GOVERNOR GLICK (KANSAS)

AND PROHIBITION, 1883-1884.

by

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University of Kansas,

A. B., 1924.

Submitted to the Department
of HISTORY
and the Faculty of the Graduate
School of the University of Kansas in partial fulfillment of the
requirements for the degree of
MASTER OF ARTS

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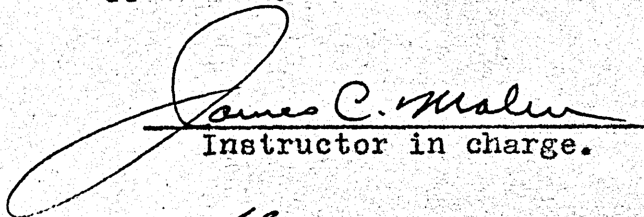

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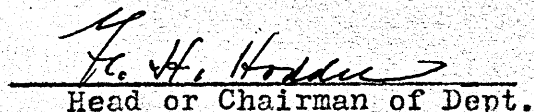

26 May 1931

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Governor Glick (Kansas)
and Prohibition, 1883-1884.

Chapter I. Introduction.

The aim of this work is to give an account of prohibition in a particularly critical period of Kansas prohibition history. In studying the question of prohibition, great conflicting forces must be dealt with. The temperance element, composed of various groups such as practical, radical and party prohibitionists, in general favored the enforcement of the prohibitory amendment. The opposing element, the liquor or saloon interest, either supported strict license or favored a re-submission of the prohibitory amendment to the vote of the people. Just where these various groups stood in relation to prohibition and its enforcement must be carefully considered.

One of the most difficult problems is to determine to what extent the governor is responsible for the enforcement of any law. The Constitution of the State of Kansas provides that: "the supreme executive power of the state shall be vested in a governor, who shall see that the laws are faithfully executed."[1] The members of the executive department are not responsible to the governor, although the Constitution provides that: "he may require information in writing from the officers of the executive

department, upon any subject relating to their respective duties."[2] They may or may not be of the same political party as the governor, and carry on the work of their department with little or no cooperation with him.

The power of the governor over local government is even less than over these departments. Whether a law is enforced or is not enforced depends largely upon the body of local officials, influenced by the pressure of public opinion. Newspapers have been carefully investigated in an effort to find facts concerning enforcement, and to determine the sentiment of the public. The problem is difficult, for it is not only a legal but a social,political, moral, economic and even religious question. It is further complicated in that the material found in pamphlets and newspapers is extremely partisan. In attempting to reach a solution to this complex problem, not one single factor but many factors must be considered.

For two or three years preceding the prohibitory amendment campaign of 1880, Kansas had passed through a period of agitation and organization. The object of the Kansas State Temperance Union (organized in 1866) was stated in 1878 to be: "the advancement and promotion of the temperance cause, and to secure if possible, by every honorable means in their power, the adoption by the people of the amendment to the constitution, which provides, 'that the

manufacture and sale of intoxicating liquor shall be forever prohibited in the state, except for medical, scientific and mechanical purposes.'" While prohibition legislation was not a direct issue of the election of 1878, the majority of the legislators could be relied upon to stand against the saloon.[3] By March 11, 1879 the constitutional prohibitory amendment had been passed and signed by Governor John P. St. John. The amendment read: "Proposing an amendment to article 15 of the Constitution of the State of Kansas, . . . Be it enacted by the Legislature of the State of Kansas two-thirds of all the members elected to both houses, voting therefor: Section 1. The following proposition to amend the Constitution of the State of Kansas shall be submitted to the electors of the State for adoption or rejection at the general election held on the Tuesday succeeding the first Monday in November, 1880. Proposition: Article 15 shall be amended by adding article 10, which shall read as follows: 'the manufacture and sale of intoxicating liquors shall be forever prohibited in this state except for medical, scientific and mechanical purposes.'"[4]

The campaign for the amendment was a most vigorous

one. There was increased activity among the temperance workers. In an article by Clara Francis on the "Coming of Prohibition to Kansas" the situation is described as follows:

"Between the passage of the prohibitory amendment and the vote upon it nearly two years elapsed. And they were two years of strife, each faction contending vigorously for its own belief. There was not a household in which prohibition and antiprohibition were not discussed; there was not a pulpit from which the principles of temperance were not heard; there was not a platform whereon the advocates of one side or the other had not expounded their views. The newspapers argued the question pro and con, sometimes with extreme bitterness, and sometimes with tranquil earnestness and justice, desiring the greatest good for the greatest numbers." 5

The Kansas State Temperance Union and the Women's Christian Temperance Union (founded 1879) held many meetings, which were well attended. At one camp meeting, August 26, it was reported that 25,000 persons attended. Newspapers were discussing every phase of the proposed amendment. The liquor dealers had inaugurated a public campaign by organizing the People's Grand Protective Union of Kansas.[6]

The amendment was voted on by the people November 2,1880, and passed with 93,302 for the amendment, and 84,304 against.[7]

The first battle had been won. It had been a great victory. There were many who thought their work was finished. They considered a constitutional amendment sufficient. They were willing to quit before an

enforcement law was brought into the legislature. As a farewell the Temperance Banner, a paper established at Osage Mission in the interests of the prohibition cause, published the following editorial in its last issue, November 11, 1880:

> "Over two years ago we started the Banner in the interests of constitutional prohibition, and have urged the measure, in our weakness, with all the energy we possessed. The battle has been fought, and the result is before our readers.
>
> "We had a single purpose in view when we embarked in the newspaper business. Our eye has been steadily fixed upon that object. Our readers can judge how nearly we hit the mark. . . .
>
> "We fold our tent in peace, camp on the field, rest on our arms, sleep in security, to be awakened at the first sound of Gabriel's trumpet." 8

The amendment had been adopted by a vote of the people, but laws to carry it into effect must be enacted. The legislature of 1881 passed by a senate vote of 32-7 and a house vote of 100-23, a bill containing twenty-four sections. The bill was entitled: "an act to prohibit the manufacture and sale of intoxicating liquor, except for medical, scientific and mechanical purpose, and to regulate the manufacture thereof for such excepted purposes." It was to go into effect May 1, 1881.[9] The most important provisions of the bill were as follows:

> Section 1. Any person or persons who shall manufacture, sell or barter any spirituous malt, vinous, fermented or other intoxicating liquors, shall be guilty of a misdemeanor, and punished as hereinafter provided; Provided, however, that such

liquor may be sold for medical, scientific and mechanical purposes, as provided in this act.

Section 2. It shall be unlawful for any person or persons to sell or barter, for medical, scientific and mechanical purposes, any malt, vinous, spirituous, fermented or other intoxicating liquors, without first having procured a druggists' permit therefor from the probate judge of the county. . . . In order to obtain a druggists' permit, the applicant shall present. . . , a petition, signed by at least twelve citizens. . . . He shall also file with said petition a good and sufficient bond, in the sum of twenty-five hundred dollars. . . .

Section 3. Any physician who is regularly engaged in the practice of his profession as a business, and who in cases of actual sickness shall deem any of the liquors mentioned necessary for the health of his patient, may give such patient a written or printed prescription. . . . Every physician, before making any prescription for intoxicating liquor, shall make and file with the probate judge of the county, an affidavit before some officer of the county authorized to administer oaths. . . .

Section 4. Any druggist having a permit to sell intoxicating liquors, may sell for medical purposes only upon the written or printed prescription of a practicing physician, . . . and shall set forth the name of the applicant, his residence and occupation, the quantity and kind of liquor required, and the purpose for which it is required, . . .

Section 5. No person shall manufacture or assist in the manufacture of intoxicating liquors in this state, except for medical, scientific and mechanical purposes. Any person desiring to manufacture, any of the liquors. . ., shall present to the probate judge of the county, . . . a petition asking a permit for such purpose, setting forth the name of the applicant, the place where it is desired to carry on such business, and the kind of liquor to be manufactured. . . . Such applicant shall file with said petition a bond to the state of Kansas, in the sum of ten thousand dollars. . . . The said permit, the order granting the same, and the bond and justification thereon, shall be forthwith recorded by said probate judge. . . . Such manufacturer shall keep a book wherein shall be entered a complete record of the liquors manufactured by him, the sales made, with the date, name and residence of purchases, kind and quantity of liquors sold, and the price charged. . . .

Section 6. All sales made by such manufacturer shall be upon a written or printed application, setting forth the name, occupation and residence of the applicant, the quantity and kind of liquor wanted, and for what purpose. . . .

Section 7. Any person, without taking out and having a permit to sell liquors. . ., who shall directly or indirectly sell or barter any spirituous, malt, vinous, fermented or other intoxicating liquor, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one hundred dollars nor

more than five hundred dollars, or be imprisoned in the county jail not less than thirty days nor more than ninety days. . . .

Section 8. Any person, without taking out and having a permit to manufacture intoxicating liquors, who shall manufacture, or aid, assist or abet in the manufacture. . ., shall be deemed guilty of a misdemeanor, and upon conviction shall suffer the same punishment as provided in the last preceding section of this act. . . .

Section 10. All liquors mentioned in section one of this act, and all other liquors or mixtures thereof, by whatever name called, that shall produce intoxication, shall be considered and held to be intoxicating liquors. . . .

Section 11. A permit to sell intoxicating liquor under this act shall continue in force for one year from the date thereof, unless sooner forfeited; and a permit to manufacture and sell intoxicating liquor shall continue in force for a period of five years. . . .

Section 12. It shall be the duty of all sheriffs, under-sheriffs, deputy sheriffs, constables, marshals and police officers of cities or towns, having any notice of any violation of this act, to notify the county attorney, with the name of any witnesses within his knowledge by whom such violation can be proven. If any such officer shall fail in any case to comply with the provisions of this section, he shall on conviction be adjudged guilty of misdemeanor. . . .

Section 13. All places where intoxicating liquors are manufactured, sold, bartered or given away in violation of any provisions of this act, . . . are hereby declared to be common nuisances. . . .

Section 14. Every person who shall, by the sale, barter or gift of intoxicating liquors, cause the intoxication of any other person, shall be liable for and compelled to pay a reasonable compensation. . . .

Section 16. Every person who shall, directly or indirectly, keep or maintain, or who shall in any manner aid, assist or abet in keeping or maintaining any club room or other place in which intoxicating liquor is received or kept for the purpose of use, gift, barter or sale. . . , and every person who shall use, barter, sell or give away, any intoxicating liquors so received or kept, shall be deemed guilty of a misdemeanor. . . .

Section 19. It shall be unlawful for any person to get intoxicated; and every person found in a state of intoxication shall, upon conviction thereof before any justice of the peace, be fined in the sum of five dollars, or be imprisoned in the county jail not exceeding ten days.

Section 20. Whenever application is made to the probate judge for a permit to manufacture or to sell intoxicating liquors, he shall notify the county attorney, who shall appear and advise with said probate judge with reference to issuance of permit and the approval of the bond. . . . 10

The Supreme Court sustained the law in every essential feature, but it took time, money and effort. It was two years of ceaseless warring in the courts. During this time the saloons were running in some places as openly as before. These two years of legal contest were the formative period of the work.[11]

In the election of 1882, the prohibition contest was gone over again. The Republican Party, in convention August 9, 1882, defended the prohibition issue. The following resolutions were adopted:

"Resolved, that we declare ourselves unqualifiedly in favor of the prohibition of the manufacture and sale of intoxicating liquor as a beverage, and pledge ourselves to such additional legislation as shall secure the rigid enactment of the constitutional provision upon the subject in all parts of the state.

"Resolved, that we request our delegation in Congress to secure such an amendment to the revenue laws as will prevent the issuing of licences or stamps to sell intoxicating liquors to any person other than those authorized to do so under state laws." 12

Governor John P. St. John, to whom the temperance element were greatly indebted because of his efforts in advocating temperance reform, was chosen as candidate for governor for the third term.

The Democratic Party meeting in convention August 31, 1883, chose George W. Glick as their candidate. A platform favoring a re-submission of the prohibitory amendment to the vote of the people was adopted. The

following declaration was a part of the party platform:

> "We are unqualifiedly in favor of temperance, sobriety, morality and good order, and we rely largely upon the wisdom, patriotism and honesty of the citizen to so order his life and conduct individually as to accomplish these ends. We are in sympathy with the cause of temperance in truth and in fact, not as a political hobby for the personal benefit of ambitious demagogues, unprincipled adventurers, and sham reformers, and we demand the enactment and enforcement of wise and just laws for the purpose of promoting the cause of temperance, and we submit to the impartial judgment of every candid man, that the existing law on the subject, by reason of its unwise oppression and tyrannical provisions, has not been enforced, and that it now stands as a hindrance and obstruction to the growth of true temperance, that it has been and still is the cause of neighborhood quarrels, contention and strife, of fraud, corruption, perjury and violence, and because of these facts, we demand the enactment of such amendments, changes and modification of the law as will make the law effective and useful for the purpose for which it was designed."[13]

The candidates of the two parties represented the opposite sides of the prohibition question for George W. Glick was as avowedly opposed to prohibition as St. John was its champion.[14] The Topeka Daily Capital became the ardent supporter of St. John, while the Daily Commonwealth (Topeka) bitterly denounced Governor St. John as a third term candidate, and argued for re-submission of the amendment to the vote of the people.

A group within the Republican ranks formed themselves into an Anti-St. John group, and declared themselves for George W. Glick. Their reasons (as stated in 1884 when they returned to the party) were that St. John in an effort to secure his renomination had opposed many true

Republicans who did not believe as he did, that the party had insisted that St. John was the only candidate who would fully represent the party and its principles, that St. John although posing as a reformer was the tool of the railroad corporation, and that he was seeking a third term.[15]

The official vote at the election was:

For Governor		
Republican	St. John	75,158
Democrat	Glick	83,237
Greenback	Robinson	20,933
For Lieutenant-Governor		
Republican	Finney	99,282
Democrat	Bacon	61,547
Greenback	Bayne	23,300
For Secretary of State		
Republican	Smith	99,282
Democrat	Gilbert	60,471
Greenback	Elder	23,423 [16]

Glick had won the election by a 8,079 plurality. Kansas had elected her first Democratic governor. But the other state officers were Republicans, and the majority in the state legislature were Republicans.

Mr. Glick was at this time a well recognized public character, with a wide acquaintance among the people of the state. "He alone among the candidates on the Democratic ticket was elected by the people, because he represented two questions uppermost in the public mind. Those questions were, first, opposition to the policy of prohibition in respect to the liquor

traffic; and, second, the adoption by the state of a system of state regulation of rail roads."[17] He was born at Greencastle, Fairfield County, Ohio, July 4, 1827. He was of German descent on his father's side, his great-great grandfather came from Germany in 1754, and fought in the Revolutionary war. George Glick, his grandfather, was a soldier in the War of 1812. His father, Isaac Glick moved to Fremont Ohio, in 1832.[18] After securing his early education, he entered the law office of Buchland and Hayes (Rutherford B. Hayes), and in two years was admitted to the bar. He entered the law practice in Fremont, and soon acquired the reputation of a successful lawyer. In 1858 he was nominated for state senator, but was defeated.[19] Mr. Glick moved to Atchison, Kansas in 1858, and there commenced the practice of law, which he continued until 1874. During the factional strife in Kansas he was a free-state advocate, and helped in the adoption of the free-state constitution. In 1864 he enlisted with the second Kansas regiment and participated in battles along the border.[20] His political career began in 1863, when he was elected to the Kansas State Legislature. He was reelected in 1864, 1865, 1866, 1874, 1876, and 1882. In the session of 1876 he was speaker pro tem. Glick was always a firm democrat, and was sent by that party as a delegate to the Democratic National

Convention of 1856, 1868, 1884 and 1892. In 1868 he was nominated for Governor by the Democrats, but was defeated. In 1876 he was one of the Kansas commissioners at the Centennial; in 1893 a member of the board of managers at the Columbian exposition; and in 1898 president of Kansas Board at the Trans-Mississippi and International Exposition at Omaha. In 1914 his statute was placed in Statuary Hall. 21

Glick was a man of many interests as shown by a report from Atchison sent to the Topeka Daily Capital, December 1, 1882:

"George W. Glick has for the past twenty four years been a resident of Atchison. For many years he practiced law, but lately has been devoting most of his time and attention to his fine stock farm, known as Shannon Hall, where he has some of the finest short horn cattle in the country. He is a quiet modest man, who has a friendly nod for everyone, and who can be seen at almost any time during the morning hours sitting in a can bottomed chair in the editorial rooms of the Patriot, engaged in conversation." 22

The attitude of the new governor upon the prohibition question must be considered carefully. On February 22, 1876, while a member of the house of representatives, during the pendency of a proposed amendment to the dram shop act of 1868, he entered a protest against it. The following extract shows his attitude:

"A prohibitory liquor law, wherever tried, has been a failure, and has not accomplished its purpose.

"The regulation and control over the traffic in cities is an absolute necessity for the preservation of the peace and good order of society, and that control over it is taken away by this bill.

"The revenue derived from the sale of intoxicating liquor aids in paying the burdensome expenses.

"The liquor traffic will, by this bill, greatly increase the number of places wherein liquor is sold. . . ." 23

While legislation was pending on the prohibition law of 1881, Glick proposed an amendment providing that:

"this act shall not apply to wine made of grapes grown in this state, and beer brewed in this state." On February 18, he made the following protest against the passage of the bill:

"I desire to say that I am not opposed to temperance or temperance laws, but I am heartily in favor of both, and it is only to the arbitrary and extraordinary provisions of this act to which I object; and I submit the following as some of the reasons for my vote against it, and why I claim its passage a calamity to the cause of temperance and a wrong to the people of this state.

"It makes the buying of wine for sacramental purpose a crime; it is oppressive, inquisitorial and impertinent in its effect, and will engender and organize strifes and malicious prosecutions in many communities.

"It is an open and palpable violation of several provisions of the constitution of this state.

"It destroys private property without compensation.

"It provides for the invasion of even private residences, and proposed to declare them nuisances, for contemptible and impertinent purposes.

"It destroys the confidential relations heretofore existing between the physician and his patient; it makes private medical prescriptions public records, and thus degrades the medical profession and tends to expose to public gaze the private diseases and complaint of the female part of the community, which is simply cruel in its action, and is disreputable in its purpose.

"It repeals the exemption laws in certain cases, and for the acts of the husband and wife and children are deprived of even the last bed or last pound of flour to gratify this vicarious punishment for a crime of which they are innocent.

"It denies the farmer the use of his vineyard and orchard for purposes heretofore regarded as legal and honorable.

"It destroys the breweries of the state without compensation.

"It destroys the school fund of part of its revenues, in violation of the constitution.

"It offers bribes for its execution, fosters the vocation of the informer and blackmailer, and uses the courts of justice for inquisitional and impertinent purposes."

"It allows courts of justice to be used to gratify malice, and to encourage malicious prosecutions.

"It destroys the business of druggists, and makes the sale or purchase of common medicines difficult or criminal, and their administration a crime unless a physician's prescription is secured at an unnecessary expense.

"It makes the use of alcohol in cases of emergencies or accidents a crime if used without first resorting to difficult and expensive proceedings, when the delay might result in the loss of life.

"It provides for a change of the usual and ordinary rules of evidence, and the practice and proceedings in the courts of justice in criminal cases, and violates by implication the constitution of the state, by denying to an accused person the right to know the nature and the cause of the prosecution against him.

"It violates the fourteenth amendment to the Constitution of the United States, that no state shall deprive any person of life, liberty or property without due process of law, nor to deprive any person within its jurisdiction, of the equal protection of the laws." 24

The people of Kansas were awaiting with eagerness the inauguration of the first Democratic Governor--a man avowedly opposed to the prohibitory amendment. The question asked daily was: "What will Governor Glick and the Legislature do about prohibition?" The re-submission papers were declaring that the legislature must submit the amendment to the vote of the people. The antiresubmissionists were declaring that no change was to be made in the law except for additional enforcement measures.

Chapter II. George W. Glick Becomes Governor.

The inauguration of the first democratic governor in Kansas was of unusual interest to Kansans as well as to those persons in other states interested in prohibition. The Topeka Daily Capital, strong Republican and prohibitionist paper, reported the inauguration as follows:

"The inauguration of the ~~new~~ Governor yesterday (January 8) was the necessary climax, the formal completion, of a train of circumstances which may properly be characterized as a new and glaring proof of the significant paradox that "in politics the unexpected is always to be anticipated!' Mr. Glick, in his present capacity, is a surprise to himself, and to everybody else. To be quite candid, it is safe to say that even at the hour when the polls closed last November not a soul in Kansas really believed him elected. The state has not yet ceased to kick itself over the matter, wondering if it is actually awake, and gazing upon the singular anomaly of a genuine, certified, plainly-labeled, blown-in-the-bottle Democratic Governor. Alas we cannot fool ourselves. We neither sleep nor dream, and there is no going behind the returns. Governor Glick is on deck beyond a doubt, the sails have been spread, the wind is in motion, and the voyage must be made." 25

The message of Governor Glick to the state legislature on January 9 was a lengthy document, containing a strong appeal for railroad rate regulation, probably the most important issue of the entire period, a plea for tax equalization and other needed measures, and a detailed discussion of the prohibition question. The following extracts are quoted to give the attitude of Glick on the subject:

"At the session of the legislature of 1879, a proposition to amend the Constitution of the State was adopted, to be submitted to the people at the general election held November 2, 1880. . . .

"At the election in November 1880, this proposed amendment to the Constitution was, by a majority of the votes cast upon that question, but not by a majority of the electors of the state, ratified, and became a part of the fundamental law of the State. The succeeding legislature, in 1881 enacted a law whose provisions were intended to make the constitutional inhibition in respect to the traffic in intoxicating liquors effectual and operative.

"The public policy embodied in this amendment and statute has been in force since their adoption, but during all that time this policy has been a failure, and injurious to the cause of genuine temperance--diverting immigration from our state, engendering strife in neighborhoods, promoting excessive litigation, loading down the dockets of the courts, making heavy cost bills to be paid by the people, inducing the clandestine use of intoxicating liquors in club rooms and in the homes of the people, setting a frightful example of the use of intoxicating liquors before the young, drinking to excess, caused by the purchase of liquors in quantities, and losing to the cause of temperance good and sincere temperance people by the meddlesome interference with the habits and established customs of long standing of many good and worthy citizens, by busybodies whose only ambition was to magnify their own importance, instead of working for real temperance.

"It was premature. . . and indeed unfortunate. . . to have engrafted into the fundamental law of the State a policy which from its nature was an experiment of doubtful utility and of uncertain success, and which has proved a failure wherever tried in other states. . . .

"It can scarcely be considered otherwise than a mistake, to have adopted as a part of the Constitution a provision, concerning the wisdom and expediency of which there exists in the community so great and prevalent a diversity of opinion. . . .

"Temperance is a virtue that all good citizens should practice and observe. It tends to make people better citizens, and elevates the moral tone of society; and like religion, it should be the common property of all, and no political party can appropriate that virtue to itself. It is too sacred to be made a political question of . . . .

"The people of Kansas are a temperance people, and will favor and loyally support and enforce any proper law that will advance the cause of temperance and morality; but they are opposed to shams or systems oflaw that annoy them, and defeat their own execution by their own intemperate provisions and penalties. During the last year of local option and license, the United States revenue office of Kansas issued eleven hundred and thirty two permits to sell intoxicating liquors, or one permit to every 879 persons, placing Kansas as the first temperance State in the Union; while in the first year of prohibition, there were issued 1,783 permits, an increase of 656, and also an increase of 58%, or one permit to every 551 persons, and taking Kansas from the first and ranking her to seventh temperance state; while, in the first 45 days of prohibition, 1,148 permits were issued--sixteen more than in the whole year of local option and license. If we consider these facts in connection with the clandestine sales of intoxicating liquors, and consider the vast amount that is daily delivered to individuals in concealed packages by express companies, we are forced to the conclusion that the cause of true temperance reform has not progressed very rapidly under our present system. These facts forcibly remind us that we are living under a republican form of government of and by the people, and they make the laws as well as enforce them, and no community will enforce a law upon itself distasteful to it. . . .

