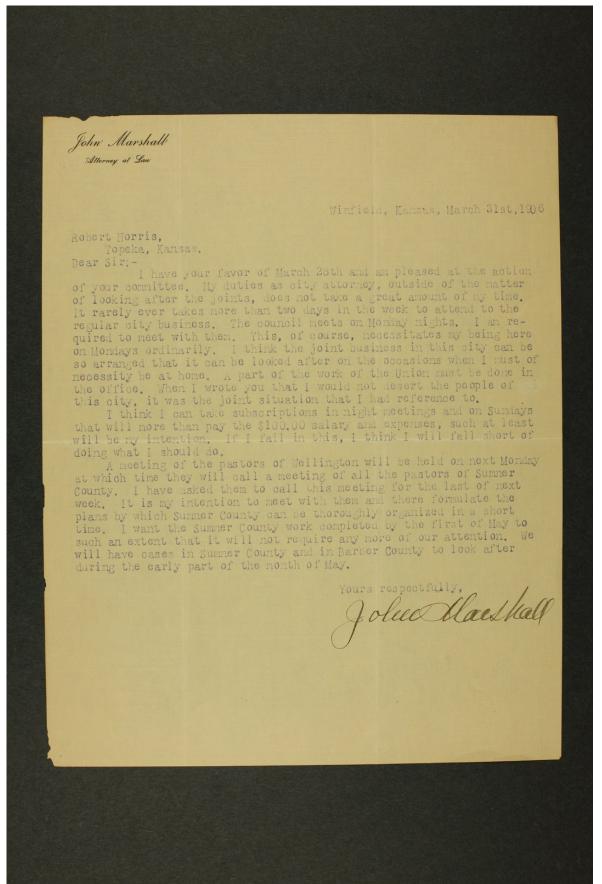




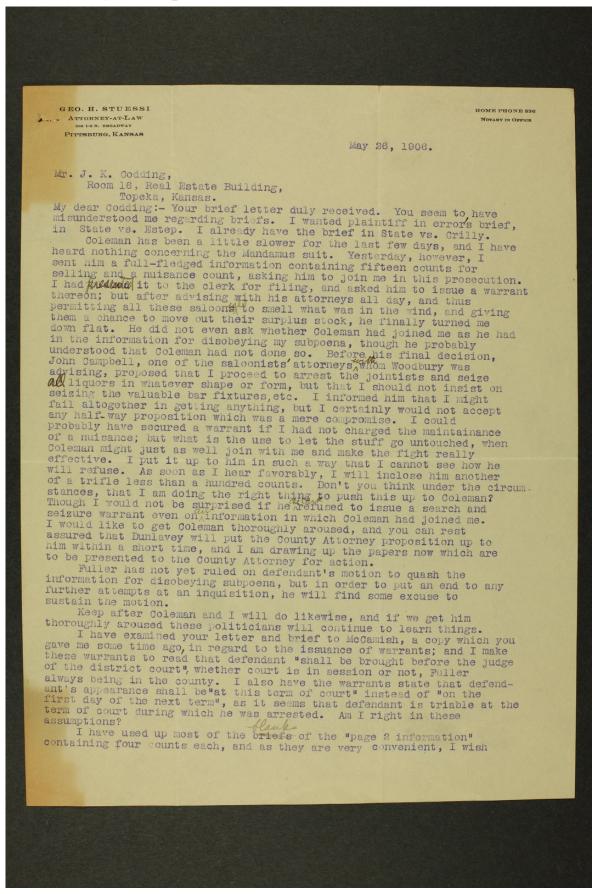




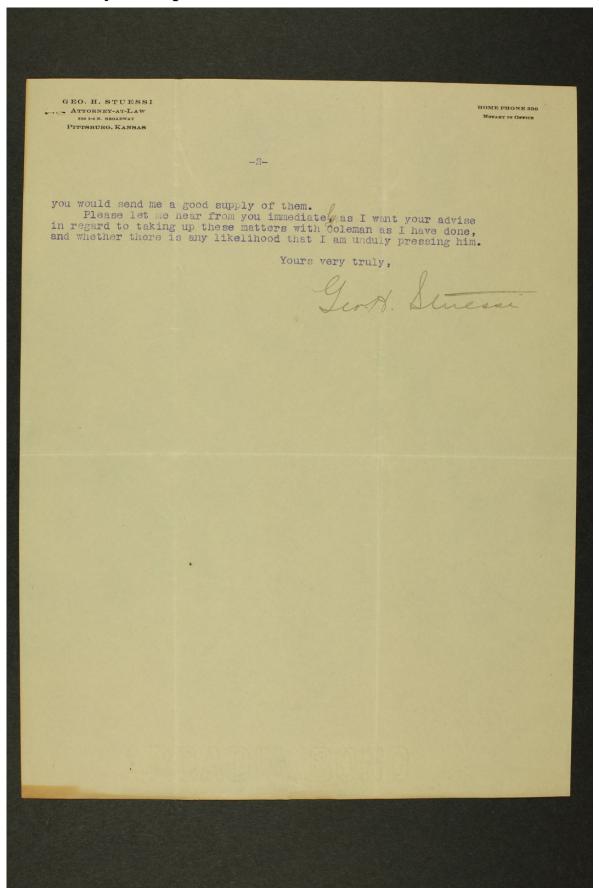




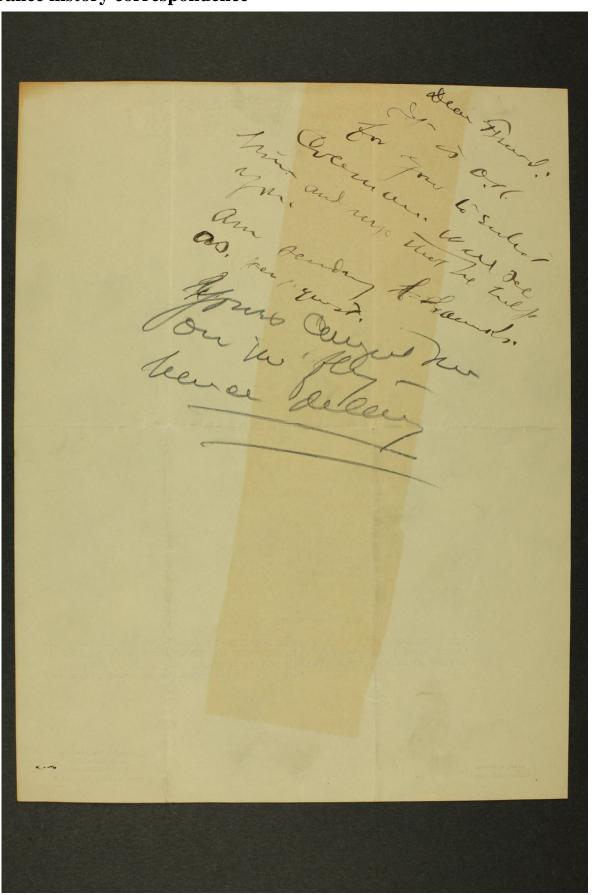




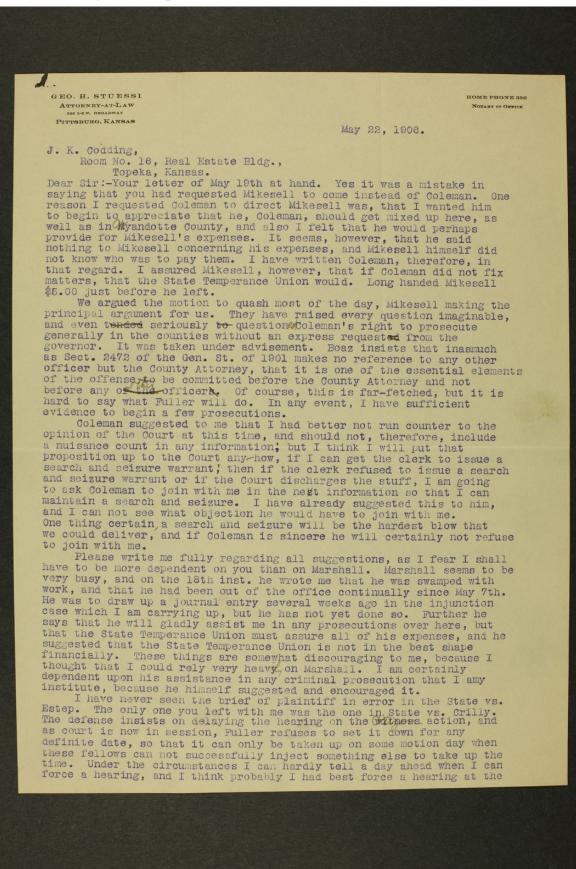




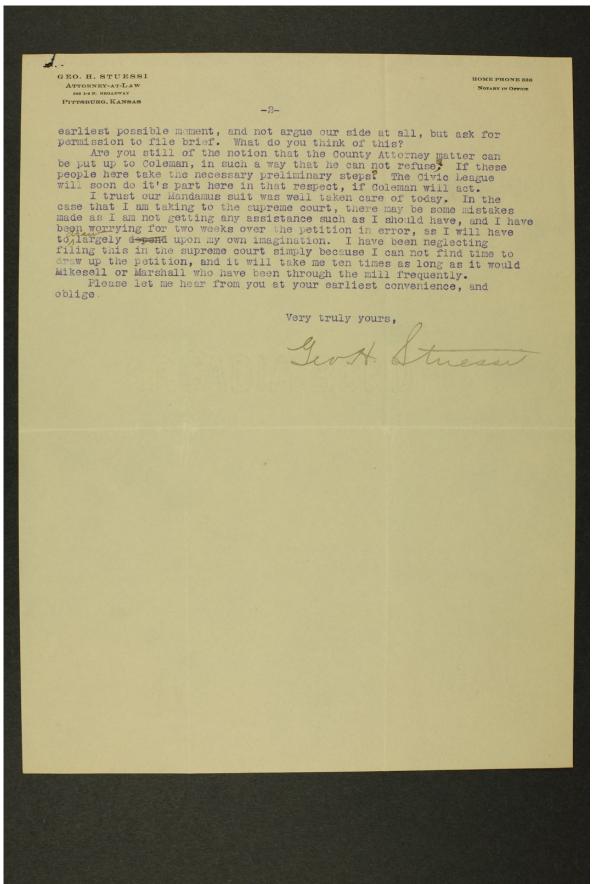














Temperance history correspondence

ATTORNEY-AT-LAW 508 1-8 N. BROADWAY PITTSBURG, KANSAS

HOME PHONE 836

May 17, 1906.

J. K. Codding,

No. 16 Real Estate Building, Topeka, Kansas.

Dear Friend: -- Have you plaintiff in error's brief in State vs. Estep? Dear Friend:—Have you plaintliff in error's brief in State vs. Estep? I may make use of it in the "citizens" case. I wrote the clerk of the Supreme Court, but he sent me the brief of defendant in error only, and said that they did not have plaintiff's brief. I desire to show by this brief, (as per a suggestion in one of your briefs which I have) that an injunction to suppress a legal nuisance could not be made under section 253 of the code. As this same contention was made in the State. section 253 of the code, as this same contention was made in the State

Coleman has joined me in one information against a fellow, for disobedience of subpoena, and I have mailed him a second one to sign.

Defendant filed a motion to guash Monday, and it was attempted to have full me to argue this motion immediately, however, I succeeded in delaying it until Saturday, at which time Mikesell will probably assist me, as Codding requested him to do. I think I stated before that their motion to dismiss the citizens case, will also be heard on Saturday if it can be reached.

