

RICHARD J. HOPKINS: A RHETORICAL ANALYSIS

by

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## INTRODUCTION

This study is designed to survey the political, social and economic issues which were prominent in the state of Kansas during the active period in the life of Richard J. Hopkins. It is the thesis of this study that early Kansas politics was largely a moral and religious question rather than a political one. This study will examine:

1. Hopkins' participation in Kansas politics - Elective position--appointive position.
2. Hopkins' major political and moral ideas.
3. Hopkins' oral communication.

It is the contention of this thesis that the major premises from which Richard J. Hopkins spoke were outgrowths of the moral and religious ideas to which many Kansans subscribed at the time rather than to strictly political issues of the era. Necessarily the study will examine the participation of Hopkins in politics as well as the premises from which he spoke and the sources of persuasion in the selected speeches.



RICHARD J. HOPKINS

1873-1943

CHAPTER I  
HOPKINS' LIFE

If, as the poet Dryden sang "and could we choose the time and choose aright, tis best to die our honor at the height," the tragedy which yesterday befell Judge Richard J. Hopkins in his chambers at the federal court here, loses somewhat its sting. For if ever man died at his post, if ever man succumbed in the performance of duty, it was Judge Hopkins. . . . No one cherished more the duties of his high office, no one treasured more its reputation for justice and fairness than Judge Hopkins. There could be no better epitaph for him than he died at his post of duty, his "honor at the height."

Arthur Capper<sup>1</sup>

At Judge Hopkins' funeral, Andrew Schoeppel, governor of Kansas from 1943 to 1947 eulogized Hopkins with the epithet, "fearless, that he would make up his mind as to what was right and proceed along that line regardless of what might oppose him."<sup>2</sup>

Seventy years before these eulogies, Richard J. Hopkins was born in Jefferson City, Missouri, April 4, 1873 to Colonel and Mrs. William Robert Hopkins. Colonel Hopkins had served in the Missouri cavalry during the Civil War and upon being discharged, attended law school in Jefferson City, Missouri, and passed the Missouri bar in 1867. A year later, the young attorney took a bride, Elizabeth Murphy of St. Louis. During Richard's sixth year, the young attorney gave up his promising law practice<sup>3</sup> in Jefferson City and headed for Kansas. He settled his family on one hundred and sixty acres obtained

under the Homestead Act, near Sherlock, now Holcomb, Kansas. Colonel Hopkins built a two room sod hut and divided his time between farming and the practice of law.

In 1886, a blizzard struck the area. Hopkins was in Garden City when it came and it took him three frantic days to reach his family. When he got through on the third day he found everyone safe but all the furniture had been burned to stoke the stove. That experience occasioned a decision to move the family to Garden City, where Colonel Hopkins became the first county attorney of Finney county.<sup>4</sup>

Richard, the second of nine children attended school at Garfield school which was the first erected school house on the north side of Garden City. Garfield was erected in 1886. During high school days he worked at Dickinson's jewelry store on Main Street, making enough money to enter college. He graduated from Garfield High School in 1892 as the salutatorian and stayed in Garden City one year to teach high school before entering college. He entered the University of Kansas in the fall, 1893, where he was a student for two years; to support himself during this time he worked as a janitor for the Unitarian Church. After completing his work at the University, Richard and a class mate of his, W. W. Reno of Lawrence, developed a scheme to make a living by publishing the Kansas Blue Book, which included a short biography with a picture of each officer and legislator of the State. With their profits, they went to Washington D.C., intending to publish

a national blue book similar to the Kansas Blue Book. After they discovered they were unable to finance such a project, Richard developed an interest in selling an acetylene gas generator used for lighting houses and cooking purposes. He brought the idea back to Kansas and joined a man by the name of Gillette. Gillette left Hopkins soon after their partnership, and Hopkins went to Dodge City where he was able to interest a railroad conductor in his business. This business was short-lived, for when one of the gas generators blew up, Hopkins decided to leave the generator business and return to Garden City for the summer of 1898 before entering Kent Law School in Chicago that fall. He graduated with his law degree in 1901 and was admitted to the bar of Illinois. For five years he practiced law in Chicago, but returned to Garden City in the summer of 1906 to become a law associate of his father as the junior member of the firm.<sup>5</sup>

While in Garden City, Hopkins became interested in the general progressive policies of Kansas and the reform movement in Kansas which was led by Governor W. R. Stubbs of Douglas County. Hopkins said he didn't know why he became interested in these movements except "for the same reasons anyone becomes interested in movements. He just does."<sup>6</sup> Hopkins secured an easy position in the state legislature, defeating, in the primaries William Ford of Finney County, a member of the state's Standpat faction of the Republican party, and in the general election, William Berry, a Democrat.

The Stand-pats were those interested in monopoly control of railroads and utilities and the Progressives referred to them as "bosses" of the state. Governor Stubbs and his supporters, the "boss-busters," formed the Progressive faction of the Republican party which opposed the Stand-pat faction. The Progressive movement was largely the new urban counterpart of recent Populism. Both, the Progressive and Populist movements, were against domination of the common man by the forces of industrialism. It was not so much that they did not accept industrialism, but they were against monopoly control of industrialism. They saw a lack of industrial freedom which resulted in a lack of political freedom. The common man was suffering from the monopolists and the Populist movement waged war on private ownership of industries. Populism did not subscribe to the ideologies of individualism, competition and progress. But its response, far from being negative, was to redefine entirely the relation between society and the individual. The individual was not the one to change, but society was. Therefore Populism became the major radical alternative of the 1890's.<sup>7</sup>

Along the general line of favoring a government close to the people, more representative and more thoroughly democratic in its purposes and methods, and in resistance to corporate exploitation of the people, the progressive Republicanism of 1910 bore a close family resemblance to the Populism of 1892.<sup>8</sup> The progressive Republican faction first began when Theodore Roosevelt announced the "square deal." Roosevelt made for



himself a reputation as a reformer by his support of trust and railway regulation, civil service reform, the "square deal" for labor and the conservation of natural resources. In 1912, when he was unable to get the Republican nomination for president, he went into the Progressive Party.<sup>9</sup>

Finney county was led by the Stand-pats until Hopkins beat William Ford, a former County Treasurer of Finney County. Hopkins is said to have been elected because of his progressive ideas and because he supported the trust-busting stand of Roosevelt, President of the United States from 1901 to 1909.<sup>10</sup>

Upon Hopkins' arrival in Topeka in 1909 to serve his term as legislator, he was approached by Joseph N. Dolley, chairman of the Republican Central Committee and campaign manager for Governor Stubbs, who urged him to run for speaker pro-tem of the House. On Dolley's suggestion, Hopkins became a candidate and began circularizing the members of the lower House. He had support from both factions, the Stand-pats and Progressives. A personal friend of Hopkins, W. Y. Morgan from Reno County, whom Hopkins had met some years before at a state convention of the Sons of Veterans, was one of the Stand-pat leaders who supported Hopkins. Opposing Hopkins for this position was Representative W. A. Morgan of Hodgeman County. Hopkins defeated Morgan by a vote of 82 to 41, with 2 absent.<sup>11</sup>

Hopkins' efforts in his first session resulted in an enactment of a bank guaranty law, as well as other laws concerning truancy, freight rates, lobbies, publicity for

campaign contributions, meat inspection and control over railroad stock, issued by the Board of Railroad Commissions. The most important legislative work in which he participated was the regulation of public utilities. This began the public utilities fight, waged principally between the factions of the Republican party. The Progressives wanted price control on all public utilities. If utilities were not controlled, a private light company could charge fifteen cents whereas municipal ownership would charge only five cents. Hopkins favored the passage of the law which would control the rates on water, lights, and railroad freight.<sup>12</sup>

Hopkins was respected by all factions for his ability as speaker pro-tem. One afternoon in the speaker's stand in the legislature, he received a note written on a piece of newspaper with the following sentence, "Why don't you run for Lieutenant Governor," signed JND. The initials were those of Dolley, speaker of the House. With this suggestion and additional encouragement from W. R. Stubbs, Hopkins decided to seek the office. He and Stubbs campaigned the railroadless counties of Southwestern Kansas together and had no trouble convincing Kansans that the Hopkins-Stubbs ticket was the most qualified to lead the state (Appendix B).

Newspapers, referring to the campaign, called Hopkins a "square-dealer" and an able "dry." The Kinsley Mercury on June 10, 1910 said,

Hopkins is running on a platform that is modern and up-to-date and in conformity to the awakening spirit that is stirring the minds of the people.

The Ottawa Herald on May 26, 1910, called Hopkins "one of the cleanest and most progressive Republican candidates for state office." The Garden City Telegram, June 8, 1910, reported that Hopkins had caused Stubb's opponent, Mr. Tom Wagstaff of Independence much embarrassment.

When Mr. Wagstaff, a candidate for Governor, was speaking at Garden City last week, Mr. Hopkins, the "square-deal" candidate for Lieutenant Governor, arose and asked the boy politician some very embarrassing questions, causing him to side step and plunging him into horrible confusion. If Mr. Hopkins does not watch out, he will get run in for cruelty to children.

Hopkins' opponent in the primary of his campaign for Lieutenant Governor was Republican J. W. Creech of Herrington, who represented the Stand-pat faction. Hopkins won by about thirty-six thousand votes which was considered a good majority at that time. His opponent in the general election was Democrat Ravenscraft of Ashland. Hopkins defeated Ravenscraft and took his seat as the first Progressive Republican Lieutenant Governor in 1911, but soon found that his position would not be an easy one. For the first time in the history of Kansas, as far as is recorded, the members of the Senate, over which he presided, denied the Lieutenant Governor his prerogative of naming members to head the committees of the Senate. These committees had always been headed by the Stand-patters since the Lieutenant Governor had always been a member of that faction. The Stand-pats wanted Hopkins to agree,

before the session convened, that he would appoint members of the faction as charimen of the judiciary, railroad and public utilities committees. Hopkins refused to agree and so they decided to take away from Hopkins this power of appointment. Hopkins did not take this personally, but only as a political difference in the Republican party.<sup>13</sup> Even with this "dehornment,"<sup>14</sup> Hopkins displayed an unusual ability to preside over the Senate. F. C. Price, leader of the Standpats in the Senate from Ashland, Kansas, made the following statement about him, here quoted from Reports of Cases Argued and Determined in the Supreme Court of the State of Kansas.

I have been in touch with this senate for many years, but I know of no presiding officer during that period who has excelled Lieutenant Governor Hopkins in fairness or parliamentary knowledge, or in capacity to conduct the business of this body.<sup>15</sup>

"Dick" Hopkins was not a candidate for Lieutenant Governor in 1912. He was talked of for governor, but declined to enter that race after Arthur Capper, his good friend, announced his candidacy.<sup>16</sup> Instead, Hopkins decided to support Capper's candidacy and to become a candidate for nomination for the empty seat in Congress vacated by United States Congressman William Madison from the seventh district in Kansas. Hopkins mounted a strong campaign, still pushing his progressive platform. The Great Bend Tribune of November 4, 1912, dubbed his campaign "a smoke out" campaign; "clean-cut and bombarding. Voters are wondering why all the candidates don't come out in the open as Hopkins does in platform

announcements." The Winfield Courier during this campaign quoted Judge G. H. Buckman of Winfield and a previous Speaker of the House in the Kansas Legislature.

There is one of the earnest, fearless, young men of this state. He is my kind of a progressive; he believes in progressive legislation, but is not erratic in his ideas and is always fair and considerate of the other side.

Although Hopkins was supported by many major newspapers throughout the state, he lost the nomination for a seat in Congress by three hundred votes in an extremely close primary in which his opponents were Gordon Finley of Ford County and O. W. Dawson of Barton County. Several newspapers gave an early decision to Dawson while others anticipated that Hopkins would win. In the final vote-count, Gordon Finley edged out both candidates.

Hopkins attributed his defeat to the fact that the farmers did not go to the polls. Many precincts where he expected to get substantial support failed to poll a single vote.<sup>17</sup> Hopkins could give no further explanation. However, defection in Republican ranks caused the split in the Republican party and the split was felt nationwide.<sup>18</sup> The Republicans were defeated nationally and locally. Arthur Capper lost the governorship to George Hodges by twenty-nine votes.<sup>19</sup> It was not only a Hopkins defeat, but a Republican defeat. Considering the split in the Republican ranks, Hopkins made an excellent showing.