"These, with other reasons that might be urged, constrain me to invite your attention to the necessity, or at least the policy and wisdom, of submitting to the people, a proposition to repeal the prohibition clause in the Constitution, and to amend the existing statute with a view of rendering it less offensive to the people and more effective in its operation. These views and suggestions are submitted in obedience to a public duty, rendered imperative by what I believe to be the wish of a large majority of the people, who desire to enthrone true temperance in lieu of the present free-liquor system. . .." 26

Newspaper comments on the message varied. The <u>Fort Scott Daily Monitor</u> commented: "The Governor devotes considerable attention to the prohibition law. He expresses views in direct unison with his

previous record on the question and on which he based his campaign to a large extent."[27] The *Atchison Daily Patriot* said: "The press and the people of the state generally endorse the governor's message."[28] The *Leavenworth Evening Standard* noted:

> "The Standard has received a large number of exchanges since the governor's message was published, many of them being Republican, and the comments are almost universally favorable. The Republican papers, as a general thing, speak well of it, only a very few of them attempting to criticize or ridicule it." 29

The message did much to stir the temperance element into action. A letter written to condemn Governor Glick for his views reads as follows:

> "Your inogral rec'd and read on prohibition. I think you have said it, what an emence site of crime you have already caused so much crime that mite have been everted if you had of said nothing at all. but it goes to show what you are in favor of the saloon with all the wrongs and of course you are not deaf nor dum to such doings as is every place practiced in the U.S. Now sir, you have done your utmost to undo what the good temperance people of Kansas have done and where is your praise worthy. oh yes you will at once refer to the personal liberty league. . . . 30

A Peabody citizen inquired of the *Emporia Daily Republican*:

> "Is not the governor's declaration in reference to the prohibition law in his message sufficient ground for impeachment? It occurs to me that if the executive of a state will wince at a law, yea, more, will advise men to violate a legal law, create a rebellious feeling and a disposition to ignore the laws of his country, it should be punished as high treason." 31

The Topeka Daily Capital published the following article from the New York Tribune:

"The future of the temperance movement in Kansas will be awaited with considerable interest, now that Governor-elect Glick has announced so emphatically that he finds no good in prohibition. Elected upon an anti-prohibition platform, although not upon that issue alone, and owing his election partly to the aid of the liquor interests, it is, of course, to be expected that Mr. Glick should on every occasion denounce prohibition, of which his unsuccessful opponent, Governor St. John has been the champion. Some recently published utterances of Mr. Glick, however, appear to indicate that his zeal is carrying him too far. . .(statistics from message). Now if Mr. Glick wishes us to believe literally that an increase of over one-half of the number of drinking places throughout the State followed the enactment of the prohibition law, he asks altogether too much. The supposition is unreasonable. Nor, granting that his figures are correct, does the issuing of permits by a collector justify his inference. . . . He would not claim that previous to prohibition there were only 1,132 places in the state where liquor was sold. Nor would he deny that on the passage of the law, which was expected to be stringently enforced, most liquor sellers would desire to screen themselves as far as possible, and thus those who had no permits before would apply for them, without any actual increase of number. He continues: 'In the first 45 days. . . .' What particular significance is this? It would be very strange if people who intended to apply for permits to run a year didn't apply for them in the first month and a half of that year." 32

The Topeka Daily Capital came out with a determined statement that: "the election of an anti-prohibition governor cannot hang the law." They argue that it is his duty to enforce the laws, but declare that: "his utterances gives little reason to expect he will do so." They further predicted that if Governor Glick failed in enforcing the law that there would be a reaction,

"which will bring a representative of prohibition to the front."[33]

The important work of the State Temperance Union and the Women's Christian Temperance Union during the prohibition crusade had gone steadily on until 1880. But the movement came to lack fervor. They were resting pleasantly, enjoying their victories. But the shock of an apparent defeat by the election of Glick again stirred them into battle. As a result of the election of 1882, the executive committee of the Kansas State Temperance Union issued an address to the people of Kansas calling a Temperance Convention for January 9 and 10, 1883, the day of the inauguration of the governor and the meeting of the state legislature.[34]

The meeting of the Kansas State Temperance Union, according to the <u>Topeka Daily Capital</u> was: "a most remarkable gathering, and there is no doubt that its influence will be felt throughout the state for some time to come."[35]

On the second day of the convention the report of the committee on resolutions was read and the following report adopted:

"We, the temperance people of the State of Kansas in convention assembled, trusting in God for the rectitude of our intentions, declare as the sense of this meeting:

1. That the legitimate effect of the sale of intoxicating liquor as a beverage is drunkenness; that

it is a public and private wrong, injurious alike to the citizens and the state, and that the great cause of pauperism and crime, and to rid the people of this curse is the duty of every philanthropic and patriotic citizen in the land.

2. That the state has no moral or legal right to license any wrong, but should enact only such laws as will promote what is right and prohibit what is wrong.

3. That the prohibition of the sale of intoxicating liquors as a beverage is a great moral question. . . and it is the duty of all good citizens to foster and promote the same, and to this end aid and encourage the vigorous enforcement of all laws of the state enacted for this purpose.

4. That the will of the people, . . . is the sovereign and supreme power of the state, to which all (good) citizens owe unconditional obedience. To refuse such obedience, or a failure of any law officer to execute the law in good faith, is treason to the state. . . .

5. That we are not only in favor of the enforcement of the prohibition laws against the liquor seller, but we favor an active, vigorous campaign for the purpose of inducing men, by appeals to their higher nature, to cease the business of selling and the habit of drinking.

6. That we are opposed to and protest against any attempt by the legislature to strike prohibition from the Constitution by resubmitting an amendment for the purpose, or the repeal or emasculation of the law already enacted for the enforcement of the same.

7. That we are opposed to the calling of a constitutional convention.

8. That we are opposed to the organization of a new party." 36.

The Atchison Champion reported the convention less enthusiastically than did the Topeka Capital. The following account gives their report of the event:

"The State Temperance Convention closed its session by a meeting at Crawford's Opera House last night. It was very largely attended, and it is claimed that a thousand or twelve hundred delegates were present, but this is probably an exaggeration; still it was a very large convention.

"The speakers were Governor St. John, Reverend A.B. Campbell. . . . I saw no prominent politicians

and there were no members of the Legislature visible to the naked eye on the platform. . . .

"The convention did not talk politics. . . . The clerical and female element was noticeably prominent. It was the most religious secular body I have ever seen. There was a conscience behind the assemblage. . . .

"Had I been a whisky dealer the speeches and resolutions would not have scared me much, but there was one ominous circumstance. Two thousand dollars was raised and subscribed in life-memberships of the State Temperance Union, and a large sum for annual memberships. This looked like business. The subscriptions were generally from the smaller cities of the state from Sunday Schools and churches. Two gentlemen vied with each other for the privilege of paying $10 to make Governor Glick a life member.

"It seemed discouraging that, while these men and women were indulging in enthusiastic predictions of the final success of their cause, half a dozen barkeepers were busy within easy musket shot; and on an hour's notice, I presume, the same opera house could be filled with people to denounce prohibition." 37.

The Topeka Daily Capital, in further discussing the convention, attempted to summarize what they believed would be the results of such a gathering. The following extract is significant:

"What the outcome of this temperance movement will be is easy to predict. The agitation has little more than fairly begun, yet it has assumed proportions of startling magnitude. These people ask nothing unreasonable. They simply want the laws of the state ENFORCED. They want the respect paid the constitution of that state that is due to that fundamental law of the commonwealth. That the recent convention will bring forth good fruit there is no doubt, for it will set people to thinking, and when people begin to think something is pretty sure to be accomplished." 38.

The effect of the election of George W. Glick and the special convention of the Temperance Union held in Topeka is reviewed by James A. Troutman of Topeka

in an address at the Elm Street Methodist Church, in Toronto Canada. The following extract from his speech shows the situation:

> ". . . St. John was defeated, and the impression very naturally went abroad that prohibition was the cause of his defeat. But prohibition was the least of three causes contributing to his defeat. . . . The fact that he was defeated was enough to cause the whiskey men to claim a victory which was too readily conceded by the temperance men. Neither side stopped to consider that in the election of prosecuting attorneys and other local officers where the issue was fairly raised, and in the election of all the rest of the state ticket upon an ultra prohibition platform, prohibition had been emphatically approved. In my own county our prosecuting attorney who had prosecuted saloon keepers more zealously than any other officer in the state, and who was a radical prohibitionist, was elected over a thousand majority, while Governor St. John lost the same county by six hundred. . . . The whiskey men, emboldened by the spoils of an apparent victory, renewed operations at once. The temperance people were aroused as never before, and on the very day that Governor Glick was inaugurated, the most formidable and enthusiastic convention ever held in any state, I presume, met in Topeka. There were 1,300 regularly elected delegates. For the first time, the prohibition work in Kansas assumed an aggressive and determined form. . . . A war of absolute extermination was declared. . . ." 39.

Chapter III. The Prohibition Question in the Legislature of 1883.

The 1883 session of the Kansas State Legislature was a busy and interesting one. The greatest single problem which occupied the thoughts of press and the public was that of railroad rate regulation. The Daily Commonwealth (Topeka) wrote as follows:

"The Commonwealth has no apologies to make for devoting so much space to the railroad question. Having made the fight before the people and won it, we cannot very well afford to allow this, the most important measure now before the legislature, to go by default." 40.

The prohibition question occupied much time and interest. There was great concern among many people that the new Democratic governor and the Legislature might "declare the whole thing null and void and wipe it from the Constitution."[41.] But the Topeka Daily Capital encouraged the fainthearted with the following comment:

"It is true that Mr. Glick doesn't think much of prohibition, and to do him credit, he has never endeavored to conceal what he thought, but his opinion either as a private citizen or Governor can work no change. Prohibition is in the Constitution and it can be eliminated from there only by action of the Legislature in resubmitting the question of the repeal of the amendment to the people. This is not an anti-prohibition legislature, for it is well known that while there are many of its members who do not believe in prohibition either as a principle or as a practice they are in favor of giving it a trial of two years longer at least. There is no doubt whatever that the majority of the people of the State want prohibition given a reasonable fair show, for they are confident it will win in the end if given a fair and free chance. As there are localities in which the law against horse-stealing is not enforced, so there are neighborhoods and cities where the prohibitory law

is disregarded. The election of a Democratic Governor ought not properly to have any effect upon the enforcement of the law, as the latter depends entirely upon the county officer whose duty it is to see that all offenders against the laws are brought to account; but it is a fact it has had. This state of affairs is not exactly agreeable, but we cannot close our eyes to the fact that it exists. It is not at all probable that this legislature will meddle with the law in any way except to increase and strengthen it, and there is no reason why anything but that should be done. The people are not clamoring for another chance to vote upon the question; but they are generally and very decidedly in favor of prompt and decisive steps for the thorough enforcement of the constitutional provision against the liquor traffic in the State." 42.

Not all newspapers were so heartily in favor of enforcement as was the Topeka Daily Capital. The following editorial "Re-Submission the Only Way out of the Difficulty" expressed the hope of the Leavenworth Evening Daily Standard that the legislature would resubmit the amendment to the vote of the people:

"If an individual, a community or a State gets hold of something that it is desirable to drop, the first thing to do is to drop it. This State has got something called a prohibition amendment that needs to be wiped out. It is fair to conclude that a majority of the people of the State feel that way. They said so by a majority of about eight thousand in the last election. But prohibition is a part of the Constitution of the State, and it can be resubmitted to the people only by the Legislature. It may be that a majority of the people desire to retain prohibition in the Constitution and laws of the State. But every fair-minded person will acknowledge that there is, at least, a question as to the desire of the majority and that question should be settled. Prohibition has been a fruitful source of difference of opinion and dispute. It has caused more rows than any theme that Kansas was ever called upon to discuss, if we except the slavery question. It has been tried and thoroughly discussed. Its merits and demerits are known to all. The evil of having a law upon the statutes that cannot be enforced is conceded. The fair and proper thing to do then is to submit it to the people again and allow them to settle it, in the light of experience and a thorough knowledge of its utility. It is hard to see how the Legislature can do less than that, unless it arrogates to itself the right to withhold from the people that which belongs to them." 43.

In the Kansas House of Representatives Mr. McCleverty offered a "proposition to amend the Constitution of the State of Kansas by repealing and striking therefrom section 10 of Article 15, the section which prohibits the manufacture and sale of intoxicating liquors, except for medical, scientific and mechanical purposes." (House Joint Resolution no.1) It was referred to the committee on judiciary, and was reported back to the House with the recommendation that it be printed and placed on the calendar. The bill failed, February 1, when considered by the Committee of the Whole, by a vote of 65 to 51.[44]

In the Senate Mr. Everest, a Democrat from Atchison, introduced a "proposition to amend Article 15 by striking out section 10. . . ." (Senate Joint Resolution no. 2) Another resolution (Senate Joint Resolution no.3) was introduced "recommending a constitutional convention, and providing for the manner and time of voting upon the question."[45] These measures considered together read:

"Section 1. The following proposition to amend the Constitution of the State of Kansas shall be submitted to the electors of the State for adoption or rejection, at the general election to be held on the Tuesday succeeding the first Monday of November 1884. "Proposition--Article 15 shall be amended by striking out section 10 thereof, which reads as follows: Section 10. The manufacture and sale of intoxicating liquors shall be forever prohibited in this State, except for medical, scientific and mechanical purposes."

Section 2. The following shall be the method of

of submitting said proposition to the electors: The ballots shall be either written or printed, or partly written and partly printed, and those voting for the proposition shall vote, "For the proposition to amend the constitution", and those voting against the proposition shall vote, "Against the proposition to amend the constitution." 46.

The bill failed in the Senate by a vote of 25 to 14. 47.

The newspapers carried the prohibition struggle to the public, and printed the speeches made in both houses. The Daily Commonwealth (Topeka) commented on Mr. Everest's speech as follows:

"The speech of Senator Everest. . . will be found in full in this paper. The senator argues the question not only from a constitutional standpoint, but in its moral and social bearing on the people. While being thoroughly committed to the temperance in every form, he is more than ever convinced that prohibition will not prohibit." 48.

The chief opponent of Senator Everest was Solon O. Thatcher, whose speech of January 29, the Topeka Daily Capital published in full. The comments read:

"In answering the Senator from Atchison, the whole ground is covered, of course, for his speech embraced all that can be said in behalf of the restoration of the legalized saloon. Senator Thatcher has done himself great credit and rendered the party, the State, and the cause of sobriety and good government, a timely and pronounced service by this remarkable address. It will not be answered, simply because it is unanswerable." 49.

In commenting upon the work of the Legislature the Emporia Daily Republican noted the following:

"The action of the house and senate in voting down the resolution to resubmit the prohibition amendment, of course settles the question, so far, at least as this session of the legislature is concerned, of any

resubmission of the amendment. It will not be resubmitted, and thus one object sought by anti-prohibition republicans in voting for Governor Glick fails of success." 50.

In the Senate the committee on Temperance drew up a lengthy bill, known as Senate bill no. 195. It was entitled: "an act amendatory and supplemental to chapter 128 of the Session Laws of 1881, . . ." The bill contained twenty-five sections, including powers granted to county commissioners in issuing permits, rules for obtaining licenses, penalties, punishments and other regulations. The bill passed the Senate, but failed in the House.[51]

The only successful legislation was a bill introduced into the House, known as House Bill no. 82, "an act declaring drunkenness a misdemeanor, and prescribing punishment for the same." It passed the House by a vote of 86 to 15, passed in the Senate by a vote of 26 to 2, and was signed by Governor Glick March 5, 1883.[52] It provided:

"If any person shall be drunk in any highway, street or in any public building, or if any person shall be drunk in his own house, or any private building or place, disturbing his family or others, he shall be fined in any sum not exceeding twenty-five dollars, or by imprisonment in the county jail for a period not exceeding thirty days." 53.

The <u>Fort Scott Daily Monitor</u> called the attention of the public to the passage of this bill, and further

added: "We especially call the attention of all Glick men and to tell them that this invasion of the private home is a law by virtue of Governor Glick's signature."[54.]

It is of interest to note that there was introduced into the House: "an act providing for the appointment of commissioners to appraise and estimate, audit and allow, claims for damages to owners of breweries, or distilleries, brewing and distilling establishments, or other places where intoxicating liquors were manufactured prior to May 1, 1881, to provide payment by the State for such damages, and regulating the duties and compensations of said commissioners."[55.] It was returned from the committee with the recommendation that it "be indefinitely postponed."[56.]

There was also introduced into the House: "an act for the relief of Theodore Weichselbaum, for damages occasioned by the enactment of the law prohibiting the manufacture and sale of intoxicating liquor in the State of Kansas."[57.] This, too, was reported back from the committee with the recommendation that it "be definitely postponed."[58.]

At the close of the session of the Legislature, the Leavenworth Times offered the following comment

upon the session:

> "It is not necessary to go into spasms over the session of the legislature. It redistricted the state most sensibly, gave us a fair, conservative railroad law, sat down on prohibitory legislation and a constitutional convention, tried to keep down expenses, did some sensible and a great deal of silly speech-making, passed a number of local measures that were beneficial, and drew its pay with great regularity." 59.

The problem was no longer a problem of legislation, but a problem of enforcing the legislation already enacted. The question before the public, following the meeting of the Kansas State Legislature in 1883 was: "Does Prohibition Prohibit in Kansas? If Not, Why Not?"

Chapter IV. Revival of the Prohibition Crusade.

The sudden awakening of the temperance forces has already been discussed. The election of Governor Glick had proved that the temperance cause was not yet won. The big temperance convention on January 9 and 10 was a wonderful rally. The temperance people were made to realize that they had been to blame for the decline in the prohibition movement. A summary of this decline was forcefully presented by Solon O. Thatcher, in a prohibition speech in the Kansas Senate, January 29, 1883. He reviewed the movement thus:

"Temperance people thought the law would execute itself. They had struggled for the amendment as though it had some intrinsic value over a statute. When it was supplemented by the statute, they turned their thoughts to other things, forgetting that a law that touched any part of a business that swells, each year, in these United States to the incredible sum of eight hundred million of dollars, must, of necessity meet bitter and unrelenting opposition. Meetings and lectures, sermons and personal exhortation, were largely dropped. They were lulled, too, by the seeming acquiescence of many dram-shop keepers all over the state who closed their places of business on the first of May, and for weeks no sign showed the illicit traffic was being carried on. To this sense of security, this apathy, more than all others, I ascribe the bursting forth of so many dram shops. Temperance principles bloom and blossom under the sunlight of agitation and discussion. Publicity adds to their power. An enlightened public opinion, a quickened public conscience, deepens their hold and intensifies their potency." 60

The temperance workers must fight on with renewed courage and valor. Following the meeting of the Kansas

State Temperance Union in January the temperance work began with enthusiasm, determination and concerted action. The plan of organization was beginning to work effectively. By May, 1883, they were ready to wage an actual campaign of extermination. The <u>Daily Commonwealth</u> (Topeka) reported the May meeting of the State Temperance Union with the startling headlines: "The Saloons in Topeka Must Be Closed. Hostilities to Commence in a Week." The report which followed offered very little praise for the temperance leaders and closed with the following comment:

> "Mr. Campbell said the saloons in Topeka were to be closed, and that the city officers would be compelled to respect the law. This brought the house down. He said further that proceedings were to commence within a week. . . . The circus would soon open. . . ." 61

At this convention the <u>Topeka Daily Capital</u> reported that over 1,500 were at the meeting Sunday night, and there were three immense meetings held in one day.[62] The Kansas State Temperance Union seemed to realize what the crusade was to mean, and planned to meet the difficulties. The <u>Capital</u> always praising temperance speakers and temperance work, gave lengthy accounts of this entire convention, printing speeches of Reverend A.B. Campbell, Martin Van Buren Bennett, and others. Mr. Campbell, president of the State Temperance Union, on May 20, 1883 spoke on the theme "The Difficulties

in the Way of Successful Temperance Work." The following extract shows the problem before the temperance workers:

"What I have said over and over again, I say tonight, that the work of closing the saloons in this city will be accomplished. It is within our powers and we will do it. It can be done speedily, if we recognize the difficulties, look them squarely in the face and get them out of the way. It is a battle, a fierce contest. . . .

"One year from now our organization will be so complete that not a temperance man in the State will stay away from the polls when election day comes. . . . There are at least 125,000 republican votes in Kansas. Less than one fifth of them bolted the nomination of St. John last year. Not more than one half of that one-fifth left on account of prohibition. Political jealousy, the third term, and the railroad question were all potent influences which operated against us. Can this small squad of bolters dictate the policy of the Republican party?. . .

"You cannot be idle in this matter, your time, your money, your votes, your prayers, are demanded at this hour. At no period in the history of this struggle was this so true as now. All over this state and nation the liquor forces are organized and at work to destroy the work we have partly accomplished. The saloons of the whole nation were taxed last year to furnish money with which to strike down prohibition in Kansas. The success of prohibition in this state drove the whiskey ring of this country to organization. It is a death struggle with them. They must strike down prohibition in this state or they must go to the wall. They know it. We ought to be wise enough to see it. . . . We can accomplish the total annihilation of the liquor traffic in this city in sixty days if we make a proper use of the means which God has given us. If we do not do so, we are unworthy to receive the blessings we covet. If we are successful in Topeka, the success of our work in this state is assured. . . . " 63

In addition to the regular monthly meetings, special meetings were held to arouse public interest. The _Topeka Daily Capital_ published the following notice on May 5, 1883:

"The temperance meetings which were held at the city park every Sunday afternoon last summer, and were productive of so much good, will be resumed tomorrow under the auspices of Life Boat Lodge number 40. There will be addresses by Hon. A.B. Campbell, president of the Kansas State Temperance Union and Martin Van Buren Bennett of Cherokee County, either of whom alone is worthy of a large audience." 64

In reporting this Sunday afternoon meeting, The Topeka Daily Capital wrote that "the wind was blowing a perfect gale, making the day a very unpropitious one for an out door meeting, but despite the wind and dust, not less than 1,200 people gathered at the park." 65

All over the state county meetings were being held. A meeting held at Osage City organized for further efforts against the saloon forces. One of the many resolutions declared that: "The flagrant and defiant open violation of the prohibition law in this county is notorious, and we are unwilling to remain passive under so great a wrong." Another declared that: "we will no longer tolerate the indifference of our officials in this matter, but will hereafter combine against doubtful men and vote only for those who are fearless and outspoken defenders of the law." 66 At the evening meeting, Mr. A. B. Jetmore of Topeka spoke. His plan of crusade showed the necessity of organization. An extract of the speech is here given:

"The saloons in Topeka will be closed. There is no longer any question about it and when they are closed yours in this county will be. Organize your forces for the fight. When you begin prosecutions don't pitch into the poor little one horse fellows

first, go for the big ones--the ones who have property and pay taxes. Strike at the strong hold. You have a good county attorney. Stand up to him--help him--and he will do his duty. . . . Every saloon in Osage county can be closed if you will go at it in earnest. If Governor Glick interferes with the execution of the law hereafter we will make it so hot for him that he will be glad enough to quit it. . . .67

The following advertisement taken from the Daily Eclipse (Parsons) of July 28, 1883 showed where the prohibition crusade was leading:

A National Encampment

at the

Parsons Fair Grounds

From August 21 to August 27

Governor Glick

Ex-Governor St. John

Ex-Governor Robinson

G.W. Bain

And a score of other finished orators will address people on the great question

Which is the true remedy
Regulation or Prohibition?

Preparation will be made to accommodate 5,000
The hotels will entertain them, the homes of Parsons will entertain them and tents can be had on the grounds for all who wish to camp out.

Bands of music. Musical societies.

Admission fee 10 cents. Proceeds to Parsons Library.
68

At this prohibition encampment in Parsons the problem of prohibition and prohibition enforcement was argued and discussed. The proceedings of this meeting were published by the Kansas State Temperance Union, including the speeches of ex-governor Robinson and other speakers. Mr. Robinson had been an advocate of temperance but was against prohibition, although he had voted for the submission of the constitutional amendment. At this meeting he gave his arguments for submitting the amendment to the vote of the people, and gave reasons why he believed that prohibition would not be successful.[69]

Another encampment under the auspices of the temperance organization of Kansas and Missouri was to be held at Merriam Park, Johnson county, eight miles from Kansas City. The Daily Commonwealth (Topeka) advised its readers "to camp there during that time and enjoy what will probably be the largest temperance demonstration ever witnessed in Kansas."[70] It can truly be said that the prohibition crusaders were marching forward toward their goal.

Mr. A. B. Campbell in an address to the Kansas State Temperance Union at Topeka, Kansas, September 18, 1883 gave a summary of the work of the Temperance Union. The following extracts from his speech show the scope

of the temperance activities:

"At our last convention, we adopted a plan of organization, and went to the people with it. A more splendid activity has never been known in any part of the world upon the temperance question, than the people have exhibited in Kansas during the last six months. From the first day of March until the first day of July, a period of four months, I was constantly in the field, in company with M. V. B. Bennett, engaged in the work of organizing the State Temperance Union. We visited over fifty counties in Kansas going only to the principal cities. During these four months, over $13,000.00 were subscribed to the Union, and a splendid list of memberships taken in every city where we spoke. We held great meetings everywhere, in numbers and enthusiasm. The work of enforcing the law in the rural districts revived with the work of the Union, and today there is no law in the State more rigorously enforced than the prohibitory liquor law. This I can prove by a good many saloon-keepers who now languish in jail in Kansas, and by others over whom larger fines are hanging than they are able to pay. . . .