I am having considerable difficulty in inducing witnesses to appear before me, and I have done practically nothing for two weeks but work at this inquisition. My subpoenas have been issued as "Forthwith" subpoenas. This has made it difficult for the Sheriff to serve them, as he must see the witnesses personally , and as I have repeatedly instructed him to maintain all secrecy, and not permit anyone to know that he was after such witness. But at least seven or eight have failed, neglected, and refused to come in. Some prominent business men are taking the matter very much to heart, and are begging off, as down on the ground that it will seriously cripple their business or social standing, ground that it will seriously cripple their business or social standing, then they fear that it will disgrace them, to have their families know that they have frequented these places. Some discretion must be used, but I hardly know where to draw the line. John Curran has advised two of his clients-prominent men-to pay a fine under their circumstances rather than testify. I fear I shall have to proceed against even these men, otherwise, other business men will in some way learn of it, and demand equal remunerative armument. and demand equal remunerative. immu

These fellows are certainly stirred up about this inquisition.

They don't know where the lightening is going to strike. I have not heard from you respecting my other letter. evident Monday in Court that the Attorneys for the defense were going to extremed in trying to make my position appear ridiculous, and make laughing stock of me. The do not act that was when I have assistance

Coleman has been very prompt in his correspondence. He stated, nowever, in answer to my suggestion, that he should not attempt to run counter to the opinion of the Court, meaning thereby that he should confine my prosecution for illegal sales, and omit a count for maintaining a nuisance, but I feel like putting it up to the Court any

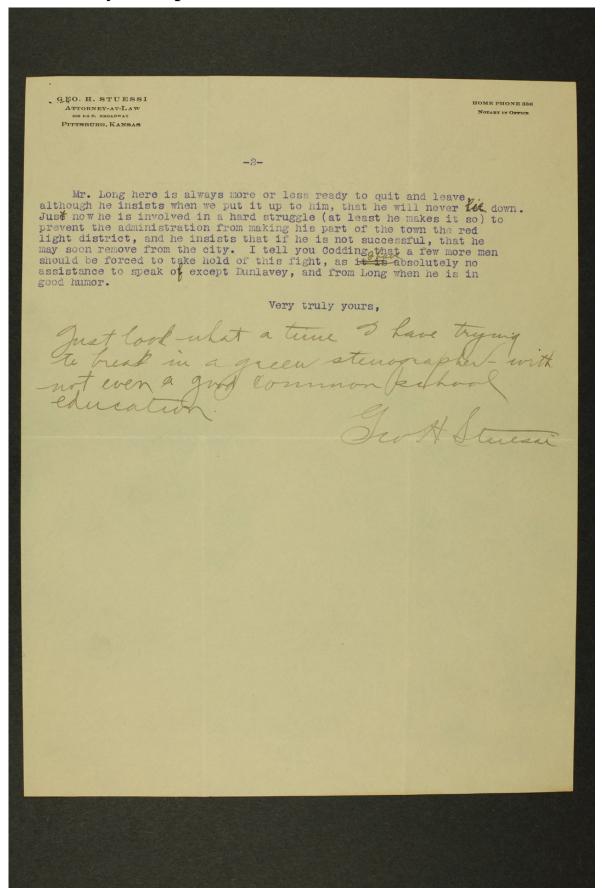
had intaining a nulsance, but I real like putting it up to the court any how, if I can induce the clerk to issue such a warrant.

Concerning the Mandamus suit against Woodbury, I trust you can in some way see to it that it will not be permitted to slide, although the Attorney General has written me, and insists that the understanding was, when defendant's time for answering was extended, that defendant should file such answer in which the constant the whole question should file such answer in which, upon our demurrer the whole question of my authority could be raised.