Lieutenant Governor Dick Hopkins need have no feeling of humiliation in his defeat for the congressional nomination in the seventh district. Outside Reno county, he carried the district over both the other candidates.<sup>20</sup>

Hopkins, defeated, but not disappointed returned to Garden City in 1912 to rejoin his father in law practice. There he was elected City Attorney and served in that position for six years. His performance as City Attorney was not out of the ordinary except that he was able to place control over public utilities. A Colorado company owned the utilities and refused to lower the rates. Consequently, the case was taken to the federal court. Hopkins won the case which put control over utilities in the hands of the city instead of a private company. As a result, the courts decision, reduced the rates by two-thirds and the savings were approximately thirty-five dollars per year to the average taxpayer.<sup>21</sup>

When the United States entered World War I in 1917, Kansas committed herself to an active role in the support of our armed forces. Among other activities, Kansas formed several organizations to raise money for the war effort. Governor Capper proclaimed Liberty Days for the sale of bonds. Four minute-men were enlisted to speak in favor of the bond purchases and Hopkins was one of Capper's appointments. Other war organizations were formed such as the Red Cross and the State Council of Defense, and Hopkins became a member of both organizations. Leading citizens undertook to prepare themselves to serve the war effort in special ways. Hopkins was such a person, for

during the summer of 1917, he went to Chautauqua, New York to enroll in a course offered in the Citizens Training Camp there; this course was designed to train him to make speeches in the interest of the War. He "returned to Kansas and delivered many speeches for the Red Cross and campaigned to sell the Liberty Bonds."<sup>22</sup>

The year 1918 found Hopkins again trying for a state wide political office. This time he announced his candidacy for Attorney General. The split in the Republican ranks seemed to be harmonious. They took a stand against profiteering, but supported economy, prohibition, reciprocity, protectionism and woman suffrage.<sup>23</sup> The Republican candidate for governor was Henry J. Allen, a newspaper man from Wichita. He defeated W. C. Landson, his Democratic opponent, and Arthur Capper beat his Democratic opponent in the race for U. S. Senate.<sup>24</sup> Hopkins' opponent was Ben S. Gaitskill, a Democrat, former mayor of Girard, Kansas, former president of the state bar association and later was to serve as National Committeeman of the Democratic party in 1924. Hopkins defeated Gaitskill by over 100,000 votes.<sup>25</sup>

Shortly after his election, death visited his household. Mrs. Richard J. Hopkins died of influenza in 1918. Nineteen Seventeen and 1918 claimed the lives of so many thousands of Americans. The next few months, following Mrs. Hopkins' death, were hectic for Hopkins and their children. Hopkins' aunt, Kate Murphy, came to live with the family and raise the three

young Hopkins children, Isabell, Richard Jr. and Dan. It was finally decided in January of 1919 that the family should move to Topeka where Hopkins could be near his work as well as his children.

During Hopkins first term in the office of Attorney General, the prohibition ammendment (the Eighteenth) was ratified, a twelve hour working day for municipal employees was established, and municipal insurance companies were more closely regulated. Nineteen twenty returned the Republicans back into the state offices. Governor Allen was reelected, as was Attorney General Hopkins. The Kansas state platform was a ringing denunciation of Woodrow Wilson's internationalism. The shift towards "Normalcy" was evident, not only throughout the nation but in Kansas as well.<sup>26</sup> Hopkins' Democratic opponent was Ralph T. O'Neil of Osage City, Kansas. Mr. O'Neil was a past National Commander of the American Legion and past President of the American Bar Association. Hopkins defeated O'Neil by 120,000 votes.<sup>27</sup>

About the time of the beginning of his second term in the Attorney General's office, he became an active member of the Anti-Saloon League of Kansas which was founded by Howard H. Russell in 1893. Hopkins had preached prohibition during his earlier campaigns. His 1911 platform for the Lieutenant Governorship included the phrase, "I propose a strict enforcement of the prohibition law."<sup>28</sup> However, it was not until he became Attorney General that he was able to carry out his



campaign promise. Hopkins joined the crusade to rid Kansas of the "Epidemic"<sup>29</sup> and hired Fred L. Crabbe to be his superintendent of the state Anti-saloon League. This acquaintance was later to occasion controversy, but at the time, Hopkins referred to Crabbe as an "exceedingly energetic attribute to Kansas."<sup>30</sup> In a letter of Hortense Campbell Gibson, a personal friend of Hopkins, he said Crabbe offered his services free to the Attorney General's office to enforce the prohibitory law. Crabbe was recommended to Hopkins and was immediately given a commission without compensation to help enforce the law.<sup>31</sup> Through Crabbe, Hopkins became interested in the Anti-Saloon League of America. Hopkins was elected a member of the executive committee of that organization representing Nebraska, Kansas, Oklahoma, and Colorado, and for several years he assisted in the activities of the national organization, headed by Wayne B. Wheeler, General Counsel and Legislative Superintendent.

At the end of four years as Attorney General, Hopkins was elected to the Supreme Court of the State. He had become interested in this position after he learned the proceedings of the Court as the state's leading Attorney. He assumed that position in 1923 after defeating W. P. Dillard, a Democrat, by 40,000 votes.<sup>32</sup> As an Associate Justice of the Supreme Court of the State, his name first appears in the Kansas Reports of that Court in Volume 112, 1923, in a case involving The Farmers State Bank of Eustis, Nebraska and The

Pioneer State Bank of Eustis, Nebraska. The last entry including his name appears in Volume 129, 1929 in a case involving the Postal Telegraph-Cable Company. These years cover a time in the State's history when the work of the court was very heavy. Hopkins gained a reputation as a very knowledgeable jurist. His associates thought him fair in all decisions made in the Court and this is exemplified by the following eulogy made by Justice C. J. Johnston.

Judge Hopkins brought to the court his wide knowledge of governmental affairs gained in his experience as city attorney, in the legislature, as lieutenant governor, and attorney general. He always approached any problem from the viewpoint of the public good. His early training on the farm and in the university and law school gave him a rare insight into the motives that prompt man's actions. During these years, Kansas was taking the lead in writing into its judicial decisions the philosophy that the public good demands: the enforcement of the law and the doctrine that the individual's rights may be protected without any sacrifice of the constitutional guarantees. He had the rare ability to give proper heed to his brothers on the bench, coupled with matchless courage when once he had reached the conclusion that his position was the correct one.<sup>33</sup>

He served his first six-year term and was re-elected in 1928 for another six-year term, having defeated the Democratic candidate, Walter Huxman by 200,000 votes.<sup>34</sup> Hopkins served only one year of his re-elected position because he was appointed to the Federal District Court by President Hoover. However, as Supreme Court Justice for seven years, he opined over 500 cases. His opinions concerned corporations, banks, divorces, truancy, education and most other issues that concerned the law. The Ranchmen's Trust Company

vs. the People's State Bank of McPherson; the State of Kansas vs. Clyde Alton, convicted of violating the prohibitory law; the State of Kansas vs. Lizzie Rutledge, concerning lottery tickets; are a few cases which he handled that are listed in the Kansas Reports records.<sup>35</sup>

#### APPOINTMENT BY HOOVER

On December 19, 1929, Richard Hopkins was appointed to the Federal District bench for Kansas. This appointment was not an easy one, for the appointment was pending nearly a year. The Topeka Daily Capital, December 19, 1929 called this battle one of the "bitterest contests in the history of the state."

The first suggestion that Hopkins could attain a federal position was made in 1928 by Victor Mardock, editor of the Wichita Eagle. Hopkins was campaigning for his second term to the Supreme Court when he visited Mr. Mardock in Wichita.

I went out to his home and he came downstairs and we sat on the stairs and talked. He said to me at that time, "I hope to see the day when you are on the Supreme Court of the United States." I told him there never would be a chance for one of my views to be on the Federal Court because at that time I thought such a thing was utterly impossible. This was because I was for the people rather than for the corporations.<sup>36</sup>

This suggestion by Mardock apparently encouraged Hopkins to seek a Federal appointment, for in December of 1928, Hopkins approached Clyde Reed, the newly elected governor of the State, concerning his desire. He was disappointed to learn

that Judge George T. McDermott of Wichita had already been appointed to the Federal District Court for Kansas, but shortly after learning of this appointment, the Coolidge administration established the new Tenth Circuit Court of Appeals which would require several appointments. Hopkins was encouraged that he still had a chance at a Federal bench appointment, for he felt that his previous experience in office and the number of years he had served the state, gave him an edge over other candidates. Reed said that "he would be willing to do anything he could to 'kick' Judge McDermott out of the district judgeship."<sup>37</sup> Reed and Hopkins had both been Progressives in the Republican party whereas Judge McDermott had been a Stand-patter. Naturally Reed wanted someone serving Kansas who had his same interests. McDermott had been known to be sympathetic towards corporations and Reed wanted a Progressive to handle Kansas matters. If McDermott could be appointed to fill one of the new judgeships, his jurisdiction would serve only with cases appealed to the United States Supreme Court.

Hopkins, encouraged by Reed's endorsement and the support of his colleagues in the Supreme Court of Kansas, started his campaign. He approached many of his friends asking them to write recommendations to the two United States Senators from Kansas, Arthur Capper and Henry Allen. Chief Justice of the Supreme Court of Kansas Johnston, Clyde Reed, Victor Murdock, C. J. Beckman, Commissioner of Labor and Industry, Charles

Shukers, president of the Bar Association, F. Dumont Smith, a former president of the Bar Association, and William Allen White, editor of the Emporia Gazette were among the many who wrote letters endorsing the appointment of Judge Hopkins. Chief Justice Johnston, in a letter of July 16, 1929, to Senator Arthur Capper said,

Judge Hopkins is a gentleman of strictest integrity, honor and truth, and his statement of facts within his knowledge is not open to question by a fair-minded person acquainted with his character and record. . . . My knowledge of Judge Hopkins leads me to the opinion that if confirmed by the Senate and vested with the high office will discharge the duties of the place ably, faithfully, and with credit to the high position and to himself.

Supporting Hopkins in a similar fashion, Governor Reed wrote in a letter of May 10, 1929, to Senator Capper,

Kansas is, of course naturally concerned in having the nomination of Justice Richard J. Hopkins, now a member of the Kansas Supreme Court, confirmed as United States District Judge for Kansas.

Justice Hopkins is a man of unquestioned integrity and Kansas is substantially unanimous in its desire that he be promptly confirmed. So far as the views of the governor of a State may have any weight, you may use this letter in any way that you see fit.

And again, William Allen White wrote Senator Capper in a letter dated May 16, 1929,

In Justice Hopkins the people have found a loyal, industrious, efficient public servant, a man whose character stands out fine and strong. He has met every political charge against him in every campaign fairly and without quibbling and has won before the people. This a man may do once or twice, but to go through six primaries and six elections a

majority winner in many cases and to go through without the aid of money or powerful friends merely on your worth as a man and record as a public servant is the ordeal by fire which has revealed the high qualities of Justice Hopkins.

Working in opposition to Hopkins were some of the most powerful forces in Kansas; public utility corporation lawyers, the old political organization commonly called the "old guard" of the Republican party, and a large number of the members of the State Bar Association were among his opponents. Added to his opposition were the anti-prohibitionists who remembered Hopkins' connection with the Anti-Saloon League and his record in enforcing the prohibition law while serving as Attorney General of the State of Kansas. These interest groups attempted to have a man of their choice appointed to the federal bench while the Coolidge administration was still in office. Hopkins' supporters, in particular Senator Capper, worked successfully to stall any appointment until Herbert Hoover was inaugurated as President.<sup>38</sup>

Meanwhile, several corporation lawyers, the names of whom were never mentioned, met with Thomas Doran, a corporation lawyer of Topeka, and worked night and day sending telegrams and telephone messages urging local bar associations to call quick meetings to endorse W. F. Lilleston of Wichita, a man concerned with their interests.<sup>39</sup> Governor Clyde Reed was quoted in an article in the Wichita Evening Eagle, August 3, 1937, reporting the activities of these corporation lawyers,

The public utility corporation lawyers started out to name McDermott's successor on the district bench. They had a first class candidate and used the long distance phone from Topeka. Lawyers in every county were asked to endorse their candidate. Within 72 hours the lawyers thought they had the district judge succession "sewed up."