"I now desire some suggestions for the future:

"First: I desire to urge upon this convention a patient preserverance in the plans of work which we have pursued for the past six months. The difficulties which have stood in our way will rapidly give way to earnest, careful, persevering labor, and they cannot be overcome in any other way. The surrender of the liquor power in this State cannot be expected in any brief period.

"Second: We must not yield an inch of political influences which may be brought to bear to induce a step backward for the sake of temporary advantage and questionable success. There is but one royal road to success in Kansas, and that is the straight and narrow path of fidelity to prohibition as expressed in our Constitution and laws. Any compromise will be fatal to us and the party we seek to serve.

"Third: We should increase our fund steadily, until we have at least $50,000.00 at our command, for use in the enforcement of law in Kansas. We have now over $8,000.00 of unpaid subscriptions in the hands of the Secretary, every dollar of which was taken on sixty days times, and should be in the treasury.

"Fourth: The work of organization by counties, township and school districts, should be made a specialty for next year. I have prepared a system of organization upon this plan, giving forms of constitution and instruction

for organizing, which will be submitted to the convention for its action. I hope that this or a similar plan will be adopted, and that the whole plan will be published in the proceedings of this convention, and distributed to all parts of the state. This work of organization should go steadily forward, until every county in Kansas is fully and completely in working order. When this is accomplished, we will be able to send literature and speakers into every portion of the State without delay, and can know with certainty the condition and needs of every locality.

"Fifth: The Women's Christian Temperance Union of Ohio is the most efficient and splendid organization for practical work I have ever seen. We should have an equally efficient organization in this state. The Women's Christian Temperance Union in Kansas will make an effort to more thoroughly organize in the coming year, and an application has been made by that organization, to our Union, for aid in that work. The local unions have in the past, and will in the future, connect themselves with our Union, and I think we should extend them a helping hand in this work of organization." 71

In November of 1883, the prohibition leaders were courageous enough to begin their work in Leavenworth. The _Leavenworth Evening Daily Standard_ in an editorial the "Prohibition Crusade", none too gladly welcomed the prohibition crusaders. They commented thus:

"The prohibition crusade which was opened here last night by Martin Van B. Bennett and James F. Legate, again demonstrates what the Standard has frequently said, that in Kansas Republicanism means prohibition and Democracy means anti-prohibition. . . . The election of the ticket in an anti-prohibition stronghold like Leavenworth is hailed as a victory by every prohibitionist in the state. They begin the crusade here as the result of the defeat of Colonel Moonlight a week ago. Van Bennett said yesterday that he regarded the defeat of Moonlight as of sufficient importance to make him and his fellow prohibitionists happy, and acting accordingly he comes here to begin a crusade. How far they may go no one knows. We hope not far. . . . Leavenworth owes it to herself to quell this agitation as soon as possible. Some

harm has already been done, but much can be prevented. The Standard respects the man who is conscientiously a prohibitionist, as well as the one who is conscientiously opposed to it, but it fails to see the wisdom of turning Leavenworth into an arena of a great quarrel over this question with no possible prospect of settling it. Wait a few months and then elect a legislature that will resubmit the constitutional amendment to a vote of the people." 72

The Leavenworth crusade seems to have had some loyal followers, despite great opposition. By February of 1884, they reported a temperance meeting with the headlines: "Red-hot Time at the Congregational Church Last Evening." They reported that forty-five signed the pledge and donned the blue ribbon, among them some of Leavenworth's oldest citizens, who had been hard drinkers for years. This included two barkeepers from a dozen saloon men who were present.[73]

Throughout the years of 1883 and 1884 the newspapers reported temperance meetings. They were reported as "enthusiastic gatherings of prohibition advocates." The newspapers printed detailed accounts of the meetings. The Hiawatha World reported that the speeches of Bennett and Campbell "roused the people everywhere and they are making a sweeping canvass of the state." "Their collections will amount to many thousands."[74]

The temperance movement was confined not only to temperance meetings but other gatherings as well.

At a convention of the National Reform Association held in Americus, Kansas, the speakers "came down hard on those churches that refused to come out squarely on the prohibition question. . . . if the ministers and churches were all right on the liquor question, it would soon be settled."[75]

The work of the Women's Christian Temperance Union was continued, its growth being vigorous, steady and lasting. The objects of the Union were: "to create a public sentiment up to the standards of total abstinence, train the young, save the drinking classes, and secure the legal prohibition and complete banishment of the liquor traffic."[76] At the fifth annual convention of the Women's Christian Temperance Union, held at Emporia, Kansas, September 26-28, 1883, thirteen new unions were reported.[77] At the sixth annual convention, held at Leavenworth, Kansas, October 14-17, 1884, reports were given from 141 unions. A plan of work was adopted, which included the following:

"For an effort for legislation for compulsory education in scientific temperance, to secure a law, also to enforce law requiring children to go to school.

" Second: To recommend that temperance schools or youth's alliances be formed, as Bands of Hope. . . .

"Third: Advise special effort to create interest among our own membership in temperance literature. . . .

"Fourth: Using every avenue, that if possible every home in the state may be reached by press. . . .

"We would call the attention of the executive committee to the great need of evangelistic work, and desire them to consider whether a state evangelist be

chosen, repeat recommendations of last year, that Bible readings and house to house visitations receive due attention." 78

Youth, too, was joining the temperance crusade. Among the charters filed from 1882-1884 were: the Youth's Temperance Band of Hope, of Emporia; the Gallant Young Temperance Workers, of Emporia; and the Ladies' Christian Temperance Alliance, of Irving. 79

The temperance element was radical. They were fighting their cause without fear. The methods used would be justified when the cause was won. The many attacks made upon the Governor by newspapers and temperance leaders were extreme in their bitterness. They did not cease until George W. Glick had stepped from the gubernatorial chair in January of 1885. An article entitled "Glickism", in the Topeka Daily Capital shows their bitterness:

"It is written thou shalt not speak evil of the rulers of thy people. Authority says, that 'Rulers are a terror to evil doers, and a praise to them that do well,' and that is the kind we are not to speak evil of. But alas! We are cursed with a ruler who is a terror to them that do well, and a praise to evil doers. The Son of Man was manifested to destroy the works of the devil. Poor Governor Glick was manifested to encourage the works of the devil. If his satanic majesty has any works in operation, chief among them are these stinking holes called gin-mills, of which those having the finest polish are the most potent for damnation. In these gilded slime-pits lurks the future miasma that lures to death. God knows I hate them. Would that some one could be found to start a hating school against them. . . . Thank God there is another election coming and we must oust this disgraced incumbent or go to the devil with him. Selah!

"Governor Glick in Rhyme

O Governor Glick! Poor Governor Glick!
One term is all for you,
Van Bennett gave you such a lick
No chance remains for two.

Van tore your message all to shreds,
You can make no defense.
Such temperance fills the rummies heads
It has no common sense.

And then those pardons. Bad enough
(Your letter fails to explain)
Your temperance roads are pretty rough,
Poor Glick, 'tis all in vain.

And A. B. Campbell's on your track,
Alas poor Governor Glick!
You better mount that camel's back,
And flee for refuge quick.

Saloons must go and you go too,
O Glick! There is a God.
His justice must such crimes pursue;
He'll smite them with his rod.

O Glick! Repent while yet you can,
Help to put down this wrong,
Oh try and be a better man,
'Tis meant so in the song. 80

Thus the crusaders went boldly and daringly forward. The radical agitator and the conservative reformer worked side by side pushing on to a victorious goal. The Topeka Daily Capital in summarizing the work of the prohibition movement commented upon the temperance work as follows:

"While all these good things have been growing into being the Kansas State Temperance Union was quietly and silently getting hold of the hearts and consciences of the people. Its power spread and roused a spirit of loyalty among the citizens. It gave courage where courage was needed, it gave money where money was needed, it

employed attorneys and gave them all the honor following success, it stood behind hesitating officers, it whispered duty, honor, decency, freedom, home into the ears of passive men; this powerful organization was a friend in the darkest hours, helping and encouraging and sustaining just where its power and influence were most needed, and where they would do the most good." 81

Chapter V. The Kansas State Supreme Court and Prohibition.

The prohibitory law was an experiment. It had been tested in the Kansas State Supreme Court, and had been declared constitutional. There had been a constant battle in the courts during the years 1881 and 1882. It has already been noted that prohibition enforcement was at a standstill during this period. The decisions made in 1883 and 1884 will be particularly significant, for they set precedents in court procedure, they set the limits in which prosecutions might be made, and determined many other legal points which arose to test the law of 1881.

In order to answer fully the question whether prohibition was enforced or not enforced, it would be necessary to investigate the records of the entire court system of the state. Even such an investigation would not completely solve the problem, for much of the sale and manufacture of intoxicating liquor was concealed, and the public knew little or nothing about it. If all the court records of the state were to be investigated, the number of cases brought into court counted, the number of convictions and acquittals ascertained, it would be difficult to make any comparison or draw any conclusion for many of these cases might have been dismissed

because of some technicality. Besides this, not all the cases ever reached the courts. Who can definitely determine whether a law is enforced? The contemporary writer expresses his opinion only to find there are many who disagree. During a period of agitation, the number of prosecutions would suddenly increase, and then decrease when the agitation was suppressed. The law might have been enforced in one particular community, and almost unenforced in another.

The records of the lower courts will show that many prosecutions were made in 1883 and 1884. The number depended upon the time and the locality. In a summary of the cases appealed to the Kansas Supreme Court, nearly every third case dealt with prohibition. Only the important decisions of the Supreme Court will be considered in this chapter.

One of the first decisions in the January term of the Kansas State Supreme Court of 1883 was an appeal from Saline County, in the case of the State v. Mugler. The statement of the case was:

"In 1877, the defendant erected a brewery, and has since operated the same in manufacturing beer, and intoxicating liquor. In 1881, after the taking effect of both the constitutional amendment relating to intoxicating liquor and the present prohibitory liquor law (law of 1881, chapter 128), the defendant manufactured beer, and also sold beer without having any permit giving him any authority to do either.

The sale, however, was of beer he had manufactured prior to the taking effect of said prohibitory amendment. Held, that the said prohibition act is not unconstitutional but that it is constitutional and valid so far as it affects the defendant; and that the defendant committed a public offense, both in the manufacture of beer, which he manufactured after the taking effect of the prohibitory act, and in the sale of the beer, which he sold after the taking effect of such act.

"Two actions were brought against Peter Mugler, in the November term of 1882, for violating chapter 128, law of 1881. He was found guilty in district court and fined $100. He appeals.

Opinion:

"The principal question supposed to be involved in these two cases is as follows: Is or not the present prohibitory law constitutional, so far as it effects the defendant and his business in manufacturing beer at his brewery, and selling the same? . . . In the first case, the indictment contained but one count, charging the defendant 'did unlawfully manufacture, and aid, assist and abet in manufacture' of certain intoxicating liquors. In the second case the indictment contained six counts, in the first five of which it charged that the defendant, on five different days, sold intoxicating liquor in violation of law, and in the sixth count is charged that the defendant was guilty of keeping and maintaining a common nuisance, by keeping for sale and selling certain intoxicating liquors. . . . 'By a simple legislative edict the defendant is stripped of $7,500 in value of property as effectually as if consumed by fire'

"Much that counsel says we think has force. The legislative has probably gone a long way in destroying the value of such kinds of property as the defendant owned, and has possibly gone to the utmost verge of constitutional authority. And yet we do not think that the result reached by counsel for the defendant necessarily follows that of the facts and circumstances of this case. The defendant is certainly not deprived of his brewery, or of his liquor, or of any of his other tangible property. The old law and the new law are not vastly different. . . . " 82

This case was appealed to the United States Supreme Court on writ of error from the Supreme Court of the State of Kansas, submitted at the October term, 1886, argued April 1887, and on December 5, 1887 the Supreme Court upheld the decision of the Kansas Supreme Court.[82a]

An appeal was brought from the McPherson district court in the case of the State v. J. B. Curtis, and decision was made in the January term of 1883. The statement of the case was:

"Appeal from McPherson district court. Curtis, regularly practicing physician at Lindsborg, charged with violation of section 3, chapter 128, law of 1881. On the trial before the magistrate the defendant was convicted, and sentenced to pay a fine of $199, and the costs, taxed at $48.75, and to stand committed until the fine and costs were paid. From this judgment the defendant appealed to the district court. At the April term, 1882, the county attorney filed an information charging the defendant with the same offense, and dismissed the former suit. Defendant filed a plea in abatement and to quash the information, which motion overruled. Trial had before court and a jury; verdict of guilty, and defendant adjudged to pay a fine of $199 and costs.

Opinion:

" . . . It is not sufficient in this view that the defendant has a so-called belief or idea that beer was necessary, but was it his honest judgment as a physician? There should be allowed no trick, device, or dishonesty or purpose, to evade the law. This we think was sufficient, and presented the question fairly to the jury. The court further in its instructions explained the meaning of the word 'necessary' as used in the statute. Counsel criticizes this. We think it may be doubted whether too restricted a meaning was not given to this word, but we do not care to pursue the inquiry at present, for the question in the case, as it appears to us, was one of good faith on the part of the defendant, rather than as to the need of the remedy. In conclusion, therefore, we add that we see no error in the proceedings, and the judgment must be affirmed." 83

From Cherokee county an appeal was brought in the case of the State v. P.F. Shackle, and the

decision rendered in the January term of 1883.

The statement of the case was:

"Appeal from Cherokee district court. Information charging that P. F. Shackle and one Rodney Willis did unlawfully sell intoxicating liquor in violation of the provisions of chapter 128, laws of 1881. The case dismissed against Willis. Shackle entered a plea of not guilty. Court found defendant guilty as charged, adjudged that he pay a fine of $200 and costs, and stand committed to the county jail until the fine and costs be paid; from which judgment he appeals.

Opinion:

" . . . Section 1 reads: 'Any person or persons who shall manufacture, sell or barter any malt, vinous or other intoxicating liquor, shall be guilty of a misdemeanor, and punished as hereinafter provided: provided, however, that such liquors may be sold for medical, scientific and mechanical purposes'. Section 7 of the same act provides a penalty for any person who sells spirituous, malt, vinous, fermented or other intoxicating liquor without taking out and having a permit to sell the same. Section 9 further provides penalties for all persons who notwithstanding they have a permit to sell intoxicating liquor, sell or barter such liquor in any other manner, or for any other purpose, than in the statute provided, or who shall violate any of the provisions of the statue. All of the sections of the statute must be read and construed together, and therefore if the defendant sold the spirituous liquor as admitted by him, without having a permit therefor, he was liable to the penalty specified in section 7. If, having a permit as a druggist or otherwise, he sold intoxicating liquor at the time and place mentioned, for other than medical, scientific, or mechanical purposes, he was liable to the penalty mentioned in section 9. The purpose of the statute is, to prohibit the manufacture and sale of intoxicating liquor for use as a beverage; and it was alleged in the information that the sale was for other than medical, scientific, or mechanical purposes, the information charged in offense within the statute, and as the defendant admitted that he sold intoxicating liquor at the time and place alleged in the information, for other than medical, scientific, and mechanical purposes, judgment was properly pronounced against him." 84

Among the decisions in the July term of the Kansas State Supreme Court of 1883, was the case of the State v. Benjamin Nickerson. The Supreme Court affirmed the decision from the lower court. The statement of the case was:

"At the May term, 1883 Nickerson was convicted of a violation of the prohibitory law, and adjudged to pay a fine of $125, together with the costs of the prosecution, taxed at $419.40, and to be committed to the jail in Dickinson County until the fine and costs were paid.

Opinion:

" . . . Does this charge an offense under section 13 of the prohibitory law, or one under section 7, or none at all? . . . There is a marked difference between this information and that in the case of the State v. Camille Teissedre, for there the information charged affirmatively and directly that the defendant was the keeper of the house or place in which liquor were kept for sale unlawfully. But while the information cannot be sustained under section 13, it is good under section 7. It charged the illegal sale of liquor, charges it directly, and without any reservations or implications. There is nothing in the verdict or judgment to indicate that anything was claimed by the state other than a violation of section 7. If we look at the record alone, we should be compelled to say that the defendant was charged, convicted and sentenced under section 7 for the illegal sale of liquor. But suppose we go beyond the record properly before us, and examine the testimony, for while we must insist upon fair compliance with all legal rules, we should always seek to secure and enforce that which is absolute justice.

"From the testimony, it is evident that an association or club had been formed, which owner kept the liquor in the place designated; and that no liquor was sold there except to a member of the club, or upon his order. We do not mean to say that the full details of the organization and

and arrangement are disclosed, but enough is shown to make it appear that some such arrangement existed, and by his own admission, defendant belonged to the club, and it is also shown that through his instrumentality a sale was effected to one not a member of the club. Under those circumstances section 17 of the prohibitory law comes into effect. That section reads: 'The giving away of intoxicating liquor, or any shifts or device to evade the provisions of this act, shall be deemed an unlawful selling within the provisions of this act.'

"By this section it is evident that the legislature recognized a fact which is a matter of common knowledge, that human ingenuity is ever seeking some means to evade the prohibition of the statute, and obtain a sale of liquor without transgressing the letter of the law; and intended to bring within the law and punish every disposition of liquor not expressly authorized and permitted. We do not mean to decide that the law is broad enough and complete enough to cover every conceivable case; but we do hold, that when it is shown simply that a club exists, and that liquor is sold only to its members, a jury is warranted in finding a party belonging to the club, and who is instrumental in effecting a sale to one not a member of the club, guilty of a violation of the statute. So that whether we look at so much of the record as is legally and technically before us, or at the facts as disclosed by the testimony, which was preserved in the bill of exceptions, it cannot be adjudged that the defendant was not violating the statute, and therefore improperly convicted. The conviction will therefore be affirmed." 85

In an appeal from Pottawatomie County, in the case of the State v. A. L. Chandler, the decision of the lower court is upheld. The statement as made to the Kansas State Supreme Court in January 1884 was:

"Prosecution under the prohibitory liquor law. From a conviction at the September term, 1883. . . . Information contained 27 counts. . . . Court gave the jury additional instructions, and to each instruction the defendant at the time objected and excepted. The jury found the defendant guilty under the seventh, eighth, ninth, and tenth counts. The court sentenced the defendant, on the verdict under each of these four counts, to pay a fine of $100 and costs; the judgments

aggregating the sum of $400 and costs and the defendant was also ordered to be committed to the county jail until the fines and costs were paid.

"In addition the court required the defendant to give security in the sum of $500 to be of good behavior for the term of one year from the date of said judgment, or to stand committed until such security be given.' . . . Appeal on grounds that: 1. The court erred in giving second instructions. 2. The court erred in sentencing Chandler, on more than one count. 3. The court erred in sentencing him to give a security in the sum of $500, or to stand for a term of one year from that date in jail in Pottawatomie county, state of Kansas, until such security be given.

Opinion:

" . . . (1). Where the jury in a criminal case return into court in the presence of parties and say they cannot agree, it is competent for the court, on its own motion, to give them any additional instruction, which may be necessary to meet the difficulty in their minds. . . . The court did not err in giving them.

" . . . (2). By the practice everywhere, distinct transactions in cases of misdemeanor may be joined in separate counts, in one information or indictment to be followed by one trial for all, and a conviction for each of the several offenses, the same as though all such offenses were charged in the same terms in separate informations or indictments, subject, however, to some practical limitations imposed by judicial discretion.

"The judgment was properly rendered in the present case. The aggregate amount of the penalties imposed in the present case, however, does not exceed the maximum punishment that may be imposed by law for one offense of the character charged in the information.

" . . . (3). The authority for the order of the court requiring the defendant to give security for his good behavior is found in section 242 of the criminal code. . . . The court simply followed the law; it simply followed a statute which is open for every person to read." 86

Among the cases in the July term of the Kansas

Court in 1884, was an appeal from Cowley County, State v. John Fleming. The statement was thus:

"Cowley County, city of Winfield, January 27, 1883, John Fleming, a physician, not having obtained a permit sold to W. G. McDonald for one dollar in payment. . . . for one pint of whisky. The defendant filed January 30, 1884, motion to quash the complaint or information, upon the ground that it does not state facts sufficient to constitute a public offence. January 31, 1884, motion came for hearing, and was sustained. The court rendered judgment that the defendant be discharged. State brings case.

Opinion:

" . . . Section 7 says: 'Any person without taking out and having a permit to sell intoxicating liquor, . . . shall be deemed guilty of a misdemeanor'. The statute is so plain and direct that we think the question is settled thereby that the legislature did not intend to exempt physicians from its operation. If the legislature had intended to exempt physicians, it could have easily done so. The method and the means of regulating the sale of intoxicating liquor for the excepted purposes mentioned in the constitution must be referred to the wisdom and discretion of the legislature."

"It is very true that the evil sought to be remedied by the statute is the use of intoxicating liquor as a beverage, and that this purpose interprets the law. But the idea of prohibition as embraced in the statute is the absolute destruction of the use, as a beverage, of intoxicating liquor. To accomplish this, the legislature has seen fit to throw severe restrictions around the administering of liquors as a medicine. It has attempted thereby to prevent the excepted sales from becoming the ways and means of rending the statute abortive. . . . The ruling and judgment of the district court will be reversed and the cause remanded for further proceedings in accordance with views expressed." [87]

Two cases concerning the granting of permits were appealed to the January term of 1884. The one, Martin and Milliken v. probate judge; the other, State v. J. N. Nye. The statement of facts in the case of

Martin and Milliken v. probate judge was:

> ". . . G. W. Martin and N. Milliken, composing firm of Martin and Milliken, residents of Stockton, Rooks County, November 15, 1883 appealed to the probate judge for druggists permits to sell intoxicating liquor for medical, scientific and mechanical purposes. Probate judge refused. . . . thought it would be used for other purposes. . . . Applicants appealed to district court. Court not only refused to vacate and modify order of the probate judge, but affirmed the order and adjudged that the plaintiffs pay all the costs. . . ."

Opinion:

> " . . . The refusal by a probate judge to grant a druggist's permit . . . is not the exercise of judicial functions, and it is not appealable or reviewable. Decision of lower court will be affirmed." 88

In the other case, State v. J. N. Nye the statement of facts was:

> " . . . In the December term of district court of Chase County, J. N. Nye was convicted on three counts, fined $100 on each count, adjudged to pay the costs, and be committed to the county jail until the fines and costs were paid. . . .

Opinion:

> " . . . No evidence to prove that he did not have a permit. Probate judge did not testify that he recorded his permits, did not testify that the record or book had been examined. Under these circumstances, we think the evidence wholly insufficient to support the verdict. . . . If there is any record of it, the book should be produced. . . . Upon the record, we are compelled to reverse the judgment, and remand the case for a new trial." 89

An appeal from Pottawatomie district court in the case of William A. Hardten and Julia Annie Hardten v. the State, was brought to the January term of the Supreme Court, 1884. The statement of facts was:

"Error from Pottawatomie district court. Civil action brought by the county attorney of Pottawatomie County v. William A. Hardten and wife, to enforce an alleged lien on certain real estate. Trial by court at April term 1884, when the court found that the plaintiff has and is entitled to its lien for the sum of $195.30 on the premises described in the petition, and that said lien ought to be enforced. The land had been leased to Joel Oldham for the purpose that intoxicating liquor might be sold and bartered thereon contrary to law of 1881, and afterward such liquors were in fact so sold by Oldham on the premises. Afterward, Oldham was prosecuted therefor in a criminal action, and was found guilty and sentenced to pay a fine of $100 and to pay costs amounting to $95.30 - total $195.30.