We are trying to work and some dates for I meetings! Marshad got a convidue Kolington on one count. Come down about Tresday of your can but down to agther Trajoid to do as		
	Analysis of the state of the st	







Temperance history correspondence

ATTORNEY-AT-LAW 508 1-8 N. BROADWAY PITTSBURG, KANSAS April 19th .1906. Mr. J. K. Codding, Topeka, Kansas. Your short note received. The means employed here in delay in these matters overtax my patience. I wish you would take time to answer my long letter fully. I am going to Girard now, and I fear Fuller will overrule defendants demurrers and still hold that they have not waived objections to my authority to institute these actions, and that the effect will be that these twenty-five cases will all go over until the next term of court in Girard in October, and that if I get to the Supreme Court at æall, at this time, I will have to go up on the overruling of the motion for a rehearing. Boaz insists that this can be done. If Fuller sustains their demurrers, I have a stipulation that the other twenty-four cases shall be continued on the docket until ruling of the Supreme Court in the one case. Marshall will assist me in preparing this case for the Supreme Court. I wish you would send me the files in one of the Supeme Court cases, as you promised, showing Petition in Error, Transcript of Record, Assignment of Error and Brief. It would assist me



Temperance history correspondence

GEO. H. STUESSI ATTORNEY-AT-LAW 508 1-2 N. BROADWAY PITTSBURG, KANSAS

NOTARY IN OFFICE

April 10th, 1906.

Mr. J. K. Codding, Topeka, Kansas. Dear Sir:-

While things are fresh in my mind I will give you the status of matters here. Mr. Marshall met me in Girard Monday noon, and we agreed that it was useless to argue demurrers, especially since Boaz stated that the only question they desired to raise therein was the one the court had already passed on. They simply demur on the ground that petitions do not state facts sufficient to constitute a cause of action. As the court was taking up criminal matters he stated that he could not listen to argument on demurrers on that day. Our intention was simply to let the court pass on the demurrers, and, if he sustained them, preparing our record for the supreme court. But Marshall upon arriving on the scene took but a glance at the demurrers and it was immediately suggested to him that the demurrers did not raise the question of my authority at all, and that the filing of them amounted to a general appearance by defendants by which they waived the irregularity, and particularly this question, and submitted themselves to the jurisdiction of the court. We debated however, whether it would be advisable to raise these objections, because I warned Marshall that the court would probably take advantage and further delay ruling. Marshall finally concluded that we might as well raise it, which he did by a few brief suggestions which, however, went so directly to the point that it startled the other side and the Judge looked sick. Boaz was not present, but Gaitskill made a few weak remarks in rebuttal, and the court, if anything, indicated that Marshall was probably correct. The court, however, wanted to hear from Boaz and so further hearing was postponed until they disposed of criminal matters, or the last of the weak.

Marshall assumed that he was to assist me only in so far as the actual work in court was concerned in Girard, and expected therefore to leave immediately thereafter for home. But I suggested that he could be of considerable assistance to me here in Pittsburg, if he would come down, both by way of better preparation supporting our theory as to the effect of these demurrers, and as to practical suggestions in view of the fact that I was about to institute proceedings on behalf of a citizen. Consequently, he has been with me all day and his presence has certainly been an inspiration and help to me. He prepared a six page brief and argument on the effect of these demurrers. And it seems, from the investigation and thought that he gave the matter, and after a full investigation yesterday evening and this morning, that we should be in a splendid position to expect the court to overrule these demurrers, and ruling that defense has now waived its objection to my authority to institute. The most serious objection, from Mr. Marshall's view, is that whatever proposition we advance we are carried right back to the original question of the extent of my power; and that this will involve a determination of the question whether. I had any power at all to bring the State in as a party plaintiff, and the ultimate question whether the court could render a valid judgment in these actions even if the defense would be considered to have waived the question of my authority.



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I wish very much that Marshall could be here when these demurrers are again called up, as Boaz will probably want to argue them at length. However, I shall probably not argue them orally but let Marshall's brief sustain our position. I have more confidence in Marshall than ever before, and I think he created a very weightyimpression with the court and attorneys yesterday. Naturally they all know what Marshall is accomplishing, and this with the fact that he is an experienced lawyer would only command respect and attention where none would be given to me.