The fight lasted for nearly a year. An attempt was made by United States Attorney General William D. Mitchell to block the appointment by President Hoover for Mitchell had been persuaded by Kansas corporation lawyers that Hopkins was an unfair judge. All efforts to block Hopkins' appointment failed, for President Hoover appointed Hopkins on November 26, 1929, to the Federal District Court at the fifth district. His enemies refused to drop the fight and carried it to the United States Senate, where a vote for Hopkins' confirmation was delayed time after time because of objections from one senator or another. William Howe, labor leader of Kansas, filed several charges with the Senate Judiciary Committee concerning misplaced liquor fees collected in Wyandotte County during Hopkins term as Attorney General. Hopkins' superintendent of the Anti-Saloon League, Fred L. Crabbe was charged with selling confiscated liquor across state lines for his personal profit. Hopkins was thought to be involved, but these charges were denied by both Senators Capper and Allen. They said the charges had been pushed about the State for years and pointed out that despite such claims Hopkins had been overwhelmingly elected to the Supreme Court two times.<sup>40</sup>

Hopkins was finally confirmed by the Senate and his

enemies rested their attacks. Hopkins sat on the Federal Bench until his death fourteen years later. He presided over several major trials during his tenure in office and gained fame for Kansas and himself when he presided over the trial of Jack "Legs" Diamond, a New York gangster and racketeer.

#### DOG ON ANT HILL

"New York City was forced to sit back and take notice of an influential Kansas Judge"<sup>41</sup> in the summer of 1931. Judge Hopkins was the guest jurist during the vacation season, in the Federal District court of the southern district of New York. While Hopkins was serving this judgeship, John "Legs" Diamond, "who had beaten the rap twenty-four out of twenty-five times,"<sup>42</sup> was brought before Hopkins. Diamond was convicted of conspiracy to violate the Prohibition Law and imprisoned in the Federal Penitentiary at Atlanta, Georgia. He was fined \$11,000, the maximum sentence.<sup>43</sup>

Joseph Driscoll of the New York Herald Tribune described "Legs" reactions to his verdict.

The almost bloodless face of the bullet-riddled remnant of gang warfare, grew paler still. His mobile mouth reflected a bitterness towards the judge which he dared not speak. He turned and walked a bit unsteadily back to his seat. At this moment a Fire Department band across the street played "Wabash Moon" and big, blond Mrs. Diamond fell to loud weeping. She comforted her gangster husband and cried, 'it don't mean nothing honey. We're gonna appeal it, ain't we?"



Judge Hopkins continued in this conviction and took the opportunity to slander the city of New York. He called the city a "dog on an ant hill, howling with pain while he is bitten by ants, but so indifferent that he does not remove himself" <sup>44</sup> (Appendix B).

New York was reaping the whirlwind of our own sowing, and while she howls and wails about racketeers and gangsters, she still sits on her ant-hill and continues to violate with impunity many of the laws on the statute books.<sup>45</sup>

One of Hopkins' awaited opportunities had arrived--a chance to prosecute another violator of the prohibitory law. He returned to Kansas to find many congratulations from his loyal sympathizing friends. Newspapers throughout the country were also willing to congratulate the judge for his "fearless" prosecution in up-holding the law. A minister from California called Hopkins a "competent judge which we regret to say, is not conspicuous in our courts."<sup>46</sup> The Schenectady Union Star of New York, August, 15, 1931, said that "New York was under the impression that judges were owned by the gangsters and jurors were scared to vote a conviction even for the worst felon in the city." Hopkins was put upon a pedestal by his fellow Kansans and was referred to as "the man from the wind-swept plains of Kansas who treated one law-breaker just like another."<sup>47</sup>

The next few years, Hopkins presided over three other trials that were of major concern. The first case was the murder trial of Carl Panzaran, the "soulless" killer who

laughed in the face of death and fought when they told him he had to stand trial.<sup>48</sup> Panzaran had slain twenty men and was the first man in forty years to be executed in Kansas. The second trial was that of Major William Shepard, an army medical officer, who was accused of poisoning his wife. The jury returned a verdict of guilty and Shepard was sentenced to life in prison. The third trial came when a southern Kansas liquor ring was broken. Dozens were convicted and sent to prison.<sup>49</sup>

In 1938, a second judge was appointed to the Seventh District Federal Bench to assist Judge Hopkins. Considerations had been made since 1930 either to make new districts to handle the numerous cases coming before the District courts or appoint additional judges. However, since Hopkins assured the U. S. Attorney General that he was able to handle all cases Hopkins was brought before the Judiciary Committee of the United States Senate for investigations in 1938. The interest groups involved were the original stand-pat enemies of Hopkins, including the corporation lawyers, and Judges Robert E. Lewis of Denver, of the tenth circuit court of appeals, Orie L. Phillips of Denver, of the tenth circuit and Hopkins of the Fifth District Court.

#### HOPKINS VERSUS THE "OLD GUARD"

Hopkins' investigation began on July 28, 1937, before a three man committee headed by Senator H. W. Sumners of Texas.

The purposes of the investigation were to discredit Hopkins as a jurist and show a substantial need to create a new federal district or appoint a new judge to the fifth district. Judge Lewis of the tenth circuit court had charged Hopkins with careless handling of five bankruptcy cases.<sup>50</sup> The controversy began in 1935 upon the death of Judge John Pollock of the Fifth District Federal Court. Hopkins at that time took over the receivership case of the Federal Life Insurance Company of Kansas City, Kansas, and sought to investigate its conditions. Judge Pollock had appointed William R. Baker as receiver and Jerome Koehler, a Kansas City lawyer, as attorney. Baker, a former insurance commissioner of Kansas, sold the Federal Reserve to the Occidental Insurance Company of California. It was agreed by Judge Pollock and Jerome Baker and Koehler at that time that a tentative lien, a claim on the property of another as security against the payment of a just debt, of fifty percent would be made against the reserves; that the lien would be adjusted from time to time and that the settlement would be completed by 1951. Judge Hopkins appointed Carl W. McKeen, former president of the National Bank of Topeka, to re-appraise the property. McKeen investigated eight pieces of property in Detroit, Michigan and the appraisal was \$100,000 higher than the original appraisal set by Judge Pollock. Hopkins also discovered that Baker, the receiver, permitted the withdrawal of \$400,000 in bonds by the Federal Life from the state treasury and let the company substitute mortgages on real estate, during his incumbency as insurance

commissioner. From this evidence, Baker resigned as receiver and Judge Hopkins appointed Robert G. Lindsay as his successor. Hopkins talked to state Insurance Commissioner Charles Hobbs about a new attorney and Hobbs suggested the name of Louis R. Gates another Kansas City lawyer and friend of Judge Hopkins.<sup>51</sup>

The new appointments made by Judge Hopkins caused some controversy. George E. Brammer, attorney for the Occidental Insurance Company of California was not pleased with the new appointments and contested the charge to the Circuit of Appeals in Denver. Judge Lewis, senior judge, ordered the cases to be removed from Hopkins and given to Judge Phillips on the grounds that Hopkins had handled the cases incompetently.<sup>52</sup> Hopkins in turn charged Lewis with illegal removal of the cases in question. The charges were brought to the Judiciary Committee in Washington and Hopkins was questioned not only for his activities with the receivership case, but also about Hopkins' activities with the Anti-Saloon League.<sup>53</sup>

Hopkins was asked about a note signed for a Reverend Johnson of the Anti-Saloon League for \$1,000. Hopkins testified that he had been approached by Reverend Johnson in 1920 and that Johnson needed the money for one reason or another and Hopkins had co-signed the note. Johnson apparently had paid \$750 of the note and the balance of \$250 had been signed off the records by bank president Carl W. McKeen. Hopkins said he knew nothing about the balance being signed off and had assumed that it had been paid. No other evidence could

be brought against Hopkins and Chairman Sumner suggested that the inquiry had persued far enough and the Committee was recessed until the following day, when the charges against Hopkins were removed.<sup>54</sup>

The week's hearings seemed to have been staged for the sole purpose of discrediting Hopkins so that a new judge could be appointed. Clyde Reed of Parsons in the Wichita Eagle, August 8, 1937 said the investigations were only "a lot of dirty judicial ermine."

There should be a thorough investigation which will go into all the facts and circumstances connected with the administration of the federal courts. The insurance company attorney, who filed the motion with Judge Lewis to take the Federal Life case away from Hopkins, was the confidential and secret adviser of the subcommittee entrusted with investigation. It turned into a "prosecution" almost a persecution of Hopkins. Except that there wasn't anything wrong found. Some errors perhaps, but nothing that an honest judge should be ashamed of.

The Wichita Beacon, August 1, 1937, wondered why "Hopkins' enemies could not iron out their differences without putting the great state of Kansas on the limb." The Topeka Capital, July 30, 1937 explained what Hopkins thought caused the feud.

As far back as I remember, we have had the federal crowd in Kansas; a few lawyers who got all the business in the federal courts. There were a select few who were known to have good standing with Judge Pollock. Word got around that the way to get decisions was to employ one of these inside, or select few. So other lawyers were seldom employed in the federal court. This crowd fought my nomination bitterly in 1929. After I was confirmed, this federal crowd wanted another judge to go to. They still do. They went to Judge Pollock. They preferred to go to Judge McDermott. Now I understand why

Judge Phillips, among others, feels that there should be another district judge in Kansas.

W. P. Lambertson, representative from Kansas' first district, one of the principals in asking for this investigation is quoted in the Topeka Capital, August 6, 1937, as agreeing with Hopkins.

It is significant that the only assignments of circuit judges to handle district judge work has been in receivership cases. The trouble is the old crowd wants the gravy. The gravy is in the receivership cases. They want to keep their gravy. And that is what is back of the fight on Judge Hopkins, and this effort to have an additional judge appointed for Kansas; just legal gravy.

From these comments, it seems obvious that the purpose of the investigation of 1937 was to discredit Hopkins as a jurist. The investigation was not an effect of the receivership case, but was in spite of the case. The hearings were not scheduled to find out Hopkins' procedures in his handling the cases, but to bring out any slanderous evidence that could be attached to his reputation. His political enemies had waited for this opportunity to remove Hopkins because he was a barrier to their interests. However, the "old guard" as Hopkins called them, were not successful in effecting his removal, but the following session of Congress did appoint a second judge for Kansas.

#### HIS HONOR AT THE HEIGHT

At 1:45 p.m., August 28, 1943, Judge Hopkins died of a heart attack in his chambers before entering his courtroom.

He was buried in Valley View Cemetery in Garden City, beside his father and mother, Colonel and Mrs. William R. Hopkins. He was survived by his wife, Lida Hafford Hopkins, a daughter Isabell Hopkins Martz, and son, Daniel R. Hopkins, Captain in the United States Army. His eldest son had been killed in January of 1943 and was buried in Arlington Cemetery.

Judge Hopkins also left behind him an imprint on Kansas history. His political and moral ideals, which will be discussed next, were publicly known and he not only preached them, but practiced them. It is worth ending his life with Andrew Schoeppel's eulogy, "He died his honor at the height."

## CHAPTER II

### HOPKINS' IDEAS

Hopkins is a typical representative of the men who have transformed the desert of western Kansas into a veritable garden. For that region grows men of brain, brawn and public spirit.

D. O. McCray<sup>55</sup>

As history is usually forgotten, so is the historical participation of many great leaders in the making of many laws by which we abide. Kansas history is no exception and neither is the historical participation of Judge Hopkins in Kansas law-making. An important historical issue to explore here is the background of liquor prohibition in Kansas as well as the historical background of Kansas politics which have been Republican. Certainly Richard Hopkins plays a role in the history of the prohibition movement and the Republican party.

Richard's family was composed of eleven members. They were prominent in Garden City, for Richard's father, Colonel W. R. Hopkins was the first county attorney of Finney county and he represented the district three terms in the state legislature. His father's activities may well have been the reason that Richard's initial interest in politics was kindled. However, as Richard Hopkins matured in political life, there were two men who influenced his thinking in many ways during the thirty-four years of his political life. They were Abraham Lincoln and Theodore Roosevelt. He knew neither one



personally, but their importance in his thinking is evidenced in letters and speeches which Hopkins wrote. He eulogized Lincoln whenever possible and used examples of Lincoln's life in his speeches.

Lincoln had the capacity to endure, calmly, not only physical hardships, but mental. Under nearly all circumstances he was calm and serene. Libelous and slanderous attacks upon him or his policy were permitted to go unanswered. . . . There are certain outstanding traits of his character which may well be emulated by all of us. For instance, his perseverance, his stick-to-it-ive-ness, his high and undaunted courage, his ability to rise above defeat.<sup>56</sup>

Abe Lincoln said, "Let reverence for the laws be breathed by every American mother to the lisping babe that prattles on her lap. Let it be taught in the schools, in seminaries, in colleges. Let it be written in primers, spelling books and in almanacs . . . And, in short let it become the political religion of the nation." We are sometimes inclined to swell too strongly on our rights rather than our duties; our duties should have first consideration.<sup>57</sup>

There is hardly a speech that Hopkins made which did not include a passage or an example from the life of Lincoln. Hopkins seems to have attempted to pattern his own life after Lincoln's. It is clear that he chose as guiding principles respect for religion and law.