<u>Opinion</u>:

" . . . It must be remembered that this is a civil action and not a criminal action, and the object of the statute is not so much to inflict a punishment upon the person who encourages the violation of the law by renting his or her property for the purpose that the law may be violated, as it is to provide an indemnity to the state for the fines and costs which may accrue to the state by reason of the anticipated and intended violation of the law. . . . We think that knowledge on the part of the agent binds the principal in a case like the present. The plaintiffs in error, defendants below, also claim 'that before the state can recover as against the lessor of the premises, it must exhaust its remedy against the convicted seller, Oldham, and that the petition must disclose the fact.' We think that the present remedy, and any other remedy which the state may have against the convicted seller are concurrent, and the state may resort to one or the other as it chooses, or to all at the same time. " 90

The <u>Emporia Daily Republican</u> in commenting upon the above decision wrote:

"This decision will be important both in calling attention to a means of enforcing the law hitherto but little availed of, and as exercising a salutary restraint upon many who, supposing themselves in entire immunity from the provisions of the law, have been

willing to share the gains of the traffic in intoxicating liquor so long as they were not exposed to any of its risks. There is a two fold advantage gained in the enforcement of this property clause of the prohibitory act. First, the state is secured in the most effective way in the prosecution of all offenses; and second, since the responsibility reaches all who are concerned, the difficulty which saloon keepers will have in finding premises to carry on their business and successfully evade the provisions of the law will be many times increased." 91

One of the decisions of greatest importance was the decision concerning the unlawful license of saloons in the city of Topeka. This case was of particular significance, for it gave the public (especially the temperance element) an idea of the way the law was being enforced in Topeka. The first case came to the Supreme Court in July of 1883, the State of Kansas, ex rel. the county attorney of Shawnee County v. the City of Topeka. The statement of facts as follows:

"The petition in this case, filed June 26, 1883 is as follows: 'A. H. Vance, county attorney of the county of Shawnee, in the state of Kansas, who prosecutes for said state, comes now here unto the supreme court of the state of Kansas and in behalf of said state, gives the said court here to understand and be informed that:

1. That city of Topeka for more than two years has been licensing and authorizing the keeping and maintaining of tippling houses and places within said city for the purpose of selling and keeping for sale habitually and as a business, of brandy, whisky, rum, ginger ale, lager beer, porter and other intoxicating liquor as a beverage, and not for medical, mechanical nor scientific purposes, and without any permit to sell intoxicating liquor at said places, nor by the owners or keepers thereof, having been issued by probate judge of Shawnee County.

2. That Topeka for more than two years has exercised and still does exercise a certain corporate power not conferred upon it by law; the corporate power of imposing and collecting a license tax upon the business of selling and keeping for sale intoxicating liquor within said city to be used for beverage, not for medical, mechanical or scientific purposes, and without any permit for the sale of intoxicating liquor having been issued by probate judge.

3. The city of Topeka for two years has used corporate powers of making, entering into and carrying out agreements and contracts with such persons as the officers of said city may choose, by which said persons are granted privilege of selling and keeping for sale within the city tippling houses and places for said selling and keeping for sale habitually and as a business, intoxicating beverage, to be at said places drunk as beverages, and not for medical, mechanical and scientific purposes, nor licensed, in consideration that said person will, at stated intervals, pay to said court on each of said persons at certain times, said fines so imposed and paid, to be paid to and received by said city as a license tax for the privilege of of carrying on said business, in full consideration of all violations of the ordinance of said city involved in making such sales, and in keeping and maintaining such places.

4. For two years Topeka. . . for certain sums, to be paid to said city by such persons in fines, as forfeited bail, or otherwise as said city might prescribe, said city would and will not cause nor permit said act of legislature to be enforced nor regarded as against such persons by any officer or policeman of said city; nor permit any prosecution, arrest nor complaint to be instituted or made under such act, nor any information which might cause, induce or aid any such prosecution by the state, to be given by any officer or policeman of said city.

"Wherefore said county attorney, prays that said city may be required to answer to said matters; that it may be ousted forever from the exercise of said usurped corporate power; and that such other and further relief may be given to said state against said unlawful acts as may be proper.

Opinion:

" . . . In conclusion, we hold that the right of licensing the sale of intoxicating liquors as a beverage, and the exaction of a tax or charge therefore, is a franchise or privilege which neither the city of Topeka nor any other city in the state, has the power to exercise; and if exercised by any city, a proceeding in quo warranto is the remedy to oust the city from the unlawful assumption of such power. " 92

Following this decision, proceedings were begun to oust the city of Topeka. The case came to the Supreme Court in January, 1884, the State of Kansas ex rel. A. H. Vance v. City of Topeka. The facts in the case were stated in the preceding case.

Opinion:

"This is an action in the nature of quo warranto, brought by the county attorney of Shawnee County in the name of the State of Kansas, to oust the City of Topeka from exercising the power of licensing persons to sell intoxicating liquor within the city limits, and of imposing license taxes or charges upon such persons for the supposed privileges granted to them by the city. . . . Demurrer was overruled by Supreme Court (Kansas 30, 653). . . .

"We suppose it will be universally admitted that no city in the state of Kansas has any power to license or authorize the sale of any intoxicating liquor, even for a legitimate purpose, and certainly not for any illegitimate or illegal or prohibited purpose, for no such power is or has been conferred upon any city of the state by any law now in force, and cities can exercise only such powers as have legally been conferred upon them. Only probate judges in the state of Kansas have the power at the present time to grant licenses or permits authorizing the sale of intoxicating liquor, and they can grant such licenses or permits only to druggists and manufacturers, and druggists and manufacturers can sell under such licenses or permits for medical, scientific or mechanical purposes, and then only under certain prescribed rules and regulations fixed by state. All other sales of intoxicating liquors, and all license for any other

sale of the same, are absolutely prohibited by law. . . . The only question . . . to consider whether City of Topeka has attempted to authorize or license the sale of intoxicating liquor. This question is principally a question of fact:

"June 15, 1881, an ordinance was passed by the city of Topeka. . . June 16, approved by mayor. . . Section 20. Persons dealing in soda water, seltzer water, German mineral water, and other drinks, shall pay for each and every place where such drinks are sold $600 per annum: provided that this shall not apply to peanut venders, confectioners, or drug stores.

"Under another provision of this ordinance, the person desiring a license to deal in 'soda water, . . .' was required to pay only one sixth the annual license tax at any one time. From the passage of this ordinance up to about September 18, 1882, the sum of $22,000, in round numbers, was collected from the saloon keepers who sold intoxicating liquor in violation of the law, and no sum was collected under the above-quoted provision from any other person or class of persons.

"On September 18, 1882, the mayor issued a proclamation, ordering that all saloons where intoxicating liquors were sold in violation of law should be closed from and after October 1, 1882, and on September 19,1882, he made a report to the city council: 'In view of the fact that on the first day of October next we will be deprived of a large revenue from licenses issued by dealers in soda water, etc, it becomes your duty to provide without delay an equivalent income from some source. The city has received, in round numbers, some $22,000 within the 15 months of such licenses. This must be replaced largely in some way, probably by an occupation tax, and the proper committees should be directed to draft an ordinance providing penalties for violations of what is popularly known as the "temperance law", so as to bring this class of cases properly within the jurisdiction of the authorities of the city.'

"On September 26, 1882, an ordinance was passed by the city council, and on the same day approved by the mayor, which ordinance, in substance, prohibited the sale of intoxicating liquor, and fixed fines and penalties for any violation: fine not less than $100, nor more than $500 for each violation, or fine not less than $10 nor more than $50 and imprisonment in the city prison not less than 15 days nor more than 30 days for each violation.

"The saloons were closed about October 1, 1882, and remained closed until sometime in November, when they were again opened. And from that time forward there was no honest attempt made on the part of the city authorities to again close them, or to enforce obedience to the ordinance. The whole object of the city authorities from that time forward up to the time when this action was commenced, which was June 26, 1883, seems to have been to permit the saloons to remain open, and to obtain a revenue therefrom. During that time there were over 30 saloons in existence. . . . One prosecution for each saloon was usually allowed during each two months (six prosecutions during the year) . . . . These supposed prosecutions were usually conducted in the following manner: The city marshal would usually, about every two months, give notice to each saloon keeper that his fine, or assessment, or tax, or whatever it may be called, was due and must be paid. The saloon keeper would then, as a general rule, appear before the police judge and plead guilty to a violation of the city ordinance, and the police judge would then fine him $100, and he would pay the same and be discharged. The fine was invariably $100, and no imprisonment was ordered, except as a means of enforcing the payment of the fine. In many cases, however, the saloon keeper would not appear before the police judge at all, but would simply hand the $100 to the city marshall and the city marshall would then report the same to the police judge, and the police judge would order that amount be forfeited to the city; and that was considered as ending the case. It was then considered that the saloon keeper was free to carry on his business again for another two months without further molestation or disturbance. . . . The saloon keepers seem to have paid promptly. Probably $100 every two months was only a small proportion of each saloon keeper's profits, and he could well afford to pay that amount. . . .

"The city has not by any written or printed license or permit authorized the sale of any intoxicatinglliquor, but we think it has just as effectually done so by the action of its officers as though the license or permit had been completely in writing, and authorized by an express provision of a city ordinance. No circuity of action, no indirection or evasion, can possibly excuse the city, or render its illegal and wrongful acts harmless and innocent; and no amount of shifts or subterfuges can ward off the merited consequences of wrong-doing. Courts look to the substance and essence of things, their real natures and character, and not

merely to forms. . . . No city has a right to seek revenue or other benefit by the encouragement of illicit business. . . . It is also the duty of all officers, city officers as well as others, to support the constitution of the state and to obey the laws, and especially all the laws pertaining to the duties of their own respective offices. . . . Each officer is required to take an oath to support the constitution of the state, and to faithfully discharge the duties of his office; and to give aid or encouragement to the operation of intoxicating liquor saloons, is certainly not supporting either the constitution or the statutes. . . ." 93

While this case was in the Supreme Court the Emporia Daily Republican made the following comment upon the effects and importance of this decision:

"The opponents of the prohibition law are now assailed in the last ditch of their defense. The quo warranto begun by county attorney Vance of Shawnee Kounty, to oust Mayor Wilson of Topeka from office on charge of neglect and refusal to perform his official duty in enforcing the prohibitory law, will settle the question of whether or not the city authorities can by ordinance or other measures, substantially violate the law, or safely neglect to recognize and enforce it. This suit will also test the final resources of the law itself to overcome, when supported by public sentiment, all legal subterfuge and opposition. . . . If the state win the case and Mayor Wilson is removed from office, and the Topeka license ordinance declared null and void, the effect will be very encouraging to prohibitory sentiment. The anti-prohibitionists are by this suit drawn to their last ditch. They have no further legal refuge. The law will have been sufficient of itself to meet every emergency and the prospects of its enforcement in letter and spirit, in city as well as country, throughout the length and breadth of the state, will be multiplied a hundredfold. an adverse decision would on the other hand so evidently weaken the law and discourage the prohibition sentiment of the state that in view of previous rulings we do not look for any such decision. We believe that County Attorney Vance has a winning case, and that the friends of prohibition in the larger cities should begin now to organize for a vigorous campaign, and for the application of the prohibitory law itself to the public officers who fail to comply with its requirements in regard to their official responsibilities toward it." 94.

The decision which was heralded by the prohibitionists as their greatest victory was that of the removal of John Foster, county attorney of Saline County. In the Biennial Report of the Attorney General, an account of the beginnings of the proceedings were recorded by Mr. W. A. Johnston, attorney general of Kansas:

"In November, 1883, a petition numerously signed by citizens of Saline county was presented to me, representing that John Foster, the county attorney of that county, had, ever since his election to that office, willfully and persistently violated his oath of office in refusing to prosecute persons whom he knew to be guilty of violating chapter 128 of the laws of 1881, commonly known as the prohibitory liquor law, and requesting me to institute proceedings in the Supreme Court under section 219, chapter 2, laws 1879, to oust and remove him from office. There being reasonable grounds to believe that the allegations of the petition were true, and a bond having been furnished by the citizens of Saline county for the protection of the State in compliance with the rules of this office in such cases, I, on the 17th of November, instituted original proceedings in quo warranto in the Supreme Court against Mr. Foster to remove him from the office of County Attorney in Saline County." 95

The petition which Mr. Johnston filed in the Supreme Court was:

"The State of Kansas, on the relation of W. A. Johnston, attorney general, . . . give the court here to understand and be informed, that at the general election of the year 1882, and on the 7th of November, 1882, said defendant, John Foster, was duly elected to the office of county attorney of Saline County, state of Kansas, for a term of two years, and having qualified, did, on the 8th of January, 1883, enter upon the discharge of his duties of said office as county attorney, and that since said 8th of

January, 1883, said John Foster has been acting county attorney of said county; that during the time . . . certain persons, to wit, Charles Holenquist, T. M. Ludes, Gustav Behr, William Sweeney and others have been engaged in said county and city of Salina, in the willful, open and notorious sale of intoxicating liquor in violation of law, and especially of act known as prohibitory liquor law, that each and all persons have kept in said city of Salina and maintained open and public liquor saloons, in which were sold various kinds of intoxicating liquor, neither of said persons having or pretending to have any right, permit, or authority to deal in or sell such liquor; that the facts of such violations were well known by said John Foster from information received by him from others, as well as from his own personal observations and experience, he being a frequenter and patron of such illegal saloons during said time, yet the said John Foster, though well knowing that said persons were guilty of violating the provisions of said law, and that it is his duty as such county attorney to prosecute them for such violations neglected and refused so to do and by frequenting and patronizing their places of such illegal business did encourage them to continue to violate the law. . . .

"Wherefore, said attorney general, on behalf and in the name of the State of Kansas prays judgment that the said John Foster, by reason of his aforesaid acts, refusal to act and misconduct may be adjudged and declared to have forfeited his said office of county attorney of Saline County, Kansas, and that he be ousted and removed therefrom. William A. Johnston." 96

Opinion:

" . . . A county attorney, before entering the duties of his office, must take and subscribe an oath that 'he will support the Constitution of the United States and the constitution of the state of Kansas, and faithfully discharge the duties of his office.' After the utterance of this oath, he cannot sit down with folded hands and refuse to perform the duties imposed upon him, solely upon the ground that the sentiment of the community or county in which he resides is in opposition to the enforcement of the criminal law of the state. Such action on his part would tend to increase lawlessness. . . .

"The county attorney within his county, to a certain extent, is a representative of the state. He is to prosecute in his county for the state. . . . He is the officer upon whom the state relies for the prosecution of all criminal offenses within his jurisdiction. If he fails or refuses to act, the law is voiceless and powerless. It is paralyzed. It protects no one needing protection; it punishes no one deserving punishment. If a county attorney vigilantly and earnestly discharges his duty by frequent prosecutions in a community seemingly indifferent to the enforcement of law, his action will of necessity call the attention of the public to the disregard of law and the dangerous consequences following therefrom. . . .

"The court finds that the defendant has forfeited his office as county attorney, and is therefore ordered that judgment be entered that he be removed therefrom." 97

The removal of Foster took place immediately, as seen in the report of the attorney-general:

"After the judgment of ouster was rendered by the Supreme Court of the State, the judge of the District Court of Saline county filled the vacancy caused by this removal by the appointment of Joseph Moore, of Salina, who at once qualified and entered upon the duties of the office, and was recognized by the court as county attorney of Saline county. Mr. Foster at once appealed to the Supreme Court of the United States." 98

The decision of the United States Supreme Court was discussed by the <u>Topeka Daily Capital</u> as follows:

"In our issue of yesterday appeared among the telegrams from Washington, D. C., the decision rendered by the Supreme Court of the United States in the case of the State v. John Foster, . . . He claimed that the judgment of removal against him should be reversed upon two grounds: first, that the prohibitory law is unconstitutional; and second, that the proceedings against him of quo warranto were criminal in their nature, and therefore that he ought

to have been tried in Saline, instead of Shawnee county. The Supreme Court of the United States decided against him in both of the objections, and held that the prohibitory liquor law was not in violation of the Constitution of the United States and further held that the quo warranto proceedings were not criminal in their nature, and therefore that his trial in this city was legal in all respects. This decision of affirmance finally disposes of all matters growing out of the Foster prosecution. Several days ago, the Supreme Court of the United States dismissed all proceedings against his successor in office, Joseph Moore, and now it affirms, upon the merits of the judgment of ouster against him." 99

Thus the State Supreme Court and the United State Supreme Court had aided the work of prohibition in Kansas. The courts had upheld the law in every respect. Officers could be dismissed upon failure to enforce the prohibitory law. Enforcement of the law now must be carried on by the people. The courts were on the side of the prohibitionists. Who else wanted the law enforced?

Chapter VI. Governor Glick and Enforcement.

The revival of the prohibition crusade, the success of prohibition in the courts, the ardent work of the prohibition leaders, organizations and newspapers all aided in bringing together the temperance element in an effort to combat the liquor interests.

What the saloon interests were doing was another story. The story was not written, and was not told. The temperance people believed that the saloon element had been receiving aid from other states to carry on the work of opposition. The supporters of the saloon might express their ideas concerning "personal liberty" rights through the press--and then continue to sell liquor contrary to law, hoping that those who supported them would greatly outnumber those who opposed their clandestine business. The temperance movement thrived on publicity and agitation. The saloon interest did not want any publicity. The following letter to Governor Glick shows some of the secret work of the saloon interest, and also seems to disprove the charge that the saloon element received much money in the election of 1882. The letter reads:

"Dear Governor: A few days after the Kansas court had rendered its major decision against the appellant in the case of the State against Mugler, at the request of Mr. Peter Mugler and in his name I wrote a letter of six pages to the U. S. Brewers Association urging them to carry the case, at their expense, to the Supreme Court of the United States.

In that same letter I expressed it as Mr. Mugler's opinion, that while good policy required an immediate appeal, without any delay, it was as necessary for the best interests of the brewers and their friends in Kansas that no final decision should be reached in the United States Supreme Court before 1885. I cannot here quote those reasons at length, but very likely the same or similar will present themselves to your mind and in the same direction. The secretary of the Brewers Association sent Mr. John Wallruff a copy of (mine) Mr. Mugler's letter. Mr. Mugler had an interview with Mr. Wallruff some time in February last and--no matter how it was brought about--Mr. Wallruff endorsed that letter in full. The Board of Trustees of the Brewers Association in their meeting of the 17th of March last decided to take that case to the United States Supreme Court at their expense, and have retained Senator Vest as their solicitor. Senator Vest will be in Topeka next Wednesday the 11th instant, when quite likely he will pay you a visit when you might inform him of the great political advantage to be secured to his clients and their friends in Kansas by delaying a decision in his case till '85. The campaign of '84 would in that event find us, to the largest extent backed by the solid anti-temperance element, as in '82, otherwise with a favorable decision from the United States Supreme Court for the appellant, interest might lag. At the same time he might explain to his clients, that a little tangible assistance in '84 might not come amiss, it would be pound-foolish for them to allow us to go into the fight then as we did last year--without funds. Excuse me if I have become lengthy in my opinion, not any precaution ought to be omitted, to give us all possible vantage ground next year.

"Regarding home politics, while we really have lost nothing worth while, still we were a little scorched in our last city election. One advantage gained however--next fall will not catch us napping." 100

The answer to the above letter of August Bondi, who claimed to be largely responsible for the Democratic victory and Glick's election, and for whom Glick failed to get an appointment on the State Board of Charities, reads as follows:

"Your letter of April 9th is at hand. I was out of the city at the time Senator Vest was here. I regret this very much, as I would liked to have seen him, and talked over some of the points in that case, as I think I could have been of some use in preparing it for trial. The suggestion you make as to the delay in the trial of the case is probably a good one, but it would have to be managed very discreetly, or it might do more hurt than good. If I see Senator Vest I will

talk the matter over with him as you suggest.

"Sorry you got a little scorched in your election. Several other cities were caught in the same way. Defeat though, is a good monitor in pointing out the proper road to success in the future. I hope our friends in Salina will not be caught napping again." 101

All of the factions of the anti-prohibition element sought the support of Governor Glick, just as the prohibition forces sought to prove that Glick was the embodiment of all that was evil for their cause. Many letters to the governor suggested certain lines of action or urged him to use certain courses in dealing with prohibition. The following letter of Stephen R. Smith shows the attempt to introduce temperance teaching in the schools of Kansas:

"Honored Sir. I think I told you I had waited 25 years for a democratic victory, and that I was willing to die if we lose the battle of 1884.

"If I had secured the editorial position on the Journal that I wanted, and to which long services entitle me, I would have made myself a power in the state with both voice and pen. . . . There is nothing left for me now, but to use my voice through the state, and my pen, in writing good sense for the children to speak. I can wake up any community in this way.

"Again, I helped to have temperance text books introduced into the public schools of Vermont and Michigan, and I want to see it done in Kansas, and under your administration. It indorses the democratic principle, that we must commence all over again, with the children in the home and in the schools.

"I spoke to Mr. Speer, and he seemed to favor it. He thought there would be no difficulty in getting a bill through the next legislature of Kansas, similar to those passed last winter in Michigan and Vermont. It will take the wind out of prohibitionists and other theorists. I am satisfied yourself and Mr. Speer will favor it, and I wish you would both give me a modest line in writing." 102

The Governor's reply reads as follows:

"Your letter of September 27th is at hand. I have talked with Professor Speer, and he declines to concur in the suggestions you make. He thinks as a state officer that it is a matter in which he has no right to interfere, nor do anything unless he is directed to do so by law, and there is no law upon the subject. I think it will be useless to try to get any assistance from him. So far as I am concerned officially, I have declined to give letters of recommendation to any man for any purpose since I have been in office. I do not regard it as proper, as it might be construed differently from what is intended. Personally, I regard your work as in the true line of temperance--educating the children to abstain from the use of intoxicating liquor, and teaching them the terrible results from its use. I hope you will have success in your undertakings, and that the same will be both remunerative and satisfactory to you." 103

But Mr. Smith was evidently not to be discouraged by the refusal of the Governor, and wrote again November 1, stating that he had given the temperance problem fresh study and urging that Glick and Speer write him recommendations. He enclosed a complimentary ticket for a meeting of the Percy Temperance Association. Glick's reply was that Mr. Speer "positively declines to say anything about your affairs in connection with the temperance, or any other cause." He enclosed with his letter to Smith the following note to Master R. S. Stockton, President of the Percy Temperance Association:

"Please accept my thanks for yourself, and for your association, for the complimentary ticket you sent me. . . . I regret very much that it will be impossible for me to be present and enjoy with you the good time you expect on that occasion.

"You are engaged in a very laudable purpose--the cultivation of temperance and sobriety amongst the young men and the boys of Kansas, is one of the most worthy that you can be engaged in. The use of intoxicating liquor

is something that should be shunned by all. Its evil and detrimental effects upon society, and upon those who indulge in its use are far reaching and always result in misery, and often in poverty and disgrace. The movement that you are engaged in, with your noble teacher, Mr. Stephen R. Smith, will certainly result in great good to you if you are governed by his teaching and by his advice in this matter. Pledge yourselves while you are young, and persuade your associates to do so with you, never to indulge in intoxicating liquor again." 104

Mr. Smith gave this letter sent to the Percy Association to the Kansas City Papers, hoping it would have a splendid effect over the state. Newspapers made various comments. The Emporia Daily Republican remarked: "Governor Glick has developed into a total abstinence man." After quoting the letter they wrote the following conclusion: "The boys find it difficult to understand how Governor Glick with these views, is in favor of licensing saloons." 105

The following letter explains somewhat Glick's attitude on this question:

"Editor, Kirchenzeitung, Cleveland, Ohio. Your letter of May 16th, in which you inform me that you find in a German religious paper the assertion that I made the statement that 'I would rather see a saloon in any town than a church' is at hand. I never made any such assertion, and the party who says I did, deliberately and willfully states a falsehood. That statement was made first in a political speech by a reformed drunken sot in the state of Kansas during a political campaign--a worthless fellow whose family I had supported and kept out of the poor house for two years, and because I did not choose to continue his employment, he went to a neighboring town and made that statement, which was at once taken up by a prohibition paper as a fact, and given currency to.

"I think I am as good a temperance man, both theoretically and in practice, as any prohibitionist, though I do not believe in going crazy on that subject, or assuming that every other man who does not exactly agree with me, is either a fool, a scoundrel or a drunkard. I send you a copy of my message where I treat upon the subject of prohibition, that defines my position upon that question." 106

In July 1883, Governor Glick received the following:

"I am Mayor of Anthony in Harper County. There is a temperance element here, who claim that I must enforce the prohibitory law, regardless of a majority who are not in favor of enforcement of law. Enclosed find a copy of the proclamation I caused to be published. Myself and city council are in favor of enforcing the prohibitory law as well as all laws. People are somewhat excited, but I fear no trouble. I wish you would answer and tell me what to do." 107

Glick's reply was:

"I am not the proper person to advise you as to your duty as mayor. It is your city attorney, or your county attorney, especially the latter, whose duty it is to prosecute cases under the prohibitory liquor law. I would advise you to be governed by his advice in the matter." 108

From the day of Glick's inauguration he was firmly convinced that prohibition was not and never would be successful. Again and again he declared that prohibition was a sad failure, and would be in any state where it was adopted. In answer to many inquiries, particularly from other states, his reply was always the same, that prohibition did not prohibit in Kansas. In answer to requests concerning enforcement, he usually sent a copy of his message. He wrote to Mr. Charles Foster, Governor of Ohio as follows:

". . . Respecting the measure of success attending the enforcement of the prohibitory law, I can only say that at no time since the law went into operation, now over two years ago, has the traffic in spirituous liquors in the large cities in Kansas, been suspended in consequence. In Atchison, Leavenworth and other principal cities not only has the liquor traffic gone on openly and uninterruptedly since that period, but no effort has been made by the authorities in those municipalities to suppress the traffic, public sentiment practically nullifying the law. Considering these facts, in connection with the clandestine sales of liquors, and the vast amount that is daily delivered to individuals in concealed packages by express companies, we are forced to the conclusion that the cause of true temperance reform has not progressed very rapidly under our present coercive system.