I knew he didn't conceive the extreme conditions here in this county, but I think, from what I have told him, and from his lengthy conversation with Curran, that he appreciates some of the obstacles to be met with here and the exaggerated conditions. But in spite of all this he insists that I should begin, say, two or three prosecutions for fitting on about twenty counts against each. He doesn't seem to have any hesitancy but that convictions may be obtained, and he is more than willing to participate in the real fight in such prosecutions. Since talking with him I am not adverse to instituting two of three actions of this kind, and if you think it advisable I shall not delay matters longer than necessary; But I shall want Marshall to assist me in such trial \$2. I do not know just what expense you are put to on Marshall's account, but I have so much faith in his ability to secure convictions here that I trust this matter can be arranged.

I shall probably not be ready to institute these actions until after the court hears these demurrers the last of the week. So, also, I do not care to file any "citizen" actions until after his ruling on the demurrers; and if he should overrule demurrers, and there is a possibility of getting temporary injunctions upon a renewal of our application, I shall probably postpone citizen actions indefinitely. The question naturally suggests itself whether in such event the court will permit me to renew applications for temporary injunctions, or whether I am doomed to wait for final hearing. Marshall and I have talked this over somewhat and he is inclined to think that in this event I should file a new application in which I make the necessary allegations, bringing the essential allegations in my pettion down to date, and filing new affidavits in support; and he has dictated what he regards as the form of application to meet these requirements. However, you can easily imagine that a renewal of applications would precipitate a good scrap. I was hoping that in the event of the court overruling these demurrers that they would be given a very limited time to answer, and that the cases would still be at issue this term. But Marshall says that we cannot hope for this, especially as the term is short. So unless we could force an issue by renewing applications for temporary injunction, our question raised on these demurrers would simply put all these matters over until next Girard term in October, and would be worse than if the court had sustained demurrers and permitted us to get into the supreme court at an early date.

us to get into the supreme court at an early date.

Marshall requested that I explain to you his remaining over today. I do not think that Dunlavy has arranged with Marshall about his expenses though I presume that you will take care of that. Please write me immediately, if possible, and definitely in regard to all suggestions herein and especially as to the advisability of instituting a criminal prosecution for "selling" and whether I can depend on Marshall's presence to assist me in such event.

Very sincerely yours,



KANSAS HISTORICAL SOCIETY

Temperance history correspondence

Meade Kansas April 4th, 1906

Robert Norris, Secty.
Topeka, Kansas.

Dear Sir:-

I am recently in receipt of the enclosed letter, and not being in a position to undertake the work, therein called for I have concluded to refer it to the Union. Some time ago, I met a gentleman from Claflin, a Justice of the Peace, by the way, who seemed very earnestly to desire that something be done. A little later I received a letter from a Mr.Fredrick, the mather of the write of the enclosed letter which contained the information that the Methodist minister had already collected some money for the support of a campaign against the joints at that place and requesting that I come there straight way.

I did not go and today am answering these calls along the lines herein-after noted. A Mr Fredrick, brother to Mrs/Mc.Nutt, who is a resident of this county, and a gentleman of good character informed me yesterday that there would be no trouble in a financial way in undertaking the work at Claflin. I say in my letter to Mrs.M/ that I have written to you and refered the matter to your bureau.recomending the retention of Senator Codding, and offering to assist him in the work of closing the joints there. You will probably have an early letter from her.

I am very anxious to get the facts and the opinion based thereon, in the Dakota case, before judge Philips, of the U.S. circuit court, involving the construction of the Federal whiskey tax.

It is the case

where he held that the collection by the carrier was of the purchase price at the point of delivery was a violation of the law, making the express agent a retail dealer etc. I want this matter for use in prosecutions here and else-where and in connection with my assignment before your Convention May IIth,. Very kindly put me in a way to get it, as soon as possible.

Rosa N. Rhodes will be in attendance at the State Convention to re respond to her assignment and thanks you for your partality thus shown.

At Fowler, an unincorporated town II miles east of here and right in the hart of the Alfalfa belt, desires the services of a detective