I think religion ought to consists more in works than in words. I think the doing of things, of being of service to one's fellow man is of much more importance than theory and preaching about doing those things.<sup>58</sup>

"Dick" followed the Roman Catholic faith as a child, and it appears that his religious theory may have been influenced by his church's insistence of "good works." Garden City was without a church structure when Richard was a boy, so his

mother, an Irish Catholic, held mass at the Hopkins' home for several years. A priest came to Garden City once a month to officiate and Richard served as altar boy. He did not attend formal church services until he went to Kansas University. There he became a janitor at the Unitarian Church. When Richard was married to May Cathcart in 1908, they both joined the Congregational Church but attended the Methodist church while living in Topeka. Richard applied his religious convictions very faithfully and incorporated them into his political life.

Hopkins felt the principles of the Christian Religion could be summed up in the commandment, "Thou shalt love the Lord thy God with all thy heart and mind and thy neighbor as thyself." He said if real Christianity were practiced in the world, creeds could be dispensed with and economic and political problems could be solved. Man kind doesn't "turn the other cheek." He regretted that practical religion was not in existence, that only theoretical religion seemed to be.<sup>59</sup>

Since ours is a government founded upon law, it is indispensable to the welfare of the nation that men respect and obey the law. lax enforcement of law encourages a disrespect for government. Disrespect for government encourages the commission of crime. So long as laws are upon the statute book, they should be obeyed by all citizens. None can properly avoid this duty.<sup>60</sup>

Hopkins, like Lincoln, was born amidst hardships, privations and poverty. "He belonged to the sod-house-claim-shanty-aristocracy of western Kansas and endured the

burning sandstorms and biting blizzards on the short grass frontier."<sup>61</sup> Though he did not reach this level of Lincoln's accomplishment, this was no doubt his wish. Hopkins fought for the respect he gained from his colleagues and when most might have given up because of opposition, Hopkins persevered. He would have liked the governorship of Kansas and a seat in the United States Congress. However, he would not have been able to unite the Republican party as did Alfred Landon in 1932; his strict law enforcement caused him too many enemies and he could not have taken a middle-of-the-road policy as Hopkins said Landon did in order to bring the Stand-pat and Progressive Republicans together.<sup>62</sup>

As Hopkins tried to emulate the life of Lincoln, he adopted many of the political ideas of Theodore Roosevelt as was pointed in Chapter I. Roosevelt believed in government regulation of big business. He saw large corporations eliminating competition and injuring consumers. He believed in conservation and reclamation of arid lands by irrigation, the conservation of our forests, and improvement of natural waterways to procure cheaper transportation. He supported reform of the national currency, and because of the Panic of 1907 which was caused by general economic currents, he felt that stock market activities left an inadequate supply of currency for the enlarging needs of business.<sup>63</sup>

In Hopkins' 1911 platform for Lieutenant Governor, close similarities to Roosevelt's ideas can be seen.

- I favor a regulation of freight rates that will be absolutely fair and just to the people.
- I favor such regulation of state wide telephone, telegraph, express companies and other public service corporations as will secure to the public adequate service at a fair charge. In my opinion the biggest problem confronting Kansans and the people of our nation, is the question of transportation in connection with trusts and combines and the question of freight rates. The laws of the state and nation controlling monopolies and trusts are inadequate.
- I favor a guaranty deposit law that will place all banks on the same basis.<sup>64</sup>

Hopkins also supported irrigation and forestry reclamation. He was a member of the Irrigation Committee in the legislature in 1908 and he was the author of a Forestry bill in 1909. This bill was to create a forestry board to help conserve Kansas' forests, but it failed passage.

In 1912, Hopkins thought Roosevelt should be elected for another term in the White House. In a speech given to the Pratt County Roosevelt Club, Hopkins endorsed Roosevelt for another term.

It is said that once in every generation the great truths of the world must be spoken in a new dialect and what Abraham Lincoln said a half century ago is being applied to present-day conditions by the greatest moulder of public opinion in the world today; that intrepid twentieth century leader is Theodore Roosevelt. He stands today as the supreme champion in the world wide fight for the right of men, the fight against boss-ridden or corporation controlled legislation. If Abraham Lincoln were alive today, he would be fighting side by side with Theodore Roosevelt.<sup>65</sup>

As Hopkins supported Roosevelt's trust-busting stand, Hopkins supported municipally owned utilities. Hopkins'

position and his influence in the League of Municipalities should be included here. The indication has been made in Chapter I that the public utility "fight" began in the legislature, of which Hopkins was a part in 1909. The "fight" was basically between the Progressives and Stand-pat Republicans and the argument concerned city utility control versus private utility control.

Hopkins' position originated with the Roosevelt era when it was found that privately owned utilities could hurt the consumer. Hopkins believed in protecting a legitimate business but also felt that the consumers of the state should be protected against profiteering. Therefore, he supported city municipal ownership of all utilities and hoped eventually to see state control of public utilities.

Hopkins became impressed by an investigation in 1907, conducted by the National City Federation to inquire into the operation of public utilities, not only in the United States but also in Great Britian. The investigation revealed first, that one of the chief means of regulating public utilities was to give the cities in which these utilities operated the right to operate municipal plants and second, that one of the best ways to regulate the public utility was to give the city a right to put in a municipal plant if the utility did not operate the proper way.<sup>66</sup> When Hopkins became a member of the Kansas Municipalities in 1912 while city attorney of Garden City, he became involved in the fight against the Colorado

light company which owned the utility in Garden City. In 1915, he became vice president of the Kansas Municipalities and president of this group in 1916.

In several issues of the Kansas Municipalities Journal, he wrote articles concerning utilities and gave evidence supporting the advantages of municipally owned utilities. He investigated the manufactured ice production over the state and found that more than one-half of the cities and towns in Kansas had an ice shortage. Finding that the State of Nebraska had established several municipally owned ice plants that could fill the ice demand at a reduced rate, he concluded that the same thing could be done in Kansas.<sup>67</sup>

The city of Topeka for instance could sell ice there at fifty per cent less than the private plant sells it. They could set aside a fund sufficient to rebuild the plant, a fund sufficient to pay the interest on the investment, in addition to that a sum that would have been charged up as taxes if that same evaluation had been taxed. After setting aside all those funds, that plant would make a net profit in four and one-half years at four and one-half per hundred for ice, of \$300,000.<sup>68</sup>

Hopkins therefore became convinced that ice, fuel and lights, could all be handled under municipally owned utilities with benefits accruing to the consumer. Thus, it is no wonder that Hopkins prosecuted corporations whenever possible and that his public life was beset by opposition from corporations and corporation lawyers.

In 1918, Hopkins became aware of profiteering by the Kansas City streetcar corporation. In the Kansas Municipalities Journal, July issue, 1918, he warned Kansas cities to be

on guard against profiteering by public utilities companies. The Kansas City, Kansas Street Railway Company was planning to break its contract with the city of Kansas City and to raise the street car fare. Hopkins felt all services to consumers should be of a municipally owned nature because corporations, like the Railway Company, could control their own rates.

### PROHIBITION IN KANSAS

Throughout Hopkins' political life, he was an ardent supporter of the liquor porhibition law. He joined the Anti-Saloon League band wagon at every opportunity and led many a crusade to rid Kansas of alcohol. He became a member of the Anti-Saloon League in 1918, while serving as Attorney General, though all of his campaign platforms for previous public offices clearly stated his "dry" position, "I favor a strict enforcement of the prohibitory law."<sup>69</sup> The majority of Hopkins' speeches either dealt entirely with the prohibition question or included some facet of the use or misuse of the law.

The origin of liquor prohibition in Kansas started many years before Hopkins' birth, but he was able to play an important role in its enforcement. In one of Hopkins speeches, he begins the history, "The history of prohibition in Kansas is the story of one of the most determined battles ever waged by the sons and daughters of men against a great evil."<sup>70</sup>

Hopkins did not believe this battle started in Kansas through any sudden uprising of the people, nor through the movement of a few fanatics, but he felt it came because the majority of the people who settled Kansas had high ideals, fortitude and courage.<sup>71</sup> He believed that slavery and liquor went hand in hand and as the Puritans did away with the slavery problem, they also stamped out alcohol. Hopkins' beliefs were seen to be both political and moral, because morality was synonymous with the politics of the time. If Hopkins had lived to see legalized liquor-by-the-drink in Kansas, he would probably have endorsed it as the law and an expression of the wishes of the body politic.

He related several early causes of prohibition in Kansas to the Kansas-Nebraska Bill passed in May, 1854 which repealed the Missouri Compromise (slavery was prohibited north of 36° except in Missouri) and substituted a principle known as "popular sovereignty," whereby the residents of the two territories of Kansas and Nebraska were given the right to decide the nature of their domestic institutions.<sup>72</sup> The consequence was that Kansas decided to ban slavery. The burning of Lawrence, Kansas in 1856 by the Missouri Patriots was another factor which influenced the prohibition movement. Fire and firewater, alcohol, came to be regarded as blood relatives and one Englishman, Thomas H. Gladstone, who was an eye-witness at the Lawrence massacre echoed this relationship in these words,



The burning mob was inflamed with drink. Some displayed a grotesque intermixture in their dress. Looking around at these groups of drunken bellowing, blood thirsty demons, who crowded around the bar of the hotel, shouting for drink, or venting their furious nose on the levee without, I felt that all my former experiences of border men and Missourians bore faint comparison with the spectacle presented by this wretched crew. In contrast, the free-state men appeared to me to be intimidated and over-awed in consequence.<sup>73</sup>

The Lawrence fire and massacre and the subsequent work of John Brown in stirring up interest in the fate of the struggling patriots in Kansas, all helped to bring about a ban on slavery in Kansas. The close association of "rum and slavery was implanted in the minds of the emigrants from the North, who had not yet come to Kansas."<sup>74</sup> With the first groups who were sent out to settle the new state and with the declared intent to preserve it as a free state, came the seed of the sentiment that was later to develop into the prohibition movement in Kansas. These settlers from the North wanted to settle a state in which any man, white or black, could draw a free breath, a slave neither to any other man nor to any force which could rob him of his faculties. Their ideal was a free mind for free men. They had seen lurid examples of the enslavement worked by liquor, and were determined that they would not be robbed of their ideal.<sup>75</sup>

After the Civil War, Kansans were conditioned by the attitudes of their ancestors towards "slaves and rum." The question at stake was whether or not a wider interpretation

of the phrase "life, liberty, and the pursuit of happiness," could be made without including liquor, than with it. Kansas concluded that liquor was an obstacle to the realization of "life, liberty, and the pursuit of happiness." Alcohol, along with slavery, were to be outlawed in Kansas. The prohibition movement was thus and it started its influence throughout the state.

The Kansas laws concerning liquor were first formulated by the territorial legislature of 1855 with the Dram-Shop Act, which restricted liquor traffic among Indians. From 1855 until the Eighteenth ammendment in 1918, "the pioneer demonstrated that the saloon is a parasite and its abolishment helped to abolish crime, bad economics and illiteracy."<sup>76</sup>

The first anti-liquor organization in Kansas was the Temperance Society which held its first meeting on October 9, 1861, in Topeka the year that Kansas became a state. This society was to be the main force in the late nineteenth century to stamp-out the traffic in liquor. Those leading the Temperance Society were clergymen, doctors, educational leaders, and public office holders. The beginning of the Temperance Society occasioned the beginning of the Anti-Temperance Society, the members of which, called themselves the "Independent Order of Shoulder Knockers"; this order held its first convention in Topeka on January 31, 1872. The members did not want to be the object of legislation that would prescribe what they should eat or drink and they felt

that any restrictions on them in this respect were in opposition to the spirit of American institutions. Therefore, a campaign to oppose restrictions, which was later to be defeated, was waged by the "wets."

The activities of Mrs. Carrie Nation of Medicine Lodge, Kansas, are world-known, but it must be remembered that she was not the originator of the idea to use the hatchet. Mrs. Daniel Wertz and Mrs. Allison, armed with hatchets walked, in March, 1874, into a saloon in Burlingame, Kansas and demolished the windows. At that time the women started an active campaign against liquor which subsequently led to the inclusion of a liquor prohibition posture by the Republican party. In 1876, the Republican state convention took a position against liquor.