"On receiving your letter I addressed a note to the

United States collector for the district of Kansas, with the request that he furnish me with the number of liquor permits issued from May 1st 1882 to May 1st 1883, and he replies that there were issued within that period, twenty one hundred and fifty retail dealers' stamps; thirty two wholesale liquor dealers' stamps, and twelve brewers' permits. These figures show a steady and rapid increase, nor has there been in those localities a single prosecution in the courts. In the smaller towns, running from 500 to 2,000 or 3,000 population the liquor traffic has also been carried on, the only difference being that the saloon keepers have occasionally been prosecuted in the courts, and a small number of convictions obtained, which have had the effect in some instances of temporarily stopping the traffic until the excitement would die away when the saloon would open again. Only in those counties or localities in which there were no large towns, in which the temperance sentiment was strong enough to keep out the saloon, under the rigid dram shop act which Kansas had before the adoption of the prohibitory amendment to our constitution can it be said that the prohibitory law has been enforced." 109

A letter to Don C. Wood, Angola, Indiana gives more of Glick's conclusions concerning saloons. It reads:

". . . You will notice that by the adoption of the prohibitory amendment to our constitution, and a very stringent and oppressive law enacted by the legislature to carry it into execution, that there has been an increase of almost one hundred per cent in the amount of liquor permits issued by the federal government since the passage of the prohibitory law. . . . The effect of prohibition has been almost the exact reverse of what was intended by its friends and supporters, and instead of decreasing drunkenness and the use of intoxicating liquors, it has increased it. The people seem to feel that it is an attempted interference with their individual and personal rights by meddlesome parties whom they do not regard as authorized to give them advice or counsel, and whom they regard simply as busybodies and meddlers." 109a

Probably the most discussed subject in Kansas was the question of prohibition enforcement. Both elements were determined to prove that the amendment did or did not prohibit. Various reports were taken in an effort to determine the number of saloons, enforcement of law, attitude of the public and numerous other questions relating

to prohibition. During the second month of the Glick administration, the Daily Commonwealth (Topeka) sent out a circular letter to all the counties in the state asking information concerning the number of saloons. The following report was made:

Allen	20	Wabaunsee	4
Atchison	40 2	Washington	3
Barbour	3	Wilson	1
Barton	12	Wyandotte	70
Bourbon	1	Anderson	no report
Brown	7	Chautauqua	"
Butler	4	Cherokee	"
Chase	7	Clay	"
Coffey	5	Cloud	"
Cowley	8	Crawford	"
Davis	4	Decatur	"
Dickinson	20	Elk	"
Doniphan	18	Graham	"
Douglas	2	Greenwood	"
Edwards	8	Harper	"
Ellis	4	Hodgeman	"
Ellsworth	13	Jewell	"
Ford	2	Kingman	"
Franklin	14	Lincoln	"
Harvey	4	Linn	"
Jackson	5	McPherson	"
Jefferson	3	Montgomery	"
Johnson	1	Nemaha	"
Labette	22	Norton	"
Leavenworth	2	Osborne	"
Lyon	6	Ottawa	"
Marion	16	Pawnee	"
Marshall	6	Phillips	"
Miami	5	Pratt	"
Mitchell	4	Republic	"
Morris	23	Rice	"
Osage	13	Riley	"
Pottawatomie	4	Rooks	"
Reno	3	Rush	"
Russell	7	Sheridan	"
Saline	30	Smith	"
Sedgwick	62	Stafford	"
Shawnee	21	Woodson	"
Sumner			110

In commenting upon this report the *Atchison Daily Champion* said:

"The Commonwealth thinks the number of saloons is less rather than more, than the actual number. If Atchison County is a fair example, this supposition is undoubtedly correct for there is not less than fifty saloons in this county." 111

A letter from Colonel Carpenter was reported by William J. Buchan in a speech in the Kansas Senate, February 23, 1883 as follows:

"I have made an examination of the records of my office and find that from May 1st 1880, up to the end of the tax year, April 30, 1881 there were issued 1,977 retail liquor dealers' stamps. During the same period there were issued 32 brewers' permits. Number of wholesale liquor dealers stamps, same period, 30. From May 1st to the end of the tax year April 30, 1882, there were issued 1,787 retail liquor dealers' stamps, brewers permits, 24, wholesale liquor dealers stamps, 17. The number of retail liquor dealers' stamps issued from May 1, 1882 to February 9, 1883 is 1,895, wholesale liquor dealers stamps, 23, brewers, 13. There have been issued from January 1 to February 6, 1883, 162 retail dealers stamps." 112

The *Atchison Daily Champion* reached the following conclusion from the record of permits:

"Of course many of the stamps issued by the United States collector were taken by druggists who do not sell liquors except for medical, mechanical or scientific purposes. But these figures all justify the conclusion that there are fully 1,000 saloons in this State, most of which sell liquors as openly as those of Chicago or St. Louis." 113

Ex-governor Robinson in a speech at the Parsons Prohibition Encampment spoke as follows concerning saloons:

". . . (quoting concerning the number of permits). . . If we descend to details, prohibition will fare no better. In the small town of Lawrence, before prohibition, twelve saloons were running, fourteen the first half, and ten the last half of the year. Last spring, 18 saloons were paying $25 a month each into the city treasury as forfeit money, while there were druggists and some other dealers who paid nothing. Since then a raid has been made on the saloons by the county attorney, and one saloon has closed, and two new ones started, but none are paying any money into the city treasury, as it is now used to employ counsel for defence. . . . In canvassing the state last fall, I visited no place where prohibition was effective to prevent the sale and use of liquor. Judge Bayne, at the close of the canvass, declared publicly that he had not visited a town during the canvass of several weeks, and covering most of the eastern part of the state, where he could not have procured liquor in fifteen minutes after entering the town, sufficient to make him drunk, and Judge Bayne had been a prohibitionist, and voted for the amendment to the constitution. If any person is still enamored with prohibition let him visit Wyandotte and Kansas City on some pleasant Sunday, where he will find saloons in high license Missouri closed, while in prohibition Kansas they are in full blast. . . ." 114

Meanwhile the temperance people were insisting that the prohibitory law was enforced. Martin Van B. Bennett, prominent speaker of the Kansas State Temperance Union said in a speech in Topeka, May 1883:

"Prohibition is stronger in the State of Kansas today than at any period heretofore in the history of the State. The prohibitory liquor law is enforced in three-fourths of the state as well as any other penal statute, and in many instances better than the law against horse racing, lotteries, gambling and licientousness. The principles of prohibition have been strengthened and the people of Kansas are more determined today to enforce the prohibitory law, since the inauguration of Governor Glick and the appearance of his message." 115

The Daily Eclipse (Parsons) expressed its views on the enforcement problem with an editorial statement:

"We hear a great many people claiming that the prohibitory law does not prohibit, but that it is dead and inoperative on our statute book. It has now we think been demonstrated beyond a reasonable doubt, that the people of the state intend to keep this law upon the statute book, and vindicate its force and effect. . . . There is only one question to be debated--is the saloon traffic a nuisance to the public and a detriment to the state? We have never yet seen a man to dispute that plain answer to the proposition, it is. . . ." 116

It has already been shown how the temperance workers had set about to rid the state of the saloon by enforcing the law. Realizing that there were over a thousand (open) saloons in Kansas, they knew the magnitude of the task before them. It was to be a great contest. Determination, enthusiasm, courage and faith were the weapons of the crusaders. The saloons must be closed. It was their duty to close them. Everyone knew that the larger cities were wet. The dry workers must get busy. The problem of enforcement varied according to the time and locality. It will be necessary to investigate but one particular community at a time. The situation in Fort Scott was reported to the Topeka Daily Capital as follows:

"During 1882 the prohibition law was pretty well enforced in Fort Scott, so well in fact that a necessity arose for those who wished their regular drams to either send by express to Kansas City or go across the line into Missouri.

"Some time in November a petition, quite numerously signed, was presented to the Council, asking them to pass an ordinance licensing saloons at about $600 a year. The city attorney was directed to draw up an ordinance in accordance with this petition. But he informed them he could not license liquor selling.

During all this time at least twenty saloons were running in full blast.

"About the middle of December another petition was presented, signed largely by temperance people, asking that an ordinance be passed, entirely suppressing the sale of liquor in our city. An ordinance was drawn up, discussed, and finally passed, a good, straight, out-and-out prohibition document. The temperance people were well satisfied with it, for it was almost a literal copy of the state law in its sections. The ordinance was promulgated by the mayor. But alas, for the trickery and dishonesty of those in authority. The saloon men were told that the temperance men had compromised the matter, and that both sides were now agreed on taxing them one hundred dollars every sixty days. So fines were collected to the amount of some $1400.00. Members of the council gave out that they had the thing in their own hands, and that the saloon men were safe if they would only pay fifty dollars per month without any fuss. The ordinance was prohibition, but the private interpretation by the mayor and his faction was license.

"Feeling that we had been betrayed and badly sold, we concluded to try the virtue of city protection. So a suit was commenced. . . . He was beaten and paid his fine. At the next meeting of the Council, one of the council men tried to remit the fine, but could not get it through. Finding all ideas of protection dissipated into thin air, two of the saloons at once closed. Having gained this much, it was thought best to commence prosecutions under the State law. . . . Numerous suits are pending, and there is a general feeling of uneasiness among the liquor fraternity. The present intention of the temperance people is to press them to the wall, by piling on the suits so thick and fast that they will be glad to stop this inhuman work. There are men backing up those prosecutions who mean business." [117]

Prohibition began to prohibit in towns not as large as the towns in eastern Kansas. An item sent to the Topeka Daily Capital from Beloit reported that:

"Judge Smith is determined to have no more quibbling or evasion in his court, which will speedily bring lawbreakers up with a short turn. Beloit is notorious for its violation of the liquor law, but with a righteous judge on the bench, matters will eventually take a new turn." [118]

Prohibitionists seemed to have been busy out a little farther west, as well as in the eastern and central part of the state. A report to the Topeka Daily Capital from Ellis, Kansas of June 4, 1883 said:

"The friends of law and order in Hays City, are rejoicing over their signal success achieved in the prosecution of saloon keepers during the last week in district court. . . . Early in the week the leading saloon keeper paid $100 and costs." 119

The temperance workers met with much opposition as the Daily Commonwealth (Topeka) pointed out in an editorial of April, 1883:

"In the courts discouraging results are encountered. In the larger towns the juries disagree and so conduct themselves as to appear corrupt. The procurement of witnesses is difficult. The law makes no adequate definitions of evidence. A beer keg and whiskey barrel do not involve the owner; a United States certificate of payment of government tax proves nothing; bar fixtures are innocent of testimony; a liquid poured from a bottle may be cold tea; beer is 'sea foam', and the courts must sit idly and listen to practical perjury. There is no law against 'stomach invigorator', unless you can coax your witness to tell the truth, which in a liquor case is rare enough. A whiskey trial is a farce, and law and order as such suffer loss instead of making gains by the absurd proceedings." 120

The Chicago Tribune reported an interview with ex-governor John P. St. John as to whether prohibition was not a dead issue in a number of localities in Kansas. In the reply St. John assured the reporter that in Topeka, Atchison, Leavenworth, and Dodge City containing but one-fifteenth of the population the law was not enforced, but in the rest of the state the law was as

well enforced as any other criminal law. The _Tribune_ concluded that since enforcement took place only where there was a preponderance of sentiment for it, that prohibition in Kansas was just the same as local option.[121]

Dodge City, far out to the west, had been notorious for the lack of enforcement of the prohibitory law. In the early summer of 1883, the people seemed to have divided into two parties, the gamblers and tough element on one side, and the law-abiding people on the other. A gambler, named Short had been charged with some offense, and the people organized to hang him, while the roughs organized to protect him or fight. The officers had to protect him from the angry citizens, and the roughs were trying to release him. Telegrams describing the situation were sent to Governor Glick. He sent Thomas Moonlight, adjutant general to Great Bend, where the Atchison Topeka and Santa Fe railroad had a car ready to aid in sending the militia to Dodge City, if the Governor should order them to go.[122] The attitude of Governor Glick on law enforcement may be seen in a letter to George T. Hinkle, sheriff of Ford County:

"Your telegram to me of the 11th is at hand. I am glad to be assured by you that you are able to preserve the peace of Dodge City, and of your county. The accounts of the way things have been going on there are simply monstrous, and it requires that the disgrace

that is being brought upon Dodge City, and the State of Kansas, by your conduct that is represented to have occured there, should be wiped out. . . . You tell me that the mayor has compelled several parties to leave town for refusing to comply with the ordinances. Such a statement as that, if true, simply shows that the mayor is unfit for his place, that he does not do his duty, and instead of occupying the position of peace maker, the man whose duty it is to see that the ordinances are enforced by legal process in the courts, starts out to head a mob to drive people away from their homes and their business. It was the mayor's duty, if he did anything, to have appointed and sworn in special policemen to protect citizens, and if he could not do it, to have called upon you, or have called upon me, for assistance. . . . It is represented to me by affidavits, and by statements, that the best men in Dodge City have been threatened with assassination, and with being driven away from their homes, if they raised their voices against the conduct of this mob. . . .

"It is represented to me also that at this very time, and ever since this pretence of the mayor that he was trying to enforce the ordinances against women visiting saloons, that he has prohibited only as to one saloon, made arrests in one case, and permitted that ordinance to be violated every day and every night, to hiw own personal knowledge, and of that of the marshall and police officers of the city, by other men who were running saloons where women are permitted to visit, and sing and dance.

"It is also represented to me that citizens who have been driven away from home attempted to return to their homes, and were driven off. Now if this state of affairs is to continue, you can see what disgrace it will bring upon your city, upon your county and upon the State of Kansas. The demand is made upon me, and is coming to me from all parts of the state, that it is a disgrace that must be wiped out. It is also demanded and charged by parties who are now demanding the enforcement of the liquor law, that every saloon and dance house in Dodge City must be suppressed, and there is coming up almost a universal demand over the state, that it shall be done, if I have to station a company of troops in the city of Dodge, and close up every saloon, and every drinking place, and every dance house in that city. . . .

"I desire also to inform you that I expect you to see now that the peace of Dodge City is preserved, that the life and property of every individual is full protected, and that any person who desires to return to

his home and to his business, must be protected by you. . . .

"I ask you in addition to this, that you call together the good citizens of Dodge City, lay this matter before them, ask them to come to your assistance, to aid you in preserving peace, and preserving order and the quietude of the town. . . . If they offer to furnish you assistance, and will respond to your call I will order a sufficient amount of arms and ammunition into your custody, so that you can have any assistance that you require. If this is not sufficient, a company of troops will at once be ordered to Dodge City, and placed under your command and control, so that you shall have full authority and full power to preserve the peace and protect every individual that may be in the city. . . ." 123

The Ford County Globe in commenting upon the situation in Dodge City wrote:

"The Capital misrepresented Governor Glick in the Dodge City matter. The governor has only directed the sheriff to keep the peace and protect all parties. His object has been to prevent mob law, and insist that those charged with crime shall have a fair trial, and that the law shall be enforced. Governor Glick has sent no militia to Dodge, and is not likely to, unless called upon by the sheriff; as it will then be his duty to do so. It is the duty of the governor to see that the laws are enforced, and that those charged with crime have a fair trial. He should see that this is done, if it takes the whole power of the state. (From the Topeka State Journal). 124

The Ford County Globe on June 12, 1883 wrote that: "Our city trouble is about over and things in general will be conducted as of old. All parties that were run out have returned and no further effort will be made to drive them away. The much talked of militia was not needed." 125

In Wichita, during the summer of 1883, the temperance agitation seemed to have brought forth some prosecutions, and likewise difficulties. There had been twenty-five to thirty saloons running wide open. All the saloon men were arrested and taken into court. The Wichita Beacon

reported the arrests as follows:

"They bared and bowed their backs to receive the thunder bolt as hurled from the seat of justice. After sentence each one marched up to the district clerk's desk and settled costs but refused to pay the fine of $100. The next step in order would have been to conduct the recalcitrants to comfortable and commodious, if not luxurious, quarters in the County Reform University. That step was not taken. The steps they took were to step up to the county building, where Messrs. Steenrood and Steel of the board were in session as commissioners, present their receipts for costs and receive their discharge from the custody of the sheriff, given by order of the board. They then went on their way rejoicing, and we presume, were ready to supply an increasing demand for the goods they deal in." 126

The Wichita Daily Eagle explained the situation somewhat differently in an August editorial:

"Some few weeks since about two dozen or more violators of the prohibitory law, old and new, were arrested and fined each $100 and costs. The whole crowd refused to pay their fines and were ordered committed. The commissioners refused to go the necessary expense to give up a place to hold and board so many, the jail being full; which matter was set forth in their resolution releasing the condemned from confinement. This action was severely criticized by many. Upon inquiry into the matter the chairman of the board said that the order was not made for the purpose of relieving the parties from the penalty of the fine, but to save the county what would prove a heavy expense. . . . We are informed that the fines not having been paid, processes for their collection have been issued. The county has not been at a cent's expense. The costs amounted to $990, which were paid by the defendants. The county attorney's fee was about $600. What it would have cost to fix up for and keep thirty odd prisoners can be figured by others as well." 127

In Topeka, during the summer of 1883, the war which the prohibitionists had begun in May seemed to have been moving rapidly. The temperance leaders were much pleased

over their victories. Many whisky trials were brought into court and many convictions made.[128] The newspapers over the state observed with interest the big clean up of the capital city, the notoriously wet spot of the state. The Kansas City Journal noted thus:

"There is no doubt whatever that if any information were to be filed against every saloon keeper in this town and the case submitted to Martin's court for trial, conviction could be obtained in every case. It doesn't look as though the famous citizens' meeting held not long ago, to which Governor Glick lent his august presence, has had the effect expected." 129

The Davis County Republican reported concerning the Topeka cases:

"The district court is in session in Topeka. Three liquor cases have been tried and others will follow . . . . Why not? Is it any reason that these violators of the law should not be punished? Are they better than other people that they should escape the penalty of violating the law? Is it any reason that this particular law should not be enforced because you dislike its provisions?" 130

The Marion County Record reviewed the Topeka situation thus:

"They are reaching for the saloonatics in Topeka at a lively rate, despite the efforts of the city and county officials to shield these dispensers of prohibited drinks. Judge John Martin, Democrat though he is, will stand no monkeying, and jurymen, who formerly thought it a big joke to perjure themselves in these cases, have come to their sense, and promptly rendered verdicts in harmony with the evidence. The outlook for law and order and sobriety is encouraging." 131

The Topeka Daily Capital in December, 1883, in a column called "Prohibition Echoes" showed how the law was being enforced at various places over the state. The following were significant:

"In Osage county the people are organized and united for the enforcement of the law, and the saloon men have agreed to quit business.

"Marshall county has done a splendid work in closing all the saloons in the county.

"In Leavenworth and Atchison counties prosecutions will come for the first time in earnest." 131 2

It had been reported at the beginning of 1883, that Marshall county had 16 saloons, and Pottawatomie had 13. (see report page 72) The report at the end of 1883 was:

"In Pottawatomie county Judge Martin closed his term of court on Saturday morning. The convictions gather in eleven saloon keepers and the aggregate number of counts upon which they were convicted were 79, the fines assessed amounting to $7,600 and over $3,000 of costs. Three of the saloon keepers each received 30 days in the county jail. There is not an open saloon in Pottawatomie county." 132

Assuming that the saloons really closed in Marshall and Pottawatomie counties, and were not merely paying fines and continuing their business as was the case in the Topeka license system, the temperance crusaders were evidently fighting a winning battle.

At the beginning of 1884, a great crusade was begun in Emporia. The <u>Emporia Daily Republican</u> reported as follows:

"It can now be truly said that Emporia has no saloons. If from this time on any do exist, they will be compelled to be even more clandestine than ever before. At 12 o'clock last night an agreement went into effect between the saloonists of the city, that the saloons were to be closed for good and that the traffic was to end in this city. This agreement was signed by the proprietors of the saloons known as the Sportsmen's Billiard Hall, the Red Front, the Fifth Avenue Hotel, O. Pfefferle's old place and the Emporia Billiard Hall. In conversation yesterday with one of these proprietors, it was learned that a secret meeting of the saloonists had been held a few days ago, at which the decision to quit the business was arrived at. No one hereafter, no matter who he is, will be able to get a drink at any of the places mentioned above. These were the five leading saloons in the city, and their closing will compel the same from the others.

"The temperance people can certainly congratulate themselves upon this result, and feel that the cause of temperance is strengthening. But there is much to be

done yet. The law must be enforced, or else sundry violations will soon be heard of again. If there are any low dives where liquor is sold, these should be ferreted out and the violator brought to justice." 134

The Topeka Daily Capital commented on the Emporia situation thus:

"There is no mistaking the language of the News when it says that the people of Lyon County have made up their minds that the prohibitory liquor law means prohibition there. 'It is admitted on all hands', that paper says: 'That the backbone of the opposition to the enforcement of the prohibitory law in Emporia and Lyon County is broken, and it is an open secret that the liquor dealers are suing for terms with the authorities to the end that they may avert the fate of utter financial ruin and imprisonment, which has already overtaken two of their number. The temper of the people of Lyon County in regard to the law is too plain to be mistaken. There is a fixed determination in their minds that prohibition as the settled policy of the state shall prohibit here, and they have made up their minds that this end shall not be longer defeated by witnesses and jurors subsidized by the liquor interest, or by the sophistical evasion of cunning lawyers. These subterfuges, which have served the violators of the law too long, have had their day, and public sentiment will protest that they will not be repeated." 135

It was reported that in Lawrence, for the first time in fifteen years, unless at election time, that every saloon was closed.[136]

The Leavenworth Times made the following comment in an article entitled "Thirst and Ye Gave Me Drink":

"The very idea of thirsty residents of high license Missouri flocking to prohibition Kansas on the peaceful Sabbath day is somewhat remarkable, and stories to this effect would at one time have been attributed to the too imaginative mind. But in this day of wonders the statement seems to be borne of facts. Hereafter we will not hear of anxious-to-get-a-drink-and-enjoy-himself drummer straining every nerve to get through business and reach the city at the mouth of the Kaw to avoid being snowed up over Sunday in a hotel in prohibition Kansas. Poor Missouri, how sadly art thou fallen!" 137

The Topeka Daily Capital, always the ardent supporter of the prohibition cause and advocate of enforcement rather reluctantly commented as follows:

"Prohibition does not yet prohibit, but when the men now in the toils of the law get through with their trials and the penalties more than one will acknowledge that prohibition prohibits, so far as they are concerned. . . . The friends of prohibition have no need to be discouraged. These prosecutions will go on, and no man or set of men are strong enough to beat the just force and power of the law. Sooner or later the saloon men and their sympathizers will learn that the people are determined that prohibition shall have a fair trial in Kansas. The time will come when the capital of the State will not contain an open saloon, and the result will not be brought about by a prohibition spasm, but by the inexorable demand of a law abiding people that nullifiers be put down and kept down." 138

Many arrests were made, saloons closed, prosecutions carried on, and difficulties met. Topeka seemed to have had jail sentences for violation of the prohibitory law in 1884, whereas they were merely fines in 1883. Carrying on prosecutions in Topeka was a tremendous task. The Daily Commonwealth (Topeka) made the following report:

"J. R. Boyd, Ed. Moeser and E. B. Ragsdale, the liquor sellers who have been eking out a miserable, lonesome and galling existence in the county jail for nearly two weeks past, were released by the Board of County Commissioners yesterday and set at liberty. The Board met at 10 o'clock in special session. Commissioner Buchman came in to attend the meeting, but when he learned its object, Mr. Buckman jumped into his buggy and drove home again as rapidly as possible. . . . The attorneys presented a petition signed by several hundred citizens for the release of these men. . . said parties are unable to pay fine and costs. . . . As the news spread abroad everybody, regardless of present condition, past servitude or calling in life, had an opinion to express regarding the action of the Board. Hundreds sustained the Commissioners and others condemned them, but the released prisoners felt better over the matter than anybody."139

There were difficulties in even beginning any efforts for enforcement in Leavenworth. The Leavenworth Evening Standard explained the situation thus:

"The case of the State v. Jennison, is the first under the prohibitory liquor law that has been tried in Leavenworth since the summer of 1881, when a futile attempt was made to enforce it. That failure, and the strong public sentiment here against prohibition, as shown by a 2000 majority in Leavenworth County against the prohibitory amendment to the state constitution, and subsequently against St. John, so discouraged the prohibitionists that they brought no prosecutions until this winter. Encouraged by their partial political victory here last fall and by the closing of a few saloons in Topeka and Lawrence, they determined to make an effort here. After the defeat of Colonel Moonlight, one of the leaders of the anti-prohibitionist forces of the state, the prohibitionists thought the time opportune for beginning a crusade here. Van Bennett and his Prohibitionist were imported, public meetings were held to work up sentiment against the liquor business, and then prosecutions were begun against the advice of the county attorney and the protests of the business men. . . . The first of these cases called was that against Colonel Jennison. . . . Jury could not be obtained. . . . Nothing substantial remains of this case except the costs amounting to something about $1600 which the county will be required to pay. It would have been much more satisfactory for all concerned, if a verdict had been reached. As it is, nothing has been settled except the fact that it is very hard to get a jury to try a whisky case in Leavenworth, and that attempting to try a case is so expensive that the county cannot afford to indulge in it very often." 140

The Kansas State Temperance Union met in Topeka, May, 1884, with Hon. R.B. Welch, President of Shawnee County Temperance Union presiding. Mr. Welch's statement at the opening of the meeting was:

"Notwithstanding the loud pretensions of the saloon interests to the contrary, the temperance advocates never had more substantial reasons for rejoicing than they have today. To the braggart declarations that 'prohibition is a failure' and 'there is more liquor sold now than under the

license system', we can answer that the highest statistical authority shows that the revenue from alcoholic liquors received by the United States from the district of Kansas is but \$0.89 per capita, while that received from the entire union is \$1.72 per capita. The revenue received from the district of Maine is but \$0.46 per capita. Of the 80 organized counties in this State less than 15 counties tolerate open saloons as schools of drunkenness and crime. While liquor is being sold in the remaining 65 counties, it is sold in the same manner and largely by the same class of persons who commit other crimes against the peace and dignity of the state."141

At this temperance convention, Ex-Governor John P. St. John spoke to a large audience. In beginning his speech he remarked that this was the first time the people of Topeka had ever heard him speak without a saloon in the town. "The battle of prohibition is gaining everywhere. Every place, East and West, the cause is spreading, and the best men and women in the country are engaged in its advocacy."[142]

But was closing the saloon to mean that the prohibition law was enforced? The <u>Atchison Daily Patriot</u> voiced its opinion thus: (March 24, 1884)

"There are two kinds of saloons, the open saloon and the hidden or cellar saloons. If we are to have either, we prefer the former. The open saloon is in some measure regulated, and it is taxed and compelled to pay a good big part of the city government expenses. It is a place where a man, if he will drink, can go and do it in a manly way. The open saloon is found in Atchison. The cellar saloon is a place where men sneak into and drink and drink until they get drunk, a place that the police knows not of, a place where there are no restraints, and that pays nothing for its existence. The cellar saloon flourishes in Topeka, Emporia and other places where the open saloon does not exist. Admitting

that saloons are an evil, we believe in making a choice between two evils. We are in favor of the thirty open saloons in Atchison, as against forty-three cellar saloons in Topeka." 143

The Leavenworth Times complained continually about the enforcement of the law. In July of 1884, the following article expressed their views:

"Leavenworth is being frequently singled out as an outlaw and while there is no objection to the advertising she is receiving, it is not right that she should receive all this vantage over numerous cities and towns of the state. For instance the Salina Herald tells us that there were 'over 100 kegs of beer shipped to Salina, making over 1,000 gallons of 35,000 drinks bought and distributed among the lovers of strong drink'. . . . Then we find an item in the Winfield Telegram, which reads: 'Last Wednesday, Thursday, and Friday there were brought into this town by rail 300 gallons of whisky, in five gallon kegs. These kegs were addressed to individuals over the county, and were the first installment of a car load of this seducive beverage that was recently sold by a traveling salesman of a Missouri liquor house. This whisky we saw at an express office. It was put up in regular whisky kegs, and billed as whisky.'" 144

A summary of prohibition was made in the Topeka Daily Capital January 22, 1884. The following extract shows what the prohibitionist believed concerning enforcement:

"On the 4th day of December I mailed a series of questions to every county, and county superintendent, and police judge in the state, for the purpose of learning the effect and present status of prohibition. Replies have been received from over one third of the 81 organized counties of the state, including all the populous cities. These replies demonstrate three facts favorable to prohibition. First: That it has materially decreased the number of saloons; Second: That an unusually large percent of prosecutions under the law have resulted in convictions, Third: That the principle of prohibition is growing stronger. . . .

"'You can't convict the saloon keeper' has been so often repeated that many regard it as an automatic truth. In the early stages of prosecutions, it was difficult to convict. But the report of officers who have charge of this class of cases show that, as a general proposition, it is far from the truth. In the district courts of these counties there have been 460 cases tried, resulting in 351 convictions, 47 acquittals, and 62 hung juries, or seven convictions out of every nine cases tried. In justice courts there have been 572 cases tried, with 378 convictions, 75 acquittals, and 59 hung juries, or convictions in three-fourths of all cases tried. In these cases the fines imposed amount to $95,200. In addition to these fines, there have been 81 saloon keepers imprisoned for various periods of time, making 137 months and 19 days, or 11 years, 5 months and 19 days. There has been a larger proportion of convictions in whisky cases than in any other cases tried as reference to the criminal docket of any court in the state will prove." 145

Had the prohibitionists been successful in their war against the Topeka saloons? The following was reported to the Emporia Daily Republican by George Martin, editor of the Junction City Union, following a visit to Topeka: (July 1884)

"What did we see in our tour? In a walk of a mile and a half, and about two hours time we visited personally 35 saloons, all but one of them being as open and notorious as any dry goods house in the city. Of this number but one was in the second story, and we went through a clothing store to reach that. We entered but one by the back door, and there we saw 300 barrels of liquor. We visited several in the same block with the court house, and within a block and a half south and north of this temple of justice there are not less than fifteen. Jurors and officers of the law trying liquor cases evidently make that a good business point. All were on the first floor except the one up-stairs we have mentioned, and another we found in a cellar . . . . We saw from two to fifteen men drinking in each place. Drinks were served over the bar in some places, and in others on tables. . . . Two big wagon loads of beer were taken in while we were there. The proprietor was

a daisy in dress, manners, style and language. When he learned our idea he desired us to name him, and to say that he never ceased selling for an hour, and that his sales are now a car load a day. . . . In Shawnee County they had 125 cases under the prohibitory law, and of these they had tried about 30. About $4,000 had been collected in fines, and from $4,000-$6,000 is due. There were fully 100 open and notorious saloons in Topeka. . . ."146

What had been expected by the prohibitionists? How well did the public expect the law to be enforced? An editorial comment from the Daily Eclipse (Parsons) gave an opinion quite different from the one reported above. The following extract is here quoted:

"We take occasion to say, that from actual observation, and from all the information we have received from the different parts of the state through the papers, that the operation of this law are all that its most sanguine friends could hope or expect. The parties in the state and outside of it, who have been getting rich from the manufacture and sale of intoxicating liquors have of course, made a stubborn resistance to its being enforced. . . . The men who have tried the open violation of the law, and persisted in it for the past two years, have been bankrupted, broken up, and in many cases languished in prison for weeks and months. . . . The organized opposition to the law has been and is now gradually breaking down and giving away, the average amount of drunkenness on the decrease, and those who have been violating the law are all the time getting more careful and cautious. . . . There is no doubt that the popular sentiment of the state is now very much stronger in its favor now, than it was at the time of the adoption of the amendment. . . . Set it down for a certainty, that prohibition in Kansas has come to stay, no man or child now living will ever see a dram shop running in this state under the protection of the law." 147

Enforcement would continue as long as the prohibition element worked for enforcement and sought to overcome the opposing element. In May, 1885, several months after the close of the Glick administration, James A. Troutman

in a speech at Toronto, Canada, summarized the enforcement situation thus:

"What you people of this Dominion, and the people of the World are most interested in knowing, is not so much the history of the movement and the special features of the law, but the degree of success attained. In the first place, with the exception of two cities bordering on Missouri, our saloons are gone. There is not an open saloon in the State, outside of these two cities. We have no large cities, or large centers of population, but we have about 70 towns of from 2,000 to 30,000 population and not a saloon in one of them, except these two. We have about 200 small towns of 300 to 2,000 population, and there is not a saloon in one of them. We have 82 organized counties, and 80 of them are free from the pestilential influence of saloons. We have 1,300,000 people and more than 1,000,000 of them are removed from these schools of vice and crime. The first grand step towards the temperance milennium is the banishment of open saloons. Kansas has accomplished this is nearly all her fair domain, and I think I can see the day, not more remote than the year 1886, when no dark plague spot, called a saloon, will mar her bright escutcheon." 147a

Chapter VII. Glick and the Pardoning Power.

The problem of pardons was of preeminent importance during the administration of Governor Glick. From the day of his inauguration, the newspapers feared what he might do with the pardoning power. This fear increased throughout the administration. Apparently the anti-prohibitionists, hailing the victory of Glick as a real victory for the saloon, were greatly pleased with the prospect of what Mr. Glick might do for them, and laid their plans accordingly. It will be seen in the following chapter that the pardon issue was one of the causes for Glick's defeat in the election of 1882.

The effect of the election of Glick in 1882 and the prospect that he might use his pardon power may be seen in the following letter:

"When you were elected by the people of this State to the position which you now occupy, it was understood that you would to a considerable extent use your pardoning power toward those who might be adjudged guilty of a violation of the prohibitory act. Hutchinson Lodge no. 55 A. P. L. worked hard for your election with what results you are aware from the election returns as compared with the vote for St. John two years ago. As Secretary of the Hutchinson Lodge, I would in behalf of the Lodge make a proposition which has been talked of among our members and this is, to have some party selected say in about six of the western counties, who is engaged in the liquor traffic, and make them subject to your pardoning power and for Reno County would ask that this clemency be extended to the writer. I have not yet been found guilty but being in the trade of course I don't know how soon they may hop on me, and with the assurance of a pardon in case I am convicted can feel safer and it would please your friends here. I would have a petition drawn and presented to you after conviction, but I would like from you an assurance that it would be granted." 148

Governor Glick's reply was:

"The proposition that you make could not be entertained. It would simply be ruinous to my administration, and every man who had anything to do with such matters. I could not, nor you should not ask, that I in advance should offer premiums for violations of law. That is exactly the way it would be put to the world, and you nor I could not afford to have such an issue made. Matters can be disposed of when they come up in proper manner, as provided by law; no other way should be considered or thought of." 148a

The usual attitude of Governor Glick in his pardons for violation under the prohibitory law may be seen in the following letter written by the Governor:

"In applications for pardon in liquor cases I am governed by the same rules as in any other cases. If a man is guilty and has had a fair trial pardons are not granted, but if the court and the prosecution resorted to dishonorable and disreputable means to secure a conviction, or in other words, secured a conviction by lynch law under the forms of law I should pardon a person whether he was convicted of selling liquor or of any other offense. Courts are constituted for the purpose of giving the people honest and fair trials and having them properly convicted, but where the court resorts to the packing of juries, assisting the prosecution in bull-dozing witnesses, delivering stump speeches to juries, preaching sham funeral sermons to excite prejudice, playing the demagogue generally to secure a conviction, I think no man ought to suffer the penalty of the law imposed by such performances whether he is guilty of selling liquor or anything else." 149

Among the many letters which came to the Governor, there were numerous appeals that he should or should not issue pardons, particularly against offenders of the prohibitory law. One letter reads as follows:

"Certain parties here are getting up a petition to have your excellency pardon one George Washington, a colored man now confined in our county jail for the

period of nine months and $100 fine additional for the offence assaulting with intent to maim. The facts are the negro attempted to cut a white man's throat with a razor. . . . I desire to call your excellency's attention to the facts, that I have seen a petition in circulation for the negroes pardon, and that the names are mostly minors and persons who only a few weeks ago refused to sign a petition asking for the pardon of a poor woman who had sold a glass of beer. . . ." 150

A writer describing the situation in Wamego, expressed his fear that the Governor would issue pardons to Republicans. The letter read as follows:

"The last term of court held in this county convicted several parties for violation of the prohibitory law. You are well aware no doubt that if there is any liquor drank or sold, it is the Democrats that are accused, (that is the cry of the Republican party). I have lived in this county for the past seventeen years. I am a true Democrat (which you are aware). . . . They are circulating petitions for pardons for parties convicted and now in jail in Topeka. Nine out of twenty of these parties are Republican. I think it would be a bad thing for our party to pardon any of them. They have made their nest. They should lie in it. I am far from being a prohibitionist. Still I do not believe in shouldering men that have fought us all through."151

There seemed to be constant fear that Governor Glick would issue pardons, without knowing the true facts in the case. A letter from St. Clere, Kansas showed how many petitions were drawn up, the "signers of these petitions are mostly of the rable class, loafers, saloon keepers and boys under age, very few farmers signing the petition." The better citizens of the county were asking that the violator receive no pardon.[152]

Before issuing pardons Governor Glick sought as much information from every source as he could find.

Again and again he appealed to county attorneys to make sure of the case. A letter from Governor Glick in March, 1884 to the county attorney of Sedgwick County urged information as he wrote: "the friends of Mr. Mohen and Gardner are very persistent and very anxious to have pardons issued to them." Both of these men had proposed to refrain from selling intoxicating liquors in Sedgwick County, and the petitions were fully signed.[153] Governor Glick did not issue the pardon. He was accused by the Reverend G. M. Kelly, of Wichita of having promised to issue the pardon. Governor Glick wrote to Mr. Kelly, who had been one who had insisted on pardoning the offenders. An extract of the letter reads:

> "Judge Sluss has written me a letter in relation to the matter in which he objects to the pardon. He says: 'Mohen boasted that he did not intend to pay a cent; that he intended to run his saloon until the last moment and if convicted he would go to jail leaving all his money and property in the name of his wife, and that the county commissioners would turn him loose, and if they didn't that Glick would pardon him.' Now, what kind of a showing does it make in an application for a pardon when the person who is charged with a crime boasts in advance of his sentence that the governorwwould pardon him? Also, the Judge says: 'he was convicted in two cases, in one the complaint to the county attorney was based on the fact that he willfully sold liquor to a man who was notorious for abusing his family when drunk, and he did get drunk on Mohen's whiskey and did abuse his family scandalously as the result.' Now, my dear sir, I ask you if a man ought to be pardoned who will do this?"[154]

By the middle of July, 1883, Governor Glick had pardoned one woman out of the Marion County jail, and issued two commutations of sentence, one in Pottawatomie

County, the other in Barton County. The first case attracted much attention. In answer to an inquiry from Neosho Falls, Governor Glick explained briefly:

"In answer, I have to inform you that I pardoned one woman out of the county jail from Marion County, who was sentenced there as I thought, wrongfully, and as the evidence was furnished me, very unjustly. She was a widow, poor, and had only a short time previous buried her husband, and also a child. She had three small children being taken care of by charity, one very small and young, that needed her special attentions. She had two trials, as was represented to me, it was a case where an improper course was pursued to procure her conviction. She was sentenced for thirty days, and I pardoned her out after remaining in jail twenty-three days. I thought that the interests of decency and humanity required that she should be pardoned." 155

The Lawrence Herald (anti-prohibition paper) reported an interview with Governor Glick concerning this Jane Brown case as follows:

". . . There was a poor family of industrious people living in Marion County. They got on very well till the husband died. The widow set about nobly to earn support for her brood of little ones. A month after the death of the husband a child died. The expense of the child's funeral took nearly every cent the poor woman had. She then set up a little shop in which she sold cakes and pies. . . . One day a company of Englishmen land prospectors stopped at her place and called for dinner. She told them she could not give them a full meal, that she only sold cakes and pies. . . . They told her if she would let them eat at her table they would take her cakes and pies, paying her liberally for them. The Englishmen had with them several bottles of beer, which they opened and proceeded to drink with their meal. While in the midst of the meal. . . a man, who kept a restaurant and bakery near by, who was in a small way a competitor, and jealous of her, came in. . . . He would like to eat with them. One of the company said he could if he would pay the woman what they did. . . 50 cents. This the man agreed to do, sat down, ate a little, drank a glass of beer, paid his money and went out. This man made complaint against the woman for violation of the prohibitory law and was very active in securing her conviction. She was sentenced for thirty days. . . . Her conviction was mere spite work that human beings ought to have been ashamed of." 156

But Governor Glick seemed to have had information different from others. The Topeka Daily Capital published an analysis of the pardon of Jane Brown, and challenged any contradictions of their statements. The County Attorney of Marion County, Mr. T. A. Bogle printed a statement maintaining that the woman was not a widow, that she had been guilty of violating the prohibition law often, and that the facts of the case were entirely different from those made by the Governor.[157]

There was much comment upon the pardon. As Mr. Glick stated in a letter: "I pardoned one woman out of county jail; and they raised a terrible howl over it."[158] The Leavenworth Times offered the following comment:

"Again the pardoning power has been exercised and a woman released from the toils of the law. It appears that Jane Brown has been selling chained lightning and other refreshing fluids in Marion. Upon trial she was found guilty and sentence pronounced. The dignity of the law was upheld, and now the Marion Record, finds fault because Governor Glick found time between chills, in his extreme devotion to the sex, to pardon Mrs. Brown, and even casting the costs of the trial upon the county. The pardon remits the fine, frees the prisoner, and removes the costs from a favorite's shoulder. It seems that there is but little use in convicting. The Governor is AS GOOD AS A HUNG JURY and much more certain. Whether in his opinion the law is right or wrong, Governor Glick assumes the position that no twelve men in Kansas shall, after hearing the evidence, convict any person violating the prohibitory law." 159

Governor Glick's statement concerning the other commutation was:

"I also pardoned in the case of a one armed soldier

who was convicted of selling beer on a day during the county fair. I commuted his sentence to a fine of $5 on condition that he pay the costs, which was done, after laying in jail about three months, and his pardon being petitioned for by over 600 persons, amongst those petitioning was Mr. Hoisington, editor of that place, with other prohibitionists." 160

But the Fort Scott Daily Monitor took another view of the pardon and quoting from Mr. Hoisington, editor of the Great Bend Register declared that falsehoods could be put at the door of Governor Glick, and that it was a plain case of lying. The statement made by county attorney, probate judge and editor declared:

"The governor is 'off' on his facts. First, the man pardoned was not a one armed soldier. He was never in the army. Second, he was not convicted for selling on 'fair day'. The history of their selling is that in the first place his wife was arrested for selling contrary to law, and plead guilty, then Bayer was arrested and convicted. Bayer still persisted in his unlawful business, and was arrested under the nuisance clause, tried and convicted before the justice of peace. The case was appealed, and he was again tried and convicted before the district court and fined. There was no one in any way connected with the prosecution of the case that had the least desire to prosecute Bayer, or to do anything but to induce him to quit his illegitimate business. Bayer was fined and also sentenced to the county jail, and committed. Bayer got permission from the Sheriff to go to see his family. This was during the time of the small-pox in Great Bend. After Bayer was out of jail and at home, a small-pox flag was placed on the house, when in fact they never had the small-pox in the house, as is now known to everybody else here. Then application was made to two of the county commissioners for Bayer's release, a trip being made to one of them after night to prevent suspicion." 161

The public seemed to have caught the idea that the governor was pardoning many violators of the prohibitory law. "Governor Glick has not pardoned a convicted

whisky seller for a whole week. Is his sympathy for personal liberty undergoing a change?" asked the Wichita Daily Eagle, July 19, 1883.[162]

Stirring appeals for pardons were laid before Governor Glick, but to these he turned a deaf ear. The public, however, believed he was guilty of issuing hundreds of pardons. In the summer of 1884, a situation arose in Salina which brought about the issuing of six pardons, and brought general condemnation upon the Governor. On June 14, 1884, a petition signed by 1,944 tax-payers and voters of Saline County was presented to the Governor, asking that he exercise the pardoning power in the cases of William H. Sweeney, Jacob Mugler, William Huebner, Peter Mugler, Gustave Behr and M. J. Ludes, Salina saloon-keepers. Governor Glick took the petition and the arguments, and decided to wait until he heard from Judge Prescott regarding charges of political prejudices, and announced he would make his decision on June 20.[163]

One June 21, Governor Glick issued the pardons, with the following statement:

"Hon. J. G. Mohler, and Hon. T. F. Garver, Salina, Kansas. Gentlemen: I have given the application for pardons in the case of William H. Sweeney, Jacob Mugler, William Huebner, Peter Mugler, Gustave Behr and M.J.Ludes careful consideration and examination, and I am constrained to say after the examination of the petitions and papers in the case that I am satisfied that full pardons ought to be issued to the six men.

"First, the pardons are asked for by a large number, about one thousand, of the respectable citizens and tax-payers of Saline County.

"Second, the evidence presented shows that parties who had formed and expressed opinions and were ineligible by law were by the prosecution and the assent of the judge kept on the juries.

"Third, the evidence shows that the juries were packed and organized by the prosecuting attorneys with the aid of the judge so as to prevent a fair, honest and impartial trial, and that their legal rights were intentionally ignored and disregarded both by the prosecution and the judge.

"Fourth, the evidence shows that the parties had no fair, honest or impartial trial, and that their legal rights were intentionally ignored and disregarded both by the prosecution and the judge.

"It is not necessary that I should recapitulate the evidence and refer to the testimony to sustain the foregoing proposition as states, but a full and fair investigation of the papers submitted will convince any one that there can be no doubt about their truth. This being the case I feel that it is my duty to interpose the executive power of the state to protect these individuals.

"While it is argued, and with perfect propriety, that those who violate law should be punished, that we should all aid in securing the enforcement of the law, it does not lay in the mouth of those who argue in favor of the enforcement of the law to demand that the legal and constitutional rights of individuals shall be violated by the courts, nor does it follow that the courts in their execution of the law have the right to go beyond the commission of the crime alleged against the person on trial and commit even a greater crime by destroying the efficiency, the honesty, the integrity and the fairness of the courts in ascertaining the guilt or innocence of the defendant." 164

Mr. Garver made the following reply to Governor Glick:

"I acknowledge receipt of your letter addressed to Mr. Mohler and myself announcing your conclusion to pardon six saloon men convicted in the May term of court, and giving your reasons. . . . A lawyer of half your years, need not be told that in the organization of our form of government the legal rights of our citizens were well protected in the courts. When it may occur, as is sometimes the case, that through local excitement or prejudice, or other cause, a person has

not had a fair and full trial in the lower courts, an appeal is allowed to the Supreme Court. . . . You have simply assumed to interpose the power to pardon possessed by the governor, well knowing that thereby you usurped the functions of the judicial department. You assume the role of dictator to our courts. . . .

"At the request of the county attorney I assisted in these prosecutions. I endeavored to be fair and see that no legal right of defendants was violated and can say the same for counsel. No one can honestly say that Judge Prescott was partial. When you say 'juries were packed. . . .' you not only intentionally insult court, counsel and jurors but you assert that which your judgment as a man and lawyer must tell you is false." 165

The news of the pardons reached Salina June 21, when the "cannonball" train brought the news in the letter to Mr. Mohler. The Salina News reported the affair thus:

"They were met at the depot by a mob of saloon loungers with a few members of a band--most of the city band had too much self-respect to be seen with the crowd--they first proceeded to the county jail, and after procuring the release of their friends, the heroes of the occasion, they marched through Santa Fe avenue, with ex-county attorney Foster, seated on the high seat of a ten-cent wagon, holding the stars and stripes and never in all its history has that grand emblem of American liberty and manhood been found at the head of a more disgraceful looking body of men. As the martyr, Foster's form came to view, his companions of former revels attempted to greet him with cheers. But who ever heard of a crowd of drunken revelers being able to give three hearty cheers in succession?" 166

But the parade up the streets of Salina was not the only result of the pardon issue. Following a call, the Salina opera house was filled to overflowing with law abiding citizens who came together for the "purpose of protesting against the action of Governor Glick in the pardons of persons convicted in the last term of district

court." At this meeting they drew up resolutions condemning Governor Glick for his action.[167]

The Salina Journal believed that he had insulted many people who voted for him in 1882.[168] The Wellingtonian denounced his action with the following comment:

"Never before has so unblushingly shameful and disgraceful a proceeding been attempted in any State of the Union, that we know of. Without any references to the politics of the governor or the nature of the cases, we denounce Glick's actions as the most outrageous ever inflicted on free people, and we believe that the people of Kansas will record their verdict against the party whose inspiration he is, with ten times the emphasis that they would otherwise have felt called upon to do." 169

The Topeka Daily Capital commented upon the pardoning as follows:

"George W. Glick, the present Governor of Kansas, is a tyrant. He draws to himself the sovereignty of the people and plays with the Constitution as with a football. Ignorance only can excuse his wanton meddling with matters outside of his jurisdiction. In any other country under heaven he would be deposed.