Resolved that drunkenness is one of the greatest curses of modern society, demoralizing everything it touches, imposing fearful burdens of taxation upon the people, a fruitful breeder of pauperism and crime, and a worker of evil . . . 77

In 1878, a new prohibition leader appeared on the scene in the person of John Pierce St. John. He was elected governor in 1878 and delivered a message to a joint session of the Senate and House in 1879 advocating the first general prohibition law. His constitutional amendment which passed and took effect, May 1, 1881, contained this statement, "The manufacture and sale of intoxicating liquors shall be forever prohibited in the state, except for medical, scientific, and mechanical purposes."

St. John was elected governor two terms, but was defeated for a third term in 1862 by George W. Glick, the Democratic candidate. Eighteen eighty-four was the year for the Republican National Convention in Chicago. St. John was very interested in a national platform that would contain a liquor prohibition statement, but his colleagues refused to take any position against the saloon. St. John left the Republican party and joined the Prohibition party, whose nomination for the President of the United States he received and for which office he polled 150,000 votes in the general election of 1884.<sup>78</sup>

The addition of the amendment to the constitution prohibiting the sale and manufacture of liquor resulted in the closing of eight hundred saloons in Kansas. The law was not universally effective for many stayed open in various towns that were controlled liquor sympathizers. The situation in which both "wet" and "dry" towns existed within the state provided the ammunition which both sides needed to launch a real fight over liquor prohibition. In 1881, the State Medical Society of Kansas adopted a resolution supporting the temperance law. In 1886 the educators became involved when they made this statement,

No certificate shall be granted to any person to teach in any of the public schools of this state after the first day of January, 1886, who has not passed a satisfactory examination in the elements of hygiene and physiology, with special reference to the effects of alcoholic stimulants and narcotics upon the human system; and provision

shall be made by the proper officers committees and boards for instructing all pupils in each public school supported by public money and under state control upon the aforesaid topics.<sup>79</sup>

From 1888 until 1900, the "wets" steadily extended their jurisdiction wherever sentiment gave them a footing. Since the defeat of Governor St. John, there had been a determined effort to gather together an organization which would gain power enough to force the resubmission of the amendment.

In December, 1900, Mrs. Carrie Nation, President of the Women's Christian Temperance Union of Medicine Lodge went to Wichita, Kansas to visit the saloons and "joints" left open after the amendment. She warned them to close, but after being ignored, she started her destruction of these establishments by first throwing stones through a large painting of a nude woman at the Carey Saloon of Wichita. She was arrested and sentenced; she spent three weeks in jail. Upon her release, she went to Topeka, called on the governor and demanded that he carry out the duties of his office. From this time on, Carrie Nation gathered strength from her women supporters and together they forced Kansas to take notice of illegal liquor practices. It was learned that liquor was being transported across the state lines. With this evidence in hand, prohibitionists placed pressure upon the legislature to enact a law to forbid all such practices. In 1909, a law was passed to "absolutely prohibit the sale of alcohol."<sup>80</sup> In 1911, an "ouster" law was enacted which provided for the ousting of a derelict law-enforcement officer, from office.<sup>81</sup>

In 1917, a "bone-dry" law was enacted, which made it unlawful for any person in the state of Kansas to have liquor in his possession. A first offense against any provision of the prohibitory law was punishable as a misdemeanor and for a second offense, the violator would be found guilty of a felony and sentenced to the state penitentiary.

Hopkins was proud of Kansas and her ability to have solved the greatest civic problem of the ages; here he expresses his pride,

It has put Kansas far out on the firing-line of human progress. She has demonstrated that the saloon is a parasite on business, that revenue from crime and license is bad economics. It has helped to make Kansas one of the richest states per capita in the Union.

The experience of Kansas shows that prohibition means more money in the family, better shoes, better clothes, more food on the table. It means less sickness, less suffering, less sorrow. It means more happiness and better homes, where before was poverty, shame, wretchedness and despair. It means more sunshine in the world and a better land in which to live. Kansas has cut out from her body politic the cancer of debauchery and crime which comes from liquor. Having her hand to the plow, she will not turn back. What she has done she will continue to do. What she has done could not have been done if liquor had been permitted here.<sup>82</sup>

Hopkins attributed the success of prohibition to the Women's Christian Temperance Union, the Kansas State Temperance Union and the Anti-Saloon League which was joined by the State Temperance Union in 1917.<sup>83</sup>

In 1918, the Eighteenth amendment was added to the Constitution of the United States forbidding the sale and manufacture of liquor. In 1920, the regulation of the

alcoholic content in beverages was ordered in the form of the Volstead Act. As a result, Kansas had a new "epidemic" of the liquor business in the form of private stills. Hopkins was Attorney General from 1919-1923, and was largely responsible for prosecuting violators of these prohibitory acts. He had close association with the Anti-Saloon League and employed one of its members, Fred L. Crabbe, to be Superintendent of the State's "clean-up crew." Hopkins had little knowledge that Crabbe would cause him a great deal of trouble in the future; certainly Hopkins did not anticipate the number of enemies he would accrue because of Crabbe. He and Crabbe were very active in the activities of the Anti-Saloon League and traveled Kansas on many occasions delivering speeches for the cause of prohibition and organizing rallies to instill in the Kansas "puritan" the desire to abide by the law. Hopkins spoke in churches, schools, and parks, giving his listeners facts and figures about the evils of liquor and praising Kansas for curing herself of the "epidemic."

While Hopkins was leading the prohibitionists, two state newspapers, the Topeka State Journal and the Kansas City Journal-Post did not follow the "dry" in their strict stands. An influential newspaper man and enemy of Hopkins, who published articles against him, was William G. Clugston, reporter for the Kansas City Journal-Post, and author of the book, Rascals in Democracy published in 1940.

Clugston's opinion of Hopkins and his activities in Kansas may have been representative of the feeling of Hopkins' enemies.

The "wets" were tired of having the "do-gooders" control the state and they were tired of having the "holier than thou political reformers"<sup>84</sup> legislate what Kansans were to eat and drink.

Clugston's story described the Anti-Saloon League as a "dry racketeering atrocity." He alleged that the League used their political and religious leaders to go into a town and persuade its dwellers that the "devil was getting a dangerous foothold in their community and he must be sent back to hell."<sup>85</sup> He further asserted that the logical way to do this was through large donations "to cover the expense of gathering evidence and getting convictions when the culprits were caught."<sup>86</sup>

This writer finds it interesting to note that while the prohibitionists were out collecting donations to try to convict the anti-prohibition culprits, one of the best-known culprits Kansas has ever housed was among their members-- Carrie Nation. She destroyed public and private property throughout the State and the law enforcement officers found the most they could do was to keep her in jail overnight. However, if a citizen in Kansas was minding his own business but was found with liquor in his possession, he was sentenced to the penitentiary.

Hopkins did not think Carrie Nation culpable, because he felt she was involved in "God's work."



She was frantic, brawling, and hysterical, but she was brave, indomitable, consecrated to her God, and a prophetess. She was a deeply pious woman who has read the Bible so many times that Biblical quirks and tropes and methaphors have put a wholesome bark on her conversation.<sup>87</sup>

Whether or not Hopkins consciously associated his political interests with his moral interests is not known, but it is obvious that he valued the enforcement of the prohibitory law more than he valued protecting rights of citizens whose peace and property were disturbed and sometimes destroyed.

One of Hopkins' associates, whom Clugston criticized extensively, was Fred L. Crabbe, who was associated with the Attorney General's office during the years Hopkins served the State as Attorney General. Clugston criticized Crabbe and associated him with many shady activities.

Hopkins had appointed Crabbe to serve the Attorney General's office. He said Crabbe was a good organizer and he had a force of several hundred ministers and politicians who volunteered their services to enforce the prohibition laws of Kansas. Clugston questioned how Crabbe's salary of \$100 a month provided fine automobiles and diamonds and furs for Mrs. Crabbe. Clugston accused Crabbe of using many of the League's donations for his personal use and for Hopkins' campaign expenses in his race for the Supreme Court in 1923. Crabbe was also accused of confiscating liquor and selling it across state lines. This charge was made public by a Dr. Schaibly, a Methodist minister and member of the Anti-Saloon League. Charges of confiscations were refuted

successfully by the forces of the League. Hopkins was called to Washington by the National Committee of the League to explain the problem; a closed investigating committee session in Topeka finally dismissed the incident. As a result of the investigation it became clear to Hopkins that he would be forced to dismiss Crabbe from office. It was found later that Crabbe had gone to Oklahoma; he was convicted there on the charge of absconding money and was sentenced to a term in the penitentiary. Whether Hopkins was aware of Crabbe's "shady activities" is doubtful, but it was because of Crabbe's activities that Hopkins encountered strong opposition for the appointment to the Federal District Bench of the Fifth District in 1929.

Mr. Clugston's accusations were not taken seriously by many of Hopkins' friends. Clugston supported no one in Kansas politics during the twenties and thirties, rather he seemed to oppose all. Clifford Hope of Garden City remembered Clugston and called him a "cynical sort of fellow." There wasn't anyone he approved of at that time including the Democrats."

This writer associates Clugston with support of the "wets" in Kansas and support of corporation lawyers. He clearly supported the corporations and their cause in fighting Hopkins and did what he could to discredit the "Anti-Saloon clique."<sup>88</sup> It appears that Clugston associated Kansas Politics with superficialities and was overwhelmed by the naivete of Kansas leaders because they let their religious and moral beliefs

enter into politics.

Judge Hopkins served as an executive officer of the Anti-Saloon League for eight years. He traveled the state in its behalf and attended several conventions a year. He tried to organize the Attorney Generals of several states to take a stand against alcohol and encouraged public schools to adopt a course in teaching the "evils of alcohol."

Wayne Wheeler, president of the League, died in the summer of 1927. An unexplained controversy existed for over a year concerning his replacement and in December of 1928, Hopkins attended an executive meeting in Washington to elect a new president. Dr. Ernest Cherrington was elected but three of the then officers, including Hopkins were voted out. Hopkins and Cherrington didn't agree on League policies. Cherrington wanted all League effort to be directed towards the founding of a World League against alcohol. Hopkins supported such a League, but had spent considerable time in endorsing a local educational approach to prohibition in the American public schools. He had arranged with the superintendent of Kansas schools to endorse such a program. Hopkins opposed full support of the World League because of his belief in the local educational approach. He was probably replaced because of this commitment. He still continued participation in the League's activities, but he had made his last trip to Washington.

## A UNITED STATES OF EUROPE

Hopkins not only had his theories on prohibition but he also wrote about government. He saw the United States government as the most perfect in the world. A foreigner, listening to his speeches might regard the United States as a utopia (if he disregarded the prohibition controversy). Hopkins never did doubt that the principles of the United States Constitution would lead to the ultimate in good citizenship. He respected the worth of the United States government to the extent that he proposed they be emulated in founding a United States of Europe. The United States "is the richest country in the world and because of the advantages we have, we should uphold our country's honor."<sup>89</sup> Because of these advantages we should share them.

After World War I and his realization that war was useless and that Europe was constantly faced with the threat of war, he advocated that they accept the American constitution. He saw in Europe a lack of stability in individual states. He saw inevitable war because treaties, to the Europeans, were just a "scrap of paper." The United States was the oldest of all governments existing in the world. It was the only one which had not been changed in essential principles or revolutionized during the past century and a half. Hopkins had a conviction that a federation of states or nations of Europe, similar to the United States, would in large measure solve the European problems. Therefore, he prepared a tentative

constitution of the United States of Europe, notes on the Kellogg-Briand Treaty, A Bill of Rights, A Declaration of Intent and Purposes similar to the American Declaration of Independence and a Prayer of the Unborn Generations of Europe to abolish war.<sup>90</sup>

He thought the United States government worthy of emulation because the government was an example of what may be accomplished with any state made up of all languages and nationalities. Hopkins had supported the League of Nations in 1919 and was disappointed it was not supported by the United States. If Hopkins had lived to see the effects of the United Nations, he might have realized the limitations of his proposal. At least it appeared on paper to be of merit and Hopkins didn't have to look at the results of implementing such a proposal realistically.

Hopkins' ideas made an imprint on Kansas history. He was continually striving to make Kansas a more perfect state and the world a better place to live. His goals were far reaching and he set a standard for many a man to follow.

## CHAPTER III

HOPKINS' METHODS OF PERSUASION--  
THE SOURCES OF HIS PERSUASION

He had in addition to his ability as a jurist, a passion for writing.

Governor Andrew Schoeppel  
Kansas City Star, October 17, 1929

Hopkins' life and ideas were centered around his writings, all of which were given publicly throughout his thirty-four years of public service. It will be the intention of this chapter to analyze his speeches, three of which are included in Appendix A. The included speeches were selected because they best characterize Hopkins' persuasive appeal. They will be analyzed from these aspects; first, the emotional and ethical manner in which Hopkins appealed to an audience; second, the existence of a recurring call to action which was found in all of his speeches; and third, the predominance of the ceremonial type of oratory.

The topics most discussed by Hopkins have already been outlined. These were prohibition and the reminder to observe the law which we see becomes quite redundant in the three speeches, The Spirit of Kansas,<sup>91</sup> Instructions to the Federal Grand Jury,<sup>92</sup> and United States vs. Dewey,<sup>93</sup> which provide sufficient evidence of his characteristic method that analysis of them will show his pattern of organization and thought.

The ethical and emotional sources of persuasion defined by Aristotle are the most obvious artistic proofs used by

Hopkins. Aristotle says in The Rhetoric that "language will be appropriate if it expresses emotion and character and if it corresponds to its subject."<sup>94</sup> It will be seen clearly that logic is used only if the pioneer of Hopkins' day accepted the moral and religious premises that Hopkins provided. "Man's first duty is to God and second to his country." "Slavery and alcohol are evils."

In each of Hopkins' speeches he began by creating an ethical foothold with his audience. The Spirit of Kansas relied upon the "great state of Kansas" to draw the attention of his audience. He associated himself and his audience with a pioneer morality by recalling the inheritance of Kansas.

From Missouri and Mississippi, from the Carolinas and Georgia, men came to capture the territory of Kansas for their own peculiar institutions, while from Massachusetts principally, and from Illinois, Indiana and Ohio, came those who opposed such capture, and sons and daughters of the North with the spirit of the old Puritans in their hearts.<sup>95</sup>

Most Kansans during the twenties and thirties could not identify with the southern states. Most came from the states, Massachusettes, Illinois, Indiana and Ohio. With this geographical association, virtuous praise was put upon the audience by Hopkins. The old Puritan spirit was in the heart of Kansas and each religious Kansan could be proud of this inheritance. He also praised members who favored the Kansas Constitution and emphasized that they were not of a particular stereotype but represented several ages, nationalities and professions. The diversity of the audience to which Hopkins

was speaking, enabled them to better identify with those framers of the constitution.

Of the members who composed it, nearly two-thirds were under thirty-five years of age. The oldest was fifty-five and the youngest twenty-five. One-half of the members had been in the territory less than two years. Forty-one were from the north and seven from southern states. Four were of foreign birth. Eighteen were lawyers and sixteen farmers.<sup>96</sup>

Hopkins also praised his own credibility by identifying with the law profession and ideas of the progressives. This can be seen when he praised the progressive ideas of the men who framed the constitution and past events of Kansas history.

The constitution framed by them contained many progressive ideas. It prohibited slavery, had provisions for common schools and higher education, and besides contained two other provisions of special importance which have had a distinctive effect upon the progress of the state. In one, the rights of women were recognized and advanced and in the other the homestead was guarded against grasping creditors. When linked together they touch the whole social life of the state through the family.<sup>97</sup>

By praising the accomplishments of the Wyandotte convention, of 1859, he remembered his audience consisted of women and gave them an ethical association by elaborating on women's rights.

Continuing his eulogy, Hopkins called John Brown "remarkable" for his part in making Kansas a great state, and praised Brown's son for introducing the "prohibition memorials." He praised Kansans for their part in the Civil War and the soldiers for "snuffing out the weaklings of border ruffianisms." In Hopkins' eyes the Union soldier did no



wrong and he recalled that his own father was a Union soldier.

I am proud to reflect that my own father was a Union soldier who emigrated from Missouri with his family in those early days. For a century after the close of the Civil War the men who fought the battles for the preservation of the Union did the work of civil life in Kansas.

It is obvious that Hopkins was able to establish character. He spoke of the audience and their historical past and praised them for being Kansans. In turn he blamed their opponents, the weak Missouri ruffians who wanted to establish slavery and liquor in Kansas. This same ethical appeal can be seen in the second speech involving the United States vs. Dewey, tried February 18, 1941. Alexander Harlow Dewey was convicted for neglecting to register for the draft. The occasion was Dewey's trial which took place in Hopkins' courtroom in Kansas City. Hopkins took this opportunity to create his beliefs and established the duties of the court.

What shall be done about it? What is the duty of this court? We all know that it is the fundamental necessity of government that it shall have the power to decide great questions of policy and to act upon its decisions. One of the essential and underlying objects of this court is to create a lawful authority whose decision and action upon questions of this kind should bind all the states and all the people of every state.

In contrast to the speech on Kansas, Hopkins associated himself with the laws of the United States rather than the spirit of Kansas. The subject concerned the principles of the United States government and the moral issue was again duty to God and to the nation. His audience was the defendant, and more important, the courtroom observers. Because Dewey was found

guilty, Hopkins had to establish the character of the nation's laws. In doing so he appealed to the survival of the republic and love of liberty.

Upon the principles of our American system of government. . . rests the very fabric of our republic. We should realize more than ever before that upon those same principles depends the career of human liberty.

Hopkins' definition of our "principles of government" which included an historical prospectus, built the moral issue of Dewey's trial. The issue was service for one's country and "duty" for the laws of the nation.

Adherence to the principles of our system, which amounts to respect for and observance of law, is the cornerstone of government. It is the only guarantee of the rights of the individual,--therefore, respect for all the laws should be maintained. Therein lies the safety of society. Disregard for and violation of one law makes it difficult to observe and enforce others.

Hopkins' defined "duty" as law observance. It became important for Hopkins to define the "principles of government" in order to show the unethical approach taken by Dewey towards "law." He described "law" in association with "order" which caused "safety in society." Therefore, observance for the law was important, for it would mean deterring "universal chaos." Hopkins established the two contrasts, "peace" and "chaos," in order to associate his decision to convict Dewey with "what is for the betterment of the society."

If one citizen claims the right to disregard some law, his neighbor may claim a similar right to select others which he may disregard. Neither has such a right, and such a course, if carried to the extreme, would mean removal of the foundations of all government.

Therefore, Hopkins established his reasons for convicting Dewey. He also had established the definition of right and wrong, good and bad, and he had described what should and should not be allowed in order to safe-guard the rights of the individual. He had praised himself for being a law-abiding citizen, and his court for upholding the law. He had blamed Dewey for threatening the security of our nation by neglecting to register under the Selective Service Act. Hopkins was now prepared to pronounce the penalty,

Laws to be effective must have penalties for their breach. Congress provided that the violator of this law might be required to serve a prison term not to exceed five years. The judgement of this court is that you be delivered to the custody of the Attorney General for a period of two years, with the recommendation that you be sent to the Reformatory at El Reno, Oklahoma.

The third speech, Instructions to the Federal Grand Jury, given May 4, 1931, established the same ethical introduction as did all of Hopkins' speeches. The occasion was a courtroom trial and his audience was the jury. Again, the subject was law and duty to one's country and he established his close association to justice, a special aspect of forensic oratory as defined by Aristotle.<sup>98</sup> In connection with justice, he is also appealing to their sense of obligation and responsibility.

It becomes my duty to charge you concerning the law that shall govern you in your deliberations. Lax enforcement of law encourages a disrespect for government and disrespect for government encourages the commission of crime. So long as laws are upon the statute books they should be obeyed by all citizens.

Hopkins probably helped to establish his own moral integrity by his use of the word "duty" and he associated himself with his audience and their sense of responsibility to enforce law and order.

Hopkins' next concern is one of diminishing the credibility of his opponent. Hopkins' opponents were all those who failed to concur in the philosophies to which he subscribed; anyone who was associated with breaking the law lacked virtue. In the speech, Instructions to the Federal Grand Jury, the subject was duty to one's country. The free man was one who gave up his freedom in order to best serve the laws of the country. Hopkins' opponents, therefore, were those forces unwilling to give up their freedom in such a cause,

Human freedom consists in perfect adjustment of human energies, activities and interests. One isolated in the wilderness may do largely as he pleases, because his conduct affects no one else, but under our complex civilization, freedom is something more than being left alone.

Hopkins' definition of freedom is therefore, adjustment and acceptance of the law. Dewey became his opponent.

You refuse to be bound by the laws of your land.  
You refuse to obey one of the solemn mandates  
of your country . . . You are among the few who  
reject it and refuse to obey.

In speaking about Kansas and its historical past, Hopkins identified two causes which were not in the best interest of Kansas--slavery and alcohol. Since the post civil-war activities, Kansas added to its constitution the amendment that slavery would be barred from Kansas in 1859, at the fourth constitutional convention.<sup>99</sup> Thus, it will be safe to assume

that slavery had a negative connotation in the minds of many Kansans. Hopkins associated the evils of slavery with the Missouri ruffians who had burned Lawrence and in the same sentence described the ruffians as "filled with drink," "drunken," "bellowing" and "bloodthirsty."<sup>100</sup> The association was negative. Hopkins associated slavery with death and concluded that liquor produced the same effects.

Slavery with all its dreadful attributes clutched the throat of the south. So you may know that the same energetic, preserving and intrepid spirit of John Brown which helped to bring on the war against slavery also helped to bring on the war against intoxicating liquor.<sup>101</sup>

The opponents and their cause were linked with what was not virtuous. A moral-immoral, religious-irreligious, virtuous-unvirtuous standard was set. He knew what Kansas conditions were and reaffirmed this knowledge with his audience. He reviewed the status of women's rights and showed his concern for woman suffrage. This was an excellent subject to discuss, since his audience consisted entirely of women. He said

From the dawn of time, woman's rights had been much restricted. . . . The young man of the Wyandotte convention determined that such injustice should not exist, gave to the women of this state the management and control of their own property so far as is possible by law. Thereby, the permanency of the home was established, necessarily a dominating factor in the stability of our civilization. You will note that Kansas was evincing a spirit peculiarly her own.<sup>102</sup>

With this opinion, Hopkins was able to identify himself properly with his hearers, the women of Kansas. He showed his concern for justice and fairness as far as women's

rights were concerned, and quite likely he captured the praise of his audience.

He also reviewed the Civil War activities and touched on the beginning of prohibition. He appeared to have a wide knowledge of Kansas and its territorial and state laws by reviewing past events in Kansas, and describing in detail the causes and effects of Kansas' laws. Thus, he persuaded his audience that he possessed intellectual integrity and wisdom. For instance, he contrasted the effects of prohibition with the effects of alcohol and provided facts in this way

Is prohibition worth enforcing? The United States has  
 6 per cent of the world's population.  
 7 per cent of the world's land.  
 40 per cent of the world's railroads.  
 60 per cent of the world's cotton.  
 75 per cent of the world's corn.<sup>103</sup>

He concluded by these facts that the United States was more economically stable because it possessed more material wealth as compared with population and land. An inference was made that prohibition was the cause of the nation's wealth. Since the other nations of the world did not have prohibition, they were much poorer. It is interesting to note what Kansans and Hopkins accepted as a valid cause and effect relationship. However, if Kansans were to accept the premise that alcohol was an evil and caused "debauchery," "sickness," and "failure," if Kansans were to accept Hopkins' suggestion that "alcohol was a racial poison and caused the degeneration of the race, then the cause and effect relationships may have been accepted,

and Hopkins' audience may have attributed this relationship to common sense.

Another testimony contrasted the years 1917 and 1926 to show the effects of prohibition; in Hopkins' words we read,

Here are a few facts concerning America worth remembering. In 1917 America was wet. More than 200,000 saloons were destroying the thrift and efficiency of the American people. There were that year 7,269 buildings and loan associations in the United States with a total membership of 3,838,612, and total assets of \$1,769,142,175. In 1926, the total number of associations in the United States with a membership of 11,275,000 and total assets of \$6,280,000,000 was 12,000. In that period the number of associations nearly doubled, membership nearly tripled, and assets nearly quadrupled.<sup>104</sup>

The inference made again was that the existence of liquor would not advance the United States economy as prohibition did. If Kansans were to accept this premise, then they would have called the relationship valid. More important, if Kansans were to accept Hopkins as a speaker of truth, his logic may have been accepted on his character alone. "What you are speaks so loudly, I cannot hear what you say,"<sup>105</sup> applied favorably for Hopkins. It seems he was able to persuade his audience with his character, wisdom and good will. He was in constant demand by many organizations throughout Kansas to give a speech, and in one year was reported to have given over 125 speeches outside of his regular schedule.