"The pardoning power is not given as a means of reviewing the proceedings of courts, but rather to soften the rigors of the law in meritorious cases. It often happens that there are circumstances attending a particular case that cannot be given in evidence on the trial because they do not in law amount to excuse or justification but yet in justice the convicted ought to have credit. . . . No mitigating circumstances are shown or alleged; the convicts do not claim to be innocent; they do not lead youth in experience, 1 . . they simply assert that they did not have a fair trial, and Governor Glick's conduct makes it impossible that they can ever have a fair trial for these particular offenses. Thus the law is defeated, justice is defeated, the people outraged by an ignorant, obstinate and malicious usurper."170

But not press alone condemned Glick. The pulpit began an attack. In a sermon entitled: "The Abuse of the Pardoning Power, or How Barabbas Got Out of Jail", delivered at the Methodist Episcopal Church in Topeka, a strong appeal is made for a change in the pardoning power of the governor of Kansas.[171]

The Leavenworth Daily Standard upheld Governor Glick in the Salina pardons thus:

"In no instance has he exercised the pardoning power unless the trial was unfair and illegal. He has not pardoned indiscriminately. Where the trial was without a flaw he has allowed the law to take its course. In the Salina pardons, against which the prohibitionists make the loudest protests, the convictions were notoriously unfair and illegal, and the law prostituted to the purpose of persecution." 172.

The problem of Glick's pardons was discussed in a lengthy article in the Manhattan Nationalist entitled "Glick's Defense". An extract of the article is here given:

"Governor Glick's friends say that he has issued only 12 pardons and 4 commutations against 134 by St. John, and appear to imagine that fact alone is a sufficient defense of the present executive. The contrast in number is marked, but when it is remembered that St. John extended over a period of 48 months, it is not so great. Moreover, 7 of Glick's 16 were issued during the past month. There is, however, no parallel between the proceedings of the two officials as will be seen by noting a few of the points of difference.

"Glick started with the announcement that he did not believe in pardoning criminals, and has turned a deaf ear to all appeals for mercy, except from dramsellers; but St. John never took that position, and it is doubtful if, during his whole four years he liberated 16 convicts of any one class.

"It was notorious that each of the convicts liberated by Glick had been violating the law many times a day for

a long period. They were defiant, professional outlaws. While on the other hand, in the most of St. John cases, the accused were not supposed to have committed more than one offense.

"Governor St. John's pardons were not known to be members of organized gangs of outlaws, and the petitions in their behalf were not generally signed by criminals and their friends. But each and every application to Glick obtained the greater part of its support from the criminal class and their allies.

"None of St. John's pardons had any appreciable effect in stimulating others to commit similar crimes; but each and every one of Glick's did. He was warned before issuing them, that such would be the effect. . . .

"Everything goes to prove that he has been impelled solely by political considerations. He has prostituted his official position, and violated his official oath, to strengthen himself in his own party and his state. Sworn to support the constitution and laws of the state, he with tongue and pen, encourages the vilest men in the Commonwealth to defy portions of them; and when they are caught in the toils of the law, comes to their rescue, and to make his villany more infamous adds to his connivance at crime brutal and false assaults upon officers of the law.

"The truth is, Glick is a crank--or as unmitigated a scoundrel as ever graced a gubernatorial chair." 173

In August of 1884, Governor Glick issued a pardon to a woman in Cloud county. In issuing the pardon of this Mary Steafather, who had been confined in jail with a small babe of four or five months, Governor Glick wrote:

"A pardon will be issued. . . . Of course, then Rome will howl, as it is undoubtedly a great source of satisfaction to a lot of extreme moralists to keep a woman and babe confined in a filthy jail." 174

In answering a letter from Mrs. Martha Shriner, of Bushnell, Illinois concerning a pardon for her son, Governor Glick replied:

"My predecessors in office have issued a great many pardons. I have issued less than a score. The Republicans have been denouncing me and abusing me for an improper use of the pardoning power, and hence I do not feel that I ought to exercise it except in cases where it is absolutely necessary to protect innocent people." 175

The record of the pardons issued by Governor Glick, as presented to the State Legislature in the message of the governor, showed that Glick found a few "absolutely necessary" cases a few days before he finished his work as governor of Kansas. The record as reported included the following pardons:

(Date of Pardon)	(Offense)
April 7, 1883	Chas. Wheatley, (Montgomery Co.) murder, first degree
May 28, 1883	Jane Brown, (Marion County) misdemeanor (violating the prohibitory amendment)
October 27, 1883	Jeanette Johnson, (Shawnee Co.) robbery
January 4, 1884	Edward Gaubleman, (Ellis Co.) misdemeanor
January 7, 1884	J.C. Wilson, murder second degree
January 31, 1884	Chas. Hulin, (Pottawatomie Co.) misdemeanor
April 30, 1884	Reese Smith, unlawful assault
May 13, 1884	J.S. Johnson, (Mitchell) Co.) misdemeanor
June 3, 1884	Henry Stanfield, (Coffey Co.) misdemeanor
June 6, 1884	Wm. Hickman, (Dickinson Co.) misdemeanor
August 9, 1884	Dennis Kinney, (Osage Co.) misdemeanor
August 12, 1884	Mary Steafather, (Mitchell) misdemeanor
September 9, 1884	Mulligan McAnulty, (Rice, Co.) burglary
November 26, 1884	Thos. Brasbear, (Pottawatomie) murder, second degree
November 26, 1884	Henry Heeman, (Pottawatomie Co.) misdemeanor

November 26, 1884	John Hoch, (Nemaha Co.) Wm. Koffler, (Nemaha Co.) misdemeanor
June 21, 1884	Wm. H. Sweeney, Jacob Mugler, Peter Mugler, Wm. Huebner, Gustave Behr, and M. J. Ludes, (Saline Co.) misdemeanor
July 14, 1884	Simon Koffler (Nemaha Co.) misdemeanor
July 13, 1884	F. H. Macke, (Lyon Co.) misdemeanor
July 15, 1884	Richard Schmiller, (Allen Co.) misdemeanor
December 2, 1884	J. B. Curtis, (McPherson Co.) misdemeanor
January 5, 1835	J. R. Boyd, (Shawnee) misdemeanor
January 5, 1885	L. Blackman, (Shawnee Co.) misdemeanor
January 8, 1885	Edward Shindle, (Cowley Co.) misdemeanor
January 9, 1885	Frank Manney, (Cowley Co.) misdemeanor. 176

The total number of pardons issued for the entire administration was thirty-one. Eleven of this number had been issued following the condemnation of Governor Glick by the Republican party. Twenty-six had been issued for misdemeanors, in violation of the prohibitory law. Only five were issued for other causes, two for murder, and one for each robbery, burglary and assault. Thus not all had been for violations of the prohibitory law, as some of the newspapers had stated. The pardoning power had been the greatest stumbling block in the way to success for George W. Glick.

Chapter VIII. Prohibition in the Election of 1884.

The prohibitionists had been anticipating the election of 1884 since the day that George W. Glick had been elected Governor in 1882. The Topeka Daily Capital had been consoling its readers that it would not last long. The dry element were determined that Glick, the fanatic, the tyrant, the usurper, the dictator must be dethroned, so that the people might be safe in a land where free government was established. The prohibitionists must be not defeated in the election of 1884. The Republican party had begun the work of prohibition, and they must continue it.

But the prohibitionists were not alone in wishing for a successful election in 1884. It was the first time that Kansas had ever had a Democratic governor, and why should he not continue, even though there was a majority of Republican voters in the state? The party leaders were optimistic in believing they could win the election of 1884. In February of 1883 Governor Glick made the following prediction concerning the future of Democracy:

"Kansas is becoming Democratic very rapidly and we expect to make a clean sweep of the state two years hence, not only electing our entire state ticket, but a Democratic legislature, and a U.S. Senator, and give the electoral vote of Kansas to the Democratic candidate for president. This may not be absolutely certain at present, but unless we have some legislation that the people expect, there will be no question about it." 177

Throughout the administration, Glick made a determined effort to attract numerous emigrants, particularly German and Irish to Kansas. In a communication in May of 1883, concerning sending pamphlets to emigrants, he made the following comment upon the political situation:

"With a good immigration of that kind this year and next, so that it precede the election six months, it might enable us to carry this state for the democratic candidate. The Republican party is very much divided and split up, over the question of prohibition, and it will be forced into politics of the state next year by the Republicans, as probably two-thirds of that party are strong prohibitionists. The result will be that they will drive nearly one-third of their party, or one-third at least to the democracy. They have already driven the Germans to the democracy, on this question of prohibition, and with that additional assistance, if we can unite it with us, upon the whole state ticket, and the electoral ticket, which would probably result over the quarrel in their party, we can give the state of Kansas to the democratic party in the presidential election." 178

So far as the prohibition question was concerned Governor Glick had not changed his mind. He was determined that it was a sad failure. Why should there be a single prohibition vote changed in 1884? Prohibition had not succeeded. "The democratic party have not yet, or never will endorse the plan of prohibition, as the injuries of prohibition are fast being found out and consequently men are beginning to see the folly of such a law," wrote the secretary of the Governor on July 19, 1883.[179]

Had the Republicans changed their minds on the prohibition question? The ardent advocates for re-submission among the Republican ranks seemed to be getting discouraged, and feared that they were losing a

great deal. The Republican party knew why they had failed in 1882. "Third term, St. John, prohibition, and women's suffrage had been too much for a starter," wrote the Topeka Daily Capital.[180] The two years of Glick's administration had brought about many changes, for the temperance workers had been waging a bitter war against saloon element. The prohibition press had fought a hard fight against the re-submissionists. The Atchison Daily Patriot in taking a look over the field for the coming election commented as follows:

"We judge from the tone of the press that there will not be much of a fight with the Republican party of this state, in the next state convention against prohibition. That element of the party represented by the Champion, Leavenworth Times and Topeka Commonwealth, which so violently opposed prohibition last year, realizes, evidently, the hopelessness of the struggle, and are wheeling into party lines, as gracefully as the various circumstances of the case will warrant. Beaten, and badly beaten, on this issue by the Topeka Capital, Emporia Journal, Manhattan Nationalist and the prohibition press, they see safety only in absolute surrender, and have already virtually laid down their arms and begged clemency. The tenor of these papers is already towards prohibition, and by the time the state canvass fairly opens they may be expected to shout long and loudly for prohibition. There will be no protests offered, in the next state convention, by any one, against the insertion of a prohibition plank in the party platform, or against the nomination of any candidate for governor. The party leaders and the party newspapers see that the party is hopelessly committed to prohibition and now propose to swim with the current. Editorials in the columns of the Champion, Times and Commonwealth, will read strangely and appear sadly out of place, but we will read them there before long. Politics makes strange bedfellows." 181

There was to be no compromise or change in the attitude of the Democratic party concerning prohibition.

In a letter to the Iroquois Club banquet in Chicago, Governor Glick commented on the prohibition failure thus:

"Three years of nominal prohibition in Kansas, during which time the law has been defied in many localities, and in communities where there is a stronger sentiment, the attempts at the enforcement of the law have been followed by excessive litigation, loading down the dockets of the courts with petty and malicious prosecutions, and monstrous cost bills and engendering strife in neighborhoods, together with inducing the clandestine use of intoxicating liquor in club rooms, and in the homes of our people, thereby increasing rather than diminishing the evil of intemperance, all powerfully attest the failure of prohibition legislation, and point to the manifest advantage of well regulated license." 182

The *Emporia Daily Republican* concluded from the above statement of Mr. Glick, that since the Democratic party were not going to abate its opposition to the law, the Republican party must not take any neutral or compromising attitude, and must come out with a candidate and platform pledged to support prohibition enforcement.[183]

The position of the Democratic party on prohibition may be seen further in a letter of Governor Glick of July, 1883 to Walter Williams, Booneville, Missouri. It stated thus:

". . . . The Democratic party is opposed to prohibition in Kansas, and is in favor of the license system. That was the ground on which I made the canvass, and on which I was elected. . . . The feeling in some localities is very bitter over this subject, and in counties where there is a large preponderance of sentiment in favor of the enforcing of the prohibitory law, prosecutions to a limited extent are carried on, but in the greater number of counties in the state there are none. . . ."[184]

An editorial entitled "Some Sober Facts" in the Topeka Daily Capital, April 1884, gave a warning against a divided Republican party. It read:

The Republican majority in Kansas has been very large, yet we have a Democratic governor. Prohibition is the law of the state, yet if the number of persons that voted against the prohibitory amendment and those that did not vote on the subject at all, should combine for the purpose they could wipe out our prohibition record by a 7 to 6 majority. The work thus far has been charged justly to the Republican party. It is held responsible for prohibition, though many Democrats have given us a sincere support. . . .

"To go back to the dramshop would be a crime and the Republican party would be responsible for it, because it has the power to prevent it. That must be done. The law must be enforced.

"But, as experience has shown, we cannot succeed with a large part of our forces in the enemy's camp. It therefore becomes us to get together and stay together. During a year and a half after the election of Mr. Glick our party was not harmonious. One of the Republican anti-St. John was made private secretary of the Governor. A large number of offices have been filled from the democratic ranks. That party is in much better plight for contesting a state election now than it has ever been since Buchanan's army helped it.

"The basis of settlement must be a willing and unreserved support of the prohibitory law. This includes opposition to a resubmission of the prohibitory amendment, a perfecting of the law with a view to its better and easier and more complete enforcement. . . ." 185

Who would be the candidate for the Republicans? John A. Martin, editor of the Atchison Daily Champion, was the likely choice of the anti-prohibitionists. He had shifted his beliefs since that time, however. The Topeka Daily Capital was quick to publish this change in sentiment, and quoted the following from the Champion:

"He is willfully blind, who does not see that the public sentiment in this state in favor of giving prohibition a fair, full trial has been enormously strengthened during the past two years. He is still more blind who does not see that the open defiance of law, has intensified the feeling in favor of compelling obedience to the law; and that thousands of people originally doubted whether prohibition was the best measure of temperance reform that could be devised, and who voted against the amendment, are now as firmly determined that the constitution and laws shall be respected as are the original prohibitionists." 186

The Leavenworth Times, in an editorial entitled "The People Must Not Be Fooled," took a different view of Mr. Martin's declarations. They commented thus:

"We have known Colonel Martin for many years and have always known him as an anti-prohibitionist, and know the anti-prohibitionists have complete faith in him today. We have known that in the light of the future, his late professions are as harmless as the cooing dove. No public man can say less than Colonel Martin, when he says he is in favor of the enforcement of the prohibitory law, or that he is against the resubmission of that question to the people." 187

The Daily Commonwealth (Topeka) and the Emporia Daily Republican came out with a list of ten reasons why they were opposed to John A. Martin. The arguments were that he was supported by the anti-prohibitionists, had always been opposed to prohibition, had done nothing in favor of enforcement of the law, had advertised the saloons of Atchison, had not stated his views on the question clearly, and was not in sympathy with the principles of prohibition. They presented their reasons for desiring the nomination of Solon O. Thatcher of Lawrence, who had been an ardent advocate of prohibition

and whose record showed that he was in every way entitled to favorable consideration from the prohibitionists.[188]

The political situation took a sudden turn when Solon O. Thatcher withdrew his name from the race for governor. A letter written to Mr. A. B. Campbell, president of the Kansas State Temperance Union stated his reasons:

"The anti-prohibition element of the Republican party is earnestly and actively unanimous for the nomination of Colonel John A. Martin as Governor. To this solid and influential body is to be added a class of temperance men who claim that to accord to the anti-prohibitionists their candidate will tend in time to make them prohibitionists. However fanciful this proposition seems to us, it has had its weight in distracting and dividing the temperance people.

"The coalition thus formed is strong enough to secure the nomination of Mr. Martin. So far as I know, the anti-prohibitionists absolutely deny the statement made by some of their temperance associates that there was a 'tacit understanding' whereby one side was to have the nominee and the other the platform, and there is great danger that both platform and nomination will be satisfactory to the anti-prohibitionists only.

"In the face of such a peril, temperance men must cease debating candidates and actively work to save the platform. . . . If the election of Mr. Martin to the position of Governor shall make one less dram shop in Kansas than would that of any other man, no one can out-do me in rejoicing over the result. It was at your solicitation, as well as other leading temperance men, including I think every temperance Senator, that I consented to the use of my name. For the reasons above that consent must now be withdrawn. Solon O.Thatcher." 189

Mr. Campbell wrote the following reply:

". . . . I regret that the circumstances are such that your nomination cannot be accomplished. I, together with many others, have supported you because of your gallant defense of the policy of prohibition at a time when such defense was needed, and because you have

honestly and wisely contended for the principle of prohibition ever since the struggle began in the state. . . . This is a government of the people, and if the people do not agree with me, I know of no other course but to submit to their will. . . . I have faith in prohibition, and also in the people. I believe that the Republican party will stand by prohibition in its platform this year in Kansas, and will declare against the Democratic howl for re-submission. If Colonel John A. Martin is nominated on such a platform, he will be elected by a 30,000 majority. . . . But whoever is nominated, or whatever the platform shall contain, prohibition will prevail. It is right, and will prevail because it is right. . . . " 190

The State Republican Convention met in Topeka July 16, 1884. The most important question was concerning what action would be taken in relation to a prohibition platform. The Leavenworth Daily Standard noted: "There is a quiet but strong opposition to mentioning it at all, and an effort will be made to tide over that troublesome matter."[191] The Topeka Daily Capital in looking over the political situation predicted that "the resubmission proposal will soon be nipped in the bud."[192] The Leavenworth Daily Standard reported that there were several good workers at the bottom of the re-submission movement, but warned its readers that it was an "undeniable fact that a majority of the convention is in favor of prohibition."[193] They also reported that the office of Governor Glick was constantly filled with visitors of all shades of political belief. It was said that Governor Glick had remarked that if the convention ignored prohibition it would be a great triumph for the Democracy who had fought the good fight

and convinced even their political opponents of the justice of the anti-prohibition cause.[194] The reporter for the Standard reported that the saloons were running open, though the bars were generally in the back part of the building, and "the delegates from the drouthy portion of the state appear to enjoy the privilege of 'beering up.'" Among the delegates the Women's Christian Temperance Union had sent several preachers. One politician remarked to the reporter that this organization was much stronger than anybody knew.[195]

The anti-prohibition delegates met and drew up a report declaring that the prohibition question must be submitted to the vote of the people. The following day it was moved that this be put in the platform, but the resolution was defeated by a vote of 296 to 62. The Republicans did not intend to spoil their chances of victory with a re-submission plank. The platform which the convention adopted declared in favor of the election of Blaine and Logan, and indorsed the national program. It came out strongly in favor of the enforcement of the prohibitory amendment, and bitterly condemned Glick for his issue of pardons. The last platform demand provided for the strengthening of the railroad law. The resolutions concerning prohibition and the pardon issue read as follows:

"Resolved, That we favor a faithful and honest enforcement of the Constitional amendment, that the full effects of

prohibition may be realized, that the declared will of the people may be respected and the majesty of the law may be vindicated.

"Resolved, That as under the Constitution and laws of the State, all errors and irregularities of the inferior courts may be corrected by proper proceedings in the Supreme Court, a tribunal now composed of members of both of the great political parties of the state, the recent action of Governor Glick in exercising the pardoning power to relieve guilty persons from the just penalties of law breaking solely upon the grounds of alleged wrongs and irregularities existing at the trials, when they have not sought a review of their cases in the Supreme Court is an unwarranted usurpation of the chief executive of the judicial power of the State, and it is an attempt to destroy the confidence of the people in the courts, thereby exciting lawlessness and disobedience to public authority; and such conduct on the part of the governor, under solemn oath to obey the constitution and enforce the law, merits and deserves the condemnation of all good citizens irrespective of party affiliations and regardless of personal views as to the policy of prohibition." 196

The choice of the party was John A. Martin of Atchison. The Topeka Daily Capital in commenting on the choice of the convention for governor noted: "Not in the history of Kansas has the name of a better man been presented to the convention. Kansas Republicans will honor themselves by his nomination and triumphant election." They further commented: "With such a man to head the Republican hosts, victory is certain and with it will come a restful influence that will spread among the people and remain for years to come." 197

The Leavenworth Daily Standard eagerly anticipated a split in the anti-prohibition and prohibition ranks whenever they noted any discontent in the opposing element, for another split would mean a democratic victory. But the split did not come. The old anti-St. John Republicans,

who had voted for Glick in 1882, in a meeting in Topeka declared for Martin, adopting resolutions supporting him, and giving their reasons for not supporting St. John in 1882. The resolutions were concluded with the following statement:

"We believed that the situation then existing justified our course. The situation this year is wholly different. The late Republican State Convention by a unanimous vote nominated John A. Martin. He is an honorable man, a true patriot, and a Republican eminently fitted for the office. None of the reasons given for opposing St. John are valid as against Colonel Martin. We are Republicans and desire to see the party succeed. We believe all questions that have been agitating the people and the party can be settled, and adjusted by the Republicans within the party. We desire no Democratic rule, and want no democratic officials crowing over success achieved by republican voters. . . ." 198

The Republican campaign was pushed with vigor. In the opening campaign meeting in Salina it was estimated that a crowd from 15,000 to 20,000 attended. The crowd at Junction City was estimated at not less than 6,000. In a speech there, Mr. Martin defined clearly his position. The following extract is significant:

"I was nominated by the unanimous vote of the largest delegate convention ever held in the state. . . . I was nominated on a platform which any self respecting law-obeying republican ought to be able to heartily endorse. Yet I am told that there are republicans who threaten to vote against me. They don't like the platform. . . . All state officers swear to support the constitution. . . . The republican party in its platform simply affirms this plain constitutional duty. The people of the state in their sovereign capacity, and without distinction of party have adopted a constitutional provision. The supreme court has affirmed the validity of the amendment. . . . I will do my duty to support this constitution. . . ." 199

The Wichita Daily Eagle reported that everywhere the anti-resubmissionists were as greatly pleased as those in favor of resubmission, for all had the feeling that it was a platform on which all wings of the party could stand.[200]

On August 22, 1884 at the Democratic Convention Governor Glick was renominated.. A lengthy prohibition plank was adopted, which read as follows:

"Constitutional prohibition has been fruitful of discord, perjury and discrimination; has not lessened the evils of intemperance, but rather destroyed the pure fireside influences which must ever be the loving power to control the appetites of the weak and wayward; that it has never been endorsed or acquiesced in by the majority of our people; that it is an assault upon the personal liberty of the citizen; that it has destroyed and literally confiscated private property without compensation and that it is not in harmony with the spirit of a free people to dictate to the individual what he shall eat, drink or wear, or what religion, if any, he shall profess. In view of the foregoing, and for other reasons, we demand a resubmission of the prohibitory amendment, and pledge ourselves to work unceasingly for this object. We demand a repeal of the present obnoxious and unjust law for the enforcement of prohibition, and in its stead a well regulated license system to be rigidly enforced, whereby the interests of true temperance may be promoted and the liberty of the citizen restored." 201

The Leavenworth Daily Standard loud in its praises of the work of Glick urged its readers to give their support to a governor whose administration had impressed the people with its fairness. Their remarks read:

". . . . He has invariably done the right thing at the right time. He has not descended into the role of a demagogue as his predecessor did, nor has he adopted a

two-faced and inconsistent policy, as his would be successor has done. . . . The prohibition question, so fruitful to the evil to the state, has been very carefully and wisely managed in so far as he has had to do with it. All the details of his administration have been so faithfully and justly performed that the state has never sailed a smoother sea, and never shown a better, cleaner record. Governor Glick deserves another term, and it would be a shameless lack of appreciation for a thoroughly good administration to do otherwise than give it to him. He will be reelected if his friends and the people do their duty as they seem earnestly inclined to do." 202

But there was much opposition to Glick. His speech at the state convention, according to the Fort Scott Daily Monitor, was "ill-tempered, fanatical and treasonable," for he denounced the prohibitory law, the judges who enforced it, the supreme court who pronounced it legal, the legislators who made it, and the people who demanded it. One democrat remarked: "Had it been one of the delegates from Dodge City, we would have looked upon the speech as only another outbreak of a people accustomed to lawbreaking and immorality." 203

The Atchison Patriot on October 30, 1884 gave words of encouragement to the democratic voters as follows:

"What of Glick? Why, Glick is all right. The chances are ten times brighter than they were five days before election two years ago. In the southern and eastern parts of the state Glick is known today, whereas he was a comparative stranger in 1882. They know he has made the best governor the state ever had; that he has protected the interests of the farmers and stock raisers; and that his election means the triumph of individual conduct unvexed by odious and tyrannical enactments. . . . Don't get alarmed over Glick. He has made a splendid canvass. He makes friends and votes wherever he goes. Desperate means have

been resorted to defeat him. He has been misrepresented, traduced and maligned, but we tell you now that Glick's election is not only possible, but highly probable. Be of good cheer." 204

The Republican campaign was a vigorous one. The Republican papers circulated the story that a Cincinnati brewer named Bloss, a member of the Brewer's Association of Cincinnati as well as the National Brewer's Association, said that the Brewer's Association of Cincinnati had sent George W. Glick $11,500 for campaign funds. It was also reported that the Brewer's Association of Milwaukee sent $23,000 and the National Brewer's Association had made the amount to $44,000. The Topeka Daily Capital made the following comment:

"This is the fund over which Mr. W. C. Perry, chairman of the democratic state central committee, and Governor Glick had a family row. Mr. Perry desired that the Governor deliver to the committee the fund for use in the campaign as the committee might wish. The Governor on the other hand claimed to be the manager and responsible head. This large beer slush fund is to carry Kansas over to the democracy. Are the brewers of the country to be permitted to say to the farmers of Kansas who shall be the governor? This whisky slush fund will pay for the palace car next week that carries Glick around on his tour, commencing at Olathe, Monday, Tuesday and Wednesday, over the Fort Scott and Gulf road, stopping an hour or two to shake hands and make addresses in weak imitation of the presidential candidate. Will the governor say to the assembled freemen of Kansas, my expenses are paid by the brewers of the country? Will he say the whisky interest of this country value my gubernatorial services so highly that they send me $44,000 to buy enough votes to secure my election? No, the governor will not tell truths ofthis kind. He will say to the people, "Look at the champion of personal liberty, the man who saved the people, and secured immigration and raised the largest crop of corn ever raised in Kansas." Let the people say to this charlatan, who depends upon beer instead of the intelligent judgment of the people, that his time has come to retire in disgrace." 205

The long anticipated election day came on November 6, 1884. The temperance workers had never ceased in their crusade against the saloon interests. The whisky men prepared for a life and death struggle. "The paramount issue in nearly every county and legislative district was prohibition," declared James A. Troutman.[206]

As the result of the election the Topeka Daily Capital announced in big headlines: "Kansas Wants No More Glickism." "Glick Is Downed By A Tune of 3 To 1." The vote cast had been 144,764 for Martin, 106,054 for George W. Glick, and 9,270 for Phillips. The vote in Atchison County was 3,043 for Martin, with 2,966 for Glick; in Leavenworth County, 3,196 for Martin, and 3,993 for Glick.[207]

Following the election the newspapers were more quiet on the prohibition question, especially the Democratic and re-submission papers. A few brought up the subject of re-submission prospects in the coming legislature. "The result of the state election is to create almost unanimous confidence that the prohibitory amendment, if re-submitted, would be sustained by a greatly increased majority over that of 1882," wrote the Emporia Daily Republican.[208] But the Leavenworth Times did not give up the idea that prohibition was a failure, and continued to argue for a re-submission of the amendment to the coming legislature.[209] The Topeka Daily Capital remarked:

"The prospect, for resubmissionists in the legislature is not flattering. Surely that body would not act in so important a matter without an emphatic sentiment in favor of it. The duty of the legislature is plain. The majority in both houses is about nine-tenth Republican. Let the majority listen to the voice of the people, not of democrats only." 210

References.