Pathos-(emotion) can not be easily distinguished from ethos-(character), for emotional word usage can characterize ethical persuasion. Like character, the arousing of prejudice, pity, anger and similar emotions, is a personal appeal to the audience who is judging the speech. His choice of words and their combinations were used for an emotional response and as can be observed in his speeches, he took every opportunity to fill each sentence with as many abstract, emotional words as possible. For instance, the word "freedom" was used extensively in his two court room speeches, The United States vs. Dewey and Instructions to the Federal Grand Jury. "Freedom" is a word that American children are taught to respect. For six years in primary school, the child respects his pledge of allegiance to the flag, his history book begins with the Preamble to the Constitution which enumerates his "freedoms," and he is taught that the Pilgrims came to America in order to be "free."<sup>106</sup> They are taught that "good citizenship is being industrious, honest, and intelligent, that he must know what the nation's ideals are, and must help to form these ideals." Therefore, "freedom" is connected with positive thinking and pleasure. Hopkins relied upon these same words to arouse in his audience a feeling of pleasure. His continued use of abstract words such as "freedom" are used to best persuade his audience as can be seen in these excerpts.

Our forefathers established here a government in which there was no aristocracy of either birth or wealth.<sup>107</sup>



Our American system represents the collective wisdom, the collective industry, the collective common sense of people.<sup>108</sup>

Government means either power and success or weakness and failure. Laws are the product of civilized society.<sup>109</sup>

We should all be sensible to the value of government and not consent in any way to its debasement.<sup>110</sup>

All citizens of our common country have certain duties and obligations because of citizenship.<sup>111</sup>

These examples are filled with emotional words. "Government," "power," "success," "civilized society," "citizenship," "birth," "wealth," "commonsense," were all part of the Puritan morality brought to Kansas by the pioneers. These words developed a sense of loyalty to the nation's principles, and Hopkins' audience no doubt associated themselves with the pioneer value premises, religion, hard-work, and duty to one's country. Hopkins created an opposite effect by his use of "debasement," "weakness," and "failure." These are negative words that Hopkins associated with his opponent and the bad effects of "lawlessness."

Hopkins used this same contrast in reference to prohibition. To persuade Kansans not to imbibe in alcohol, he described alcohol's effects as "debauchery," "crime," "sickness," "sorrow." Prohibition on the other hand would create "sunshine," "money," "food," "shoes." He created a success-failure, pleasure-pain association in each of his topics. The negative words would create pain, whereas the pleasure words were connected with wealth, material gain, and happiness.

The Spirit of Kansas presents Hopkins' emotional appeal most emphatically. He depended upon a success story to help his persuasion. He told them of the dedicated men and women of high ideals, who have made Kansas what it is. Those who did not possess high ideals became "waylaid travelers." He would then challenge his audience to maintain this same high ideal by helping those lost travelers," by meeting them at the crossroads to help the runners find the best road to take." He concluded with a poem that one might find in a first grade history book, entitled Your Flag.

Your flag and my flag.  
 and how it flies today.  
 In your land and my land  
 and half a world away.  
 (Appendix A)

Needless to say, Hopkins relied on patriotism to associate himself with what was considered the ultimate in good citizenship. He therefore established his moral integrity and imposes stricture upon that of his opponent.

The second persuasive appeal used by Hopkins, centered around a recurring call to action, "It is up to you whether you will build stepping stones or stumbling blocks."<sup>112</sup> The exact quotation appeared in a speech given to the Kemper Military graduating class, May 26, 1938. However, this same appeal was used throughout all of his speeches in one form or another. He would set a standard or goal for his audience and contrast this goal with failure to achieve such a goal. His conclusion demanded a decision to either strive for success

or fall along the wayside; to build "stepping stones or stumbling blocks." Hopkins defined "stepping stones as "stick-to-it-ive-ness," "patience," "courage," "peace," "liberty," "patriotism," "energy," "law," or "abstention." Each of these words connoted a "good life" and means to success. "Stumbling blocks" were often referred to as "crime," "waste," "greed," "irreverence," "selfishness," "alcohol," "laziness," or "immorality." In contrast, these nouns were ways to failure.

An example of this contrast is found in his speech Instructions to the Federal Grand Jury. His call to action centered around his theme which was strict enforcement of the law. Success in government depended upon obedience and respect for law. In contrast, lax enforcement of law encouraged a disrespect for government. Therefore, it was up to the jury to decide whether or not it wanted a successful government or an unsuccessful government, which would be the inevitable result of disrespect and disregard of government.

The business of government is to look after the interests of the people, to see that men are restrained from injuring one another. Laws are the product of civilized society, enacted to protect the innocent and punish the guilty. We should all be sensible to the value of government and not consent in any wise to its debasement.

Hopkins contrasted two emotional words, sensible and insensible. He indicated that the sensible person enforced the law in order to protect the innocent and the insensible person consented to law debasement. Here he called man to action to

build "stepping stones" instead of "stumbling blocks."

In the indictment of Alexander Dewey, Hopkins called upon Dewey, the defendant, to begin striving towards success. In essence, he said Dewey had already built "stumbling blocks" and that he must pay the penalty,

To maintain peace and liberty, law must be enforced, men must abide by the law in order to keep our freedoms. One man can create war for all the people. He can give the command and bombs are rained on peaceful cities and village. You refuse to obey. Therefore, you must be punished.

Hopkins created a contrast and a cause and effect relationship. "One man who disobeys the law can create war." "Disobeying the law" is the "stumbling block." However, Hopkins presented Dewey with a call to act and begin to build "stepping stones."

Judge Hopkins continually called his audience to action. The Spirit of Kansas called upon the women to enforce the prohibition law. He showed a need for prohibition by way of historical events and asked his audience to continue making Kansas the great state it is,

Kansas is always leaping forward with bounding strides in the great race for material wealth and glory. . . . May I suggest that if the spirits of high ideals for which Kansas has stood is to be carried forward, you women must help in the enterprise. Kansas never retreats, always she marches forward under the flag.

He challenged them to help other Kansans find the right spirit and same ideals of the past pioneers. This same call to action was given to high school seniors but involved the ideals of government and citizenship. The speech was entitled Alliegiance

to the Constitution, given September 14, 1931 at East High School, Wichita, Kansas.<sup>113</sup>

The constitution represents a government of law. There is only one other form of authority and that is a government of force. America must make their choice between these two. One signifies justice and liberty; the other tyranny and oppression. I believe that thorough knowledge of the constitution and the Declaration of Independence, on the part of our students, would have a far-reaching effect in reducing materially the crime that is prevalent in the larger cities of this country. Lack of respect for the constitution and the laws in some of our great cities, may be due to the fact that nine tenths of the people are ignorant of its provisions. The people should be acquainted with the constitution which guarantees their freedom and officials high and low, who have sworn to uphold and defend it should be compelled to do so.

The above quotation contrasted a "government of law and force; one signifying justice and liberty; the other tyranny and oppression." The challenge to his audience was clear; that "justice and liberty was "the correct goal to the success of government. He called upon his audience to choose "law" by creating a solution to the problem of crime. To build American freedom depended upon education and he called upon his audience to become aware of the constitution and acquaint the American people with the constitution.

On February 14, 1928, Hopkins challenged the Kansas legislators to meet the standard set by Abraham Lincoln in an eulogy to Lincoln. The speech was entitled Abraham Lincoln, Lawyer, and the occasion was the birthday of Lincoln.<sup>114</sup>

A forlorn backwards boy, he came to the head of a great nation. He became the leader of a great cause. He made his way out of the wilderness and became a great lawyer, a leader of men, liberator of the slave, deliverer of this country. Great men don't become great by genius, but by hard work.

The conclusion was that anyone can become great if he is willing to work. Lincoln's hard work was the reason he achieved greatness, and Hopkins urged that all men should follow in Lincoln's footsteps to move towards greatness. Thus, he called his audience to action, and encouraged them to build "stepping stones."

The "stepping stones" which Hopkins described in each of the above examples defined constructive action towards government and prohibition. In contrast, the "stumbling blocks" he insisted would have quite the opposite effect. The poem quoted below was included in his speech Stepping Stones, given to the graduating class of Kemper Military Academy, May 26, 1938,

Isn't it strange that princes and kings,  
And clowns that caper in sawdust rings,  
And common folks like you and me  
Are builders of eternity?  
To each is given a bag of tools,  
A shapeless mass and a book of rules,  
And each must make, ere life is flown,  
A stumbling block or a stepping stone.

To discuss the types of oratory predominately used by Hopkins, it is important to discuss the three types; political, forensic, and ceremonial as defined by Aristotle in The Rhetoric.<sup>115</sup> It will be the purpose of this discussion to conclude that Hopkins' speeches were predominately ceremonial,

eventhough he does use political and forensic oratory. In The Rhetoric, Aristotle defines each type of oratory and attributes a time element to each.

The political orator is concerned with the future; it is about things to be done hereafter that he advised for or against. The party in a case at law (forensic) is concerned with the past; one man accused the other and the other defends himself, with reference to things already done. The ceremonial orator is, properly speaking, concerned with the present, since all men praise or blame in view of the state of things existing at the time, though they often find it useful also to recall the past and to make guesses at the future.<sup>116</sup>

From the three speeches provided (Appendix A), it is seen that Hopkins applied each type of oratory. He speaks of the future when persuading Kansans to adopt prohibition and experience its future effects. His courtroom cases are concerned with forensic oratory when he speaks of past laws, and past crimes. However, his major appeal was for the present and was always one of praise or blame.

The trial, United States vs. Dewey was concerned with past events; Dewey's refusal to register with the draft. Courtroom procedures usually deal with past events, but Hopkins also used this opportunity to deliver a ceremonial speech; one of blame. Hopkins began the indictment thusly,

The indictment in this case charges substantially that Alexander Dewey, being a male citizen of the United States, more than 21 years of age and less than 36, that is was your duty to register under the Selective Training and Service Act of 1840, 50 U.S. C.A. Appendix 301 et. seq. and the rules and regulations passed in pursuance thereof, and that on or about the sixteenth of October

and within three years prior to the return of the indictment in the District court of Kansas, and within the jurisdiction of this court, you then and there did knowingly, unlawfully, wilfully and feloniously fail, neglect and refuse so to register, all contrary to the form of the statute and against the peace of the United States. To this charge you have entered a plea of guilty. And so it becomes my duty to pass judgement upon you.<sup>117</sup>

After the indictment, Hopkins continued describing past events leading up to the Selective Service law. In a chronological fashion, he said,

In 1929, fifty-five nations of the world had adopted the Kellogg-Briand treaty outlawing war. . . . The treaty was ratified by the United States in February, 1929. . . . In September 18, 1931, Japan started the destruction of international organization by the conquest and seizure of Mukden. . . . In 1933, Mr. Hitler came to power in Germany, and in violation of the treaty, began the rearmament of his country. . . . On March 8, 1936, German troops without resistance from other powers, marched into the demilitarized Rhineland. . . . In March, 1938, Hitler seized Austria, 32,000 square miles. . . . On September 1, 1939, Germany attacked and carried out her conquest of Poland. . . . Considering all these things, the Congress in its wisdom, in order to protect the integrity and institutions of the United States, adopted a law providing a system of selective compulsory military training and service.<sup>118</sup>

With this historical evidence, Hopkins justly explained the existence of the Selective Service Act and proceeded to present conditions. He praised the freedom enjoyed by Americans and defined the principles of the American Constitution in this way

The Constitution under which we have lived more than a hundred and fifty years declares: "We the People of the United States, in Order to provide for the common defence, promote the general Welfare, and secure the Blessings of



Liberty to ourselves and our Posterity, do ordain and establish this Constitution." The Constitution so ordained vests in Congress the power to raise and support armies, to provide and maintain a navy, and it vests in the President the power to command the army and navy.<sup>119</sup>

The testimony, law, was used to establish Hopkins' ground rules for his present ceremonial oratory. He spoke of present conditions by declaring the dangers involved in disobedience of the present law. "In the dictator nations, one man can create war for all the people, at any time, for or without cause." Therefore, it is important to have a defense, he said,

The act is based on the principle that every citizen owes a duty to defend the nation. We should remember that in order to have the privileges and benefits of citizenship in this country, we each must assume some burdens and discomforts.<sup>120</sup>

Hopkins associated himself with the principles of government and praised the enactment of the Selective Service Act and the "duty" of each American citizen to take part defending our country. He blamed the "dictator nations" for threatening the United States and its desire for peace, but mostly blamed Dewey and others for refusing to come to the defense of our nation.