1. General Statutes of the State of Kansas, Topeka, Kansas, George W. Crane and Co., Vol. I. pp. 59-60, Constitution of the State of Kansas, Art. I. sec. 3.

2. Ibid., Constitution of the State of Kansas, Art. I. sec.4.

3. James E. Troutman, in pamphlet "Prohibition in Kansas-History and Beneficial Results and How to Maintain and Enforce the Law," compiled by T. E. Stephens, 1901, in Kansas State Temperance Union Pamphlets, Vol. I., (hereafter cited as Stephens, Prohibition in Kansas.)

4. A. T. Andreas, History of the State of Kansas, Chicago, A. T. Andreas, 1883, p. 291.

5. Clara Francis, in an article "Coming of Prohibition to Kansas," published in William E. Connelley's A Standard History of Kansas and Kansans, Lewis Pub. Co., Chicago, 1916. (5 volumes) Vol. I, p. 788.

6. Ibid., pp. 817-820.

7. A. T. Andreas, History of the State of Kansas, p. 291.

8. Clara Francis, p. 821.

9. A. T. Andreas, History of the State of Kansas, p. 289.

10. Ibid., pp. 289-290.

11. T. E. Stephens, pamphlet "Prohibition in Kansas," in Kansas State Temperance Union Pamphlets, Vol. I. p. 20.

12. A. T. Andreas, History of the State of Kansas, p. 289.

13. Ibid., p. 291.

14. James Humphrey in an article "Administration of George W. Glick" in Transactions of the Kansas State Historical Society, 1905-1906, edited by George W. Martin. State Printing Office, Topeka, 1906. Vol. IX, p. 402.

15. Topeka Daily Capital, daily newspaper published at Topeka, Kansas, August 29, 1884.

16. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884, Archives of the Kansas State Historical Library, Topeka, Kansas. Letter to Enos P. Randall, Thorntown, Indiana, May 25, 1884.

17. James Humphrey, in article "Administration of George W. Glick" in Transactions of the Kansas State Historical Society, Vol IX, p. 395.

18. The United States Biographical Dictionary, (Kansas Volume), Chicago, S. Lewis and Co., Pub. 1879. p. 385.

19. National Cyclopaedia of American Biography, New York, James T. White and Co., 1924. Vol. VIII. pp. 346-347.

20. United States Biographical Dictionary, p. 385.

21. Mrs. Edith Connelley Ross in an article "George W. Glick" in William E. Connelley's A Standard History of Kansas and Kansans. Vol. II, p. 829.

22. Kansas Scrap Book, Kansas State Historical Library, Topeka, Kansas, biography of Glick clipping from Topeka Daily Capital, December 1, 1882.

23. Atchison Daily Patriot, daily newspaper published at Atchison, Kansas, October 22, 1884.

24. Ibid., October 22, 1884.

25. Topeka Daily Capital, January 9, 1883.

26. Governor George W. Glick, in annual message to the State Legislature of Kansas, 1883, in Journal of the House of Representatives, Biennial Session, begun January 9, 1883. Topeka, Kansas, Kansas Publishing House, 1883. pp. 77-82.

27. Fort Scott Daily Monitor, daily newspaper published at Fort Scott, Kansas. January 12, 1883.

28. Atchison Daily Patriot, January 15, 1883.

29. Leavenworth Evening Standard, daily newspaper published at Leavenworth, Kansas, January 15, 1883.

30. Correspondence of the Governors of Kansas: Incoming Letters to George W. Glick, 1883-1884, Archives of the Kansas State Historical Library, Topeka, Kansas. Letter from Frankfort, Kansas, February 28, 1883.

31. Emporia Daily Republican, daily newspaper published at Emporia, Kansas, January 14, 1883.

32. Topeka Daily Capital, January 14, 1883.

33. Ibid., January 15, 1883.

34. A. T. Andreas, History of the State of Kansas, p. 291.

35. Topeka Daily Capital, January 12, 1883.

36. Daily Commonwealth, daily newspaper published at Topeka, Kansas, January 11, 1883.

37. Atchison Daily Champion, daily newspaper published at Atchison, Kansas, January 12, 1883.

38. Topeka Daily Capital, January 12, 1883.

39. James A. Troutman, in an address delivered at the Elm Street Methodist Church, Toronto, Canada, May 24, 1885, printed in Kansas Prohibition Pamphlets. Vol.I.

40. Daily Commonwealth (Topeka) , February 1, 1883.

41. Topeka Daily Capital, February 1, 1883.

42. Ibid., February 1, 1883.

43. Leavenworth Evening Standard, February 6, 1883.

44. House Journal, Proceedings of the House of Representatives of the State of Kansas, Biennial Session, 1883. p.556.

45. Senate Journal, Proceedings of the Senate of the State of Kansas, Biennial Session, Begun January 9, 1883. Topeka, Kansas, Kansas Publishing House, 1883. pp,78,697.

46. Senate Journal, p. 697.

47. Senate Journal, p. 698.

48. Daily Commonwealth, (Topeka) January 27, 1883.

49. Topeka Daily Capital, February 1, 1883.

50. Emporia Daily Republican, February 16, 1883.

51. Senate Journal, pp. 234, 853.

52. House Journal, pp.126,921,957,1091.

53. General Statutes, Vol. I, p. 740.

54. Fort Scott Daily Monitor, March 9, 1883.

55. House Journal, p. 215.

56. Ibid., p. 830.

57. House Journal, p. 552.

58. Ibid., p. 830.

59. Leavenworth Times, daily newspaper published at Leavenworth, Kansas, March 3,1883.

60. Topeka Daily Capital, February 1, 1883.

61. Daily Commonwealth (Topeka) , May 19, 1883.

62. Topeka Daily Capital, May 22, 1883.

63. Ibid., May 20, 1883.

64. Ibid., May 5, 1883.

65. Ibid., May 8, 1883.

66. Ibid., August 8, 1883.

67. Ibid., August 8, 1883.

68. Daily Eclipse, daily newspaper published at Parsons, Kansas, July 28, 1883.

69. Charles Robinson, in a speech delivered at Parsons, Kansas, in Kansas Prohibition Pamphlets, Kansas State Historical Library, Topeka, Kansas. Vol. I.

70. Daily Commonwealth (Topeka), August 28, 1883.

71. Topeka Daily Capital, September 20, 1883, clipping in Kansas State Temperance Union Clippings, Vol. I. Kansas State Historical Library, Topeka, Kansas.

72. Leavenworth Evening Standard, November 13, 1883.

73. Ibid., February 24, 1884.

74. Atchison Daily Patriot, October 21, 1884.

75. Topeka Daily Capital, October 6, 1883.

76. Mrs. L. B. Smith on Women's Christian Temperance Union, in pamphlet compiled by T. E. Stephens, "Prohibition in Kansas." pp. 29-31.

77. Minutes of the Women's Christian Temperance Union, (6 volumes) Kansas State Historical Library, Topeka, Kansas. Vol. I. p. 27.

78. Ibid., Vol. I. p. 32.

79. Public Documents of Kansas, 1883-1884. Fourth Biennial Report of the Secretary of State. List of charters filed during two years ending June 30, 1884. Kansas Publishing House, 1885. p. 54.

80. Topeka Daily Capital, September 19, 1883.

81. Ibid., March 11, 1884.

82. Report of Cases Argued and Determined in the Supreme Court of the State of Kansas, Topeka, Kansas, Kansas Publishing House, 1883. Vol. 29, January 1883.pp.252-274.

82a. United States Reports, Cases Adjudged in the Supreme Court at October term, 1887. New York and Albany Bank and Brothers Law Publishers, 1888. Vol.123, pp.623-- (George Vest, solicitor. See letter of August Bondi pp. 65-66 of text)

83. Report of Supreme Court, Vol. 29, January 1883, pp.384-387.

84. Report of Supreme Court, Vol.29, January 1883, pp. 341-344.

85. Report of Supreme Court, Vol. 30, July 1883, pp. 545-550.

86. Report of Supreme Court, Vol. 31, January 1884, pp.201-204.

87. Report of Supreme Court, Vol. 32. July 1884, pp.588-593.

88. Report of Supreme Court, Vol.31, January 1884,p.146.

89. Report of Supreme Court, Vol. 31,Jan.1884, pp.201-203.

90. Report of Supreme Court, Vol. 31, Jan. 1884, pp. 637-641.

91. Emporia Daily Republican, December 18, 1884.

92. Report of Supreme Court, Vol. 30, July 1883, pp.653-661

93. Report of Supreme Court, Vol. 31, January 1884, pp.452-460.

94. Emporia Daily Republican, June 3, 1883.

95. Public Documents of Kansas, 1883-1884. Attorney-General, Fourth Biennial Report. Topeka, Kansas, Kansas Publishing House, 1885. p. 45.

96. Report of Supreme Court, Vol. 31, January 1884, pp. 14-48.

97. Ibid., pp. 14-48.

98. Public Documents of Kansas, Attorney-General, p. 45.

99. Topeka Daily Capital, November 12, 1884.

100. Correspondence of the Governors of Kansas; Incoming Letters of George W. Glick, 1883-1884. Letter from August Bondi, Salina, Kansas, April 3, 1883.

101. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to August Bondi, Salina, Kansas, April 13, 1883.

102. Correspondence of the Governors of Kansas: Incoming Letters of George W. Glick, 1883-1884. Letter from S. R. Smith, September 27, 1883.

103. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to S. R. Smith, October 1, 1883.

104. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to Master R.S. Stockton, Wyandotte, Kansas, Nov. 2, 1883.

105. Emporia Daily Republican, November 13, 1883.

106. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glic, 1883-1884. Letter to Editor Kirchenzeitung, Cleveland, Ohio, May 21, 1883.

107. Correspondence of the Governors of Kansas: Incoming Letters of George W. Glick, 1883-1884. Letter from Tarlton F. Pryor, Mayor of Anthony, July 10, 1883.

108. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to Tarlton F. Pryor, Mayor of Anthony, July 24, 1883.

109. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to Charles Foster, Governor of Ohio, July 5, 1883.

109a Ibid., Letter to Don C. Wood, Angola, Ind., Aug. 29, 1883.

110. Daily Commonwealth (Topeka), February 12, 1883.

111. Atchison Daily Champion, daily newspaper published at Atchison, Kansas, February 16, 1883.

112. Ibid., February 16, 1883.

113. Ibid., February 16, 1883.

114. Charles Robinson, in speech given at Parsons, Kansas, printed in Kansas Prohibition Pamphlets, Vol. I.

115. Topeka Daily Capital, May 13, 1883.

116. Daily Eclipse (Parsons), April 12, 1883.

117. Topeka Daily Capital, February 21, 1883.

118. Ibid., March 28, 1883.

119. Ibid., June 6, 1883.

120. Daily Commonwealth (Topeka), April 29, 1883.

121. Leavenworth Evening Standard, July 12, 1883, quoting from the Chicago Tribune.

122. James Humphrey, "Administration of George W. Glick" in Transactions of the Kansas State Historical Society, Vol. IX, pp. 407-408.

123. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to George T. Hinkle, Sheriff of Ford Co., May 12, 1883.

124. Ford County Globe, weekly newspaper published at Dodge City, Kansas, May 22, 1883.

125. Ibid., June 12, 1883.

126. Daily Commonwealth (Topeka), June 15, 1883.

127. Wichita Daily Eagle, daily newspaper published at Wichita, Kansas, August 30, 1883.

128. Topeka Daily Capital, July 26, 1883.

129. Ibid., July 31, 1883.

130. Topeka Daily Capital, July 31, 1883.

131. Ibid., July 31, 1883.

132. Ibid., December 11, 1883.

134. Emporia Daily Republican, January 28, 1884.

135. Topeka Daily Capital, January 24, 1884.

136. Emporia Daily Republican, December 27, 1883.

137. Leavenworth Times, July 31, 1883.

138. Topeka Daily Capital, December 4, 1883.

139. Daily Commonwealth (Topeka), May 22, 1884.

140. Leavenworth Evening Standard, January 30, 1884.

141. Daily Commonwealth (Topeka), May 4, 1884.

142. Ibid., May 4, 1884.

143. Atchison Daily Patriot, March 24, 1884.

144. Leavenworth Times, July 6, 1884.

145. Topeka Daily Capital, January 22, 1884.

146. Emporia Daily Republican, July 31, 1884.

147. Daily Eclipse (Parsons), May 5, 1884.

147a. James A. Troutman in a speech at Toronto, Canada, May 24, 1885, printed in Kansas Prohibition Pamphlets.

148. Correspondence of the Governors of Kansas: Incoming Letters of George W. Glick, 1883-1884. Letter from J. P. Dillon, Hutchinson, Kansas, April 2, 1883.

148a. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to J. P. Dillon, Hutchinson, Kansas, April 3, 1883.

149. Ibid., letter to Ed D. Reemer, Wamego, Kansas, December 18, 1883.

150. Correspondence of the Governors of Kansas: Incoming Letters of George W. Glick, 1883-1884. Letter from Marion, Kansas, June 3, 1883.

151. Correspondence of the Governors of Kansas: Incoming Letters to George W. Glick, 1883-1884. Letter from Ed D. Reemer, Wamego, Kansas, December 17, 1883.

152. Ibid., letter from St. Clere, Kansas, December 20,1883.

153. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to County Attorny of Sedgwick County, March 20, 1884.

154. Ibid., letter to Rev. G. M. Kelly, Wichita, Kansas, April 2, 1884.

155. Ibid., letter to H. D. Dickson, Neosho Falls, Kansas, July 24, 1883.

156. Topeka Daily Capital, August 10, 1883, quoting from The Lawrence Herald in an interview with George W.Glick.

157. Topeka Daily Capital, August 12, 1883.

158. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to D. C. Dale, Wichita, Kansas, June 26, 1883.

159. Leavenworth Times, June 3, 1883.

160. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to H. D. Dickson, Neosho Falls, Kansas, July 24, 1883.

161. Fort Scott Daily Monitor, August 21, 1883.

162. Wichita Daily Eagle, July 19, 1883.

163. Daily Commonwealth (Topeka), June 15, 1884.

164. Topeka Daily Capital, June 22, 1884.

165. Ibid, June 24, 1884.

166. Ibid., June 25, 1884. Reported from Salina Journal.

167. Ibid., June 25, 1884.

168. Ibid., June 28, 1884.

169. Ibid., June 28, 1884.

170. Topeka Daily Capital, June 22, 1884.

171. Ibid, July 16, 1884.

172. Leavenworth Daily Standard, July 19, 1884.

173. Manhattan Nationalist, weekly newspaper published at Manhattan, Kansas, July 4, 1884.

174. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to Ewing and Mitchell, Cowker City, Kansas, August 8, 1884.

175. Ibid., Letter to Mrs. Martha Shriner, Bushnell, Illinois, November 13, 1884.

176. House Journal, Biennial Session 1885, p. 291.

177. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to B.V. Hubbard, Indianopolis, Indiana, February 28, 1883.

178. Ibid., Letter to H. J. Jackson, Castle Garden, New York City, May 29, 1883.

179. Ibid., Letter to Walter Williams, Booneville, Missouri, July 19, 1883.

180. Topeka Daily Capital, December 8, 1883.

181. Atchison Daily Patriot, January 7, 1884.

182. Emporia Daily Republican, April 19, 1884.

183. Ibid., April 19, 1884.

184. Correspondence of the Governors of Kansas: Outgoing Letters of George W. Glick, 1883-1884. Letter to Walter Williams, Booneville, Missouri, July 24, 1883.

185. Topeka Daily Capital, April 24, 1884.

186. Topeka Daily Capital, April 23, 1884. quoting from Atchison Champion.

187. Leavenworth Times, June 3, 1884.

188. Daily Commonwealth (Topeka), June 14, 1884; and Emporia Daily Republican, June 10, 1884.

189. Daily Commonwealth,(Topeka), July 3, 1884.

190. Ibid., July 3, 1884.

191. Leavenworth Daily Standard, July 16, 1884.

192. Topeka Daily Capital, July 16, 1884.

193. Leavenworth Daily Standard, July 16, 1884.

194. Ibid., July 16, 1884.

195. Ibid., July 16, 1884.

196. Daily Commonwealth (Topeka), August 5, 1884.

197. Topeka Daily Capital, July 17, 1884.

198. Daily Commonwealth (Topeka), August 29, 1884.

199. Topeka Daily Capital, August 27, 1884.

200. Wichita Daily Eagle, August 29, 1884.

201. Topeka Daily Capital, August 22, 1884.

202. Leavenworth Daily Standard, August 28, 1884.

203. Fort Scott Daily Monitor, June 3, 1884.

204. Atchison Daily Patriot, October 30, 1884.

205. Topeka Daily Capital, October 25, 1884.

206. James A. Troutman, in an address at Toronto, Canada, May 24, 1885, published in Kansas Prohibition Pamphlets. Vol. I.

207. Topeka Daily Capital, November 6, 1884.

208. Emporia Daily Republican, November 14, 1884.

209. Leavenworth Times, November 15, 1884.

210. Topeka Daily Capital, November 16, 1884.

Bibliography.

Manuscripts:

Correspondence of the Attorney Generals of the State of Kansas: Outgoing Letters of William A. Johnston, Attorney-General, 1883-1884. Archives, Kansas State Historical Library, Topeka, Kansas.

Correspondence of the Governors of Kansas; Incoming Letters to George W. Glick, Governor of Kansas, 1883-1884. Archives, Kansas State Historical Library, Topeka, Kansas.

Outgoing Letters of George W. Glick, Governor of Kansas, 1883-1884. Archives, Kansas State Historical Library, Topeka, Kansas.

State Documents:

General Statutes of the State of Kansas: A Compilation of All the Laws of the State of Kansas, 1889. Topeka, Kansas, George W. Crane and Co., 1889.

House Journal: Proceedings of the House of Representatives of the State of Kansas, Biennial Session Begun January 9, 1883. Kansas Publishing House, Topeka, Kansas, 1883.

Biennial Session Begun January 11, 1885. Kansas Publishing House, Topeka, Kansas, 1885.

Report of Cases Argued and Determined in the Supreme Court of the State of Kansas, Kansas Publishing Company, Topeka, Kansas, 1883,1884,1885. Volumes 29,30, 31, 32.

Public Documents of Kansas, 1883-1884: Attorney-General, Fourth Biennial Report, Kansas Publishing House, Topeka, Kansas, 1884.

Senate Journal: Proceedings of the Senate of the State of Kansas, Biennial Session Begun January 9, 1883. Kansas Publishing House, Topeka, Kansas, 1883.

United States Reports, Cases Adjudged in the Supreme Court at October term, 1887, Volume 123. New York and Albany, Bank and Brothers, Law Pub., 1888.

General Works:

Andreas, A. T. History of the State of Kansas, Chicago, A. T. Andreas, 1883.

Connelley, William E. A Standard History of Kansas and Kansans, (5 Volumes) Lewis Publishing Company, Chicago, 1918.

National Cyclopaedia of American Biography. Volume VIII. New York, James T. White and Co., 1924.

Transactions of the Kansas State Historical Society, 1905-1906, edited by George W. Martin, Secretary. Volume IX. State Printing Office, Topeka, 1906.

United States Biographical Dictionary (Kansas Volume), Chicago, S. Lewis and Company, 1879.

Collections:

Kansas Prohibition Clippings, Vol. II, 1883-1884, Kansas State Historical Library, Topeka, Kansas.

Kansas Prohibition Pamphlets, Vol. I and II, Kansas State Historical Library, Topeka, Kansas.

Kansas Prohibition Speeches Clippings, Vol. I-II, Kansas State Historical Library, Topeka, Kansas.

Kansas Scrap Book, collection of clippings, Kansas State Historical Library, Topeka, Kansas.

Kansas State Temperance Union Clippings, Vol. I-II, 1879-1917, Kansas State Historical Library, Topeka, Kansas.

Kansas State Temperance Union Pamphlets, Vol. I, Kansas State Historical Library, Topeka, Kansas.

Women's Christian Temperance Union, Minutes of Meetings, Vol. I. Kansas State Historical Library, Topeka, Kansas.

Newspapers:

Atchison Daily Champion, daily newspaper published at Atchison, Kansas, 1883-1884.

Atchison Daily Patriot, daily newspaper published at Atchison, Kansas, 1883-1884.

Daily Commonwealth, daily newspaper published at Topeka, Kansas, 1883-1884.

Daily Eclipse, daily newspaper published at Parsons, Kansas, 1883-1884.

Emporia Daily Republican, daily newspaper published at Emporia, Kansas, 1883-1884.

Ford County Globe, weekly newspaper published at Dodge City, Kansas, January 1883- to July 1884.

Fort Scott Daily Monitor, daily newspaper published at Fort Scott, Kansas, 1883-1884.

Leavenworth Evening Standard, daily newspaperpublished at Leavenworth, Kansas, 1883-1884.

Leavenworth Times, daily newspaper published at Leavenworth, Kansas, 1883-1884.

Manhattan Nationalist, weekly newspaper published at Manhattan, Kansas, 1883-1884.

Topeka Daily Capital, daily newspaper published at Topeka, Kansas, 1883-1884.

Wichita Daily Eagle, daily newspaper published at Wichita, Kansas, 1883-1884.