Hopkins subsequently spoke of the future of mankind and the effects of law disobedience. "He gives the order and literally thousands of innocent men, women, and children are put to death. This country will not follow such a path of blood and destruction."<sup>121</sup> While the past and future are

touched upon, the majority of Hopkins' speech was spent with present praise of the constitution and present blame of Dewey or anyone else who disobeyed the law.

The principles of selective service enunciated by this law under consideration are so fair, so just and so democratic that they should meet immediately the approval of all men.

If there are in this country naturalized citizens who are taking part in obstruction of our government in the preparation for defense, they are false to their oaths.<sup>122</sup>

Hopkins called the Selective Service Act "fair, so just, and so democratic." On the other hand, he blamed "naturalized citizens" who "take part in obstruction of the law and blamed Dewey for his participation.

The Spirit of Kansas is similar in pattern to Hopkins' courtroom oratory. However, his subject was Kansas, its past and future. His persuasive appeal was the same; that present conditions existed because of past events, and future conditions will exist because of present events. The future and past are both defined, but the majority of his appeal stems from praising or blaming the present. He used a past invective in his description of slavery. "Slavery clutched the throat of the south." Here he associated slavery with death. He eulogized Kansas present conditions by stating that "Kansas is leaping forward with bounding strides because of the high ideals of men and women." For examples, Hopkins praised Kansans for her high ideals in this way,

You will agree with me that Kansas these days is not wanting in her thinkers who dare to do; she has her William Allen Whites, her Victor Murdocks, her Margaret Hill McCarters and other men and women whose names are legion, who have ability to think things through, with courage to dare and to do.

In contrast to "the thinkers" of Kansas he blamed the men from the Carolinas and Georgia for bringing slavery to Kansas, but he praised the Puritan who came from the North and East to rid Kansas of slavery. He connected those who brought slavery with vice, while he associated the pioneer with virtue.

While praising or blaming his subject, Hopkins used his ethos-(character) and pathos-(emotion) to arouse his audience to action. He relied upon his credibility as a public servant and his association with Kansas inheritance to establish his moral integrity and his wisdom. Hopkins' pattern of organization and thought is quite redundant in all of his speeches and even though his speeches are numerous, his basic appeal was the same. Therefore, the included speeches, The Spirit of Kansas, Instructions to the Federal Grand Jury and United States vs. Dewey are a good representation of his overall pattern of organization and persuasive method.

## CONCLUSION

He rose from the Kansas praries to leave his mark, ripen life in Kansas and the progress of his state, his country, and to mankind in general. It was marked by an inherent honesty and devotion to duty that guided him throughout his years.

Andrew Schoeppel  
Kansas City Star, August 17, 1929

The purpose of this thesis has been three-fold: to discuss the life of Richard J. Hopkins as it is recorded in the history of Kansas, to discuss Hopkins' political thought as it was tempered by his religious and moral values, and to analyze Hopkins' persuasive appeals.

The political ideas of Kansas from 1900 to 1943 can be observed from the life of Richard J. Hopkins. He represented the current thought of early Kansas leaders; he formulated his own theories around the events in Kansas. His political platforms represented well his predominant ideas about government and the social factors obtaining in Kansas. He was an ardent supporter of prohibition and trust-busting, and his major opposition was accumulated because of these two issues. He brought these issues down to the level of the individual by relating prohibition to local conditions. He tried to show the men and women of Kansas what effects liquor would have on their own success. He used all of his powers to keep prohibition in Kansas and his association with the Anti-Saloon League of the United States indicates his national intentions.

His trust-busting stand was also brought to the local level. He concerned himself with the consumer and tried to persuade his audience the advantages of municipally owned utilities.

The life and ideas of Richard J. Hopkins are well reflected in his writings. It has been observed that Hopkins' moral and religious ideas conditioned and formulated his political thought. His speeches concerned government but his appeal was largely emotional. He relied upon two of Aristotle's artistic proofs of persuasion, ethos and pathos, to convince his audience of his subject matter. He appealed to their sense of morality and relied upon "puritan" values to form a common ground with his audience. His recurring call to action often expressed in antithetical phrases, contrasted "stepping stones" from "stumbling blocks," good from bad, right from wrong, gave his audience a clear concept of his ideals. The contrast was presented from such a strong emotional appeal that little rationality was needed to successfully convince his audience. He also relied upon his character and credibility to persuade his listeners. He constantly associated himself with what was right and wrong and praised his own life to build his ethical image. While relying on emotion and ethics to persuade his audience, Hopkins predominately used the ceremonial type of oratory. He referred to the past and future tense to establish a cause and effect relationship, but each of his subjects was presented by either praising or blaming.

It is therefore, the conclusion of this writer, that Hopkins' participation in Kansas politics was not small, that he was one of the major forces in making Kansas history for more than half a century. This writer would also conclude that William Clugston was somewhat correct in asserting that the major political ideas that Hopkins projected were centered around his individual moral and religious thought.

## ACKNOWLEDGEMENTS

Because of Dr. Norma Bunton, Dr. William Burke, and Dr. Homer Socolofsky, the writer was able to successfully complete his thesis and fulfill the requirements for the Master of Arts degree. The patience and superior ability of Dr. Bunton helped make this thesis complete and this student grateful for her academic influences. Mrs. Hortense Gibson must be mentioned for her contribution to this thesis.

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APPENDIX A



## THE SPIRIT OF KANSAS

Delivered by

RICHARD J. HOPKINS

Justice of the Supreme Court of Kansas

Kansas City, Kansas. January 28, 1928.

It was Eugene Ware, brilliant lawyer, orator, and writer, who expressed the thought that "States are great only as men may make them. Men are great only as they dare to do. Glory comes from daring the unequal."

He was undoubtedly referring to Kansas and the spirit of her sons and daughters. The thirty-fourth state to be admitted to the Union, Kansas was the battle ground on which the cause of slavery was fought. From Missouri and Mississippi, from the Carolinas and Georgia men came to capture the territory of Kansas for their own peculiar institution, while from Massachusetts principally, and from Illinois, Indiana, and Ohio, came those who opposed such capture, the sons and daughters of the North with the spirit of the old Puritans in their hearts. Armed with guns, men came from the neighboring state of Missouri, won the elections, organized a legislature, and passed laws permitting slavery. On the other hand, the New England Emigrant Aid Society and the Beecher Bible and Rifle Brigade sent into Kansas large numbers of adventurous spirits, who abhorring slavery were as quick on the trigger and as willing to shoot as their opponents from the Southland.

Slavery with all its dreadful attributes clutched the throat of the South and Kansas became the pioneer in the great movement to unshackle four million human slaves. Less than three-quarters of a century ago, the constitution of the United States under Judge Taney's interpretation made freedom depend upon the color of the skin. Our flag of the free floated over the slave pen and the auction block. This nation was achieving success at the cost of conscience; at the cost of blood; at the cost of life. It was tearing families asunder to uphold a property right in human flesh. The utmost hope of those opposed to slavery was to prevent it from spreading. A census of the Kansas territory was taken in 1854 showing 2905 legal voters. An election was held, at which time the Missourians came marching into Kansas, like an invading army. They came in large or small squads, according to the district they proposed to enter, and while the census showed only 2905 legal voters in the territory, 6307 votes were cast. Missouri made a clean sweep, electing the entire legislature with one

exception. The proslavery press boasted of the great victory. That election with its attendant circumstances, prompted Senator Charles Sumner to make his great speech, "The Crime Against Kansas," in which he severely arraigned Senator Butler of South Carolina and which a short time thereafter resulted in a South Carolina Congressman administering to Senator Sumner so severe a beating with a heavy cane that the senator never fully recovered.

It is said that young men make history but old men tell its story, that young men found broad empires but old men rule vast nations, that young men fight great battles while old men write the philosophies of war, that young men establish constitutions while old men interpret the laws, that youth has ideals but age has experience, that youth is enthusiastic while age is philosophical, that youth has hopes while age ponders. Kansas was settled by young men, therefore came her spirit of high ideals, energy and undaunted courage. Altogether she had four constitutional conventions. It was the Wyandotte Convention that framed the constitution under which she was admitted to the Union, and with some amendments and constitution under which she operates today. It was adopted on July 29, 1859, and ratified by the people on October 4, following, was eventually approved by both houses of Congress, and by President Buchanan on January 29, 1861. Of the men who composed it, nearly two-thirds were under thirty-five years of age. The oldest was fifty-five and the youngest twenty-five. One-half of the members had been in the territory less than two years. Forty-one were from the north and seven from Southern states. Four were of foreign birth. Eighteen were lawyers and sixteen farmers. The constitution framed by them contained many progressive ideas. It prohibited slavery, had provisions for common schools and higher education, and besides contained two other provisions of especial importance which have had a distinctive effect upon the progress of the state. In one, the rights of women were recognized and advanced and in the other the homestead was guarded against grasping creditors. These provisions made the Wyandotte constitution a milepost in legislation. When linked together, they touch the whole social life of the state through the family.

From the dawn of time, women's rights had been much restricted. Even under the common law of England, a woman upon her marriage surrendered to her husband all her right to hold personal or real property. Her individuality was merged into his. He enjoyed the right of possession and disposition of her property. Her goods became liable to seizure and appropriation by his creditors. The young men of the Wyandotte convention determined that such injustice should not exist here. Therefore they gave to the women of this state the management and control of their own property so far as is

possible by law. Through the homestead provision they threw every possible safeguard around the family, thereby the permanency of the home was established, necessarily a dominating factor in the stability of our civilization. You will note that Kansas was evincing a spirit peculiarly her own.

No picture of her early days would be complete without the figure of John Brown. Your familiarity with his life and accomplishments makes it unnecessary for me to rehearse here many interesting episodes of his remarkable career. There is one matter however, concerning which you may not be informed. His oldest son, John Brown, Junior, was a member of the Topeka legislature that convened in March, 1856. John Brown, Junior, afterwards a captain in the Union Army, introduced in the Topeka legislature the prohibition memorials, one signed by 56 women of Topeka and one by 90 women of Lawrence, wherein it was stated that "The public interest requires that suitable laws be immediately passed to prevent the manufacture and importation for sale or use as a beverage, within the Territory of Kansas, of any distilled or malt liquors." So you may know that the same energetic, persevering, and intrepid spirit of John Brown which helped to bring on the war against slavery also helped to bring on the war against intoxicating liquor.

When the Civil War came, Kansas needed no draft. She sent more soldiers into the Union armies than she had voters within her borders. After the close of the war, thousands of young soldiers who had enlisted from the northern states packed up their belongings "put bows and tent sheets on their wagons," and came to Kansas, their home. "It is necessary to take note of these matters to understand Kansas--the spirit of her laws and the genius of her institutions. During the era of border ruffianism the weaklings were snuffed out. The struggle resulted in the survival of the fittest; that survival is a blending of the Puritan of New England and the Union soldier." I am proud to reflect that my own father was a Union soldier who emigrated from Missouri with his family in those early days. For a third of a century after the close of the Civil War the men who fought the battles for the preservation of the Union did the work of civil life in Kansas. The school board of every district, the township board of every township, the county commissioners and most of the other officers of every county were Union soldiers. Every legislature that met was composed of old soldiers. The spirit of the men who came over in the Mayflower and of those who wore the blue permeates the very civilization of Kansas. It manifests itself under all circumstances. Kansas, the central state, the heart of the Union, in history, tradition, birth, breeding and loyalty, is the most thoroughly American state in the nation. Naturally she takes her part in every decent moral or political reformation.

This country has had two great crises, the first in its formation, the second in its perpetuation. Massachusetts was the center of activity in the first, Kansas was the center of activity in the second. What Massachusetts did will be forever associated with the birth of the Nation. What Kansas did will be forever associated with the second period of the nation's history, for Kansas was the center of the theater of the great struggle for the perpetuation of the Union. The men who settled Kansas were thinkers who dared to do. And so it has come to pass that,

Men look to the East for the dawning things,  
 For the light of the rising sun;  
 But they look to our West, to our Crimson West,  
 For the things that are done, are done.  
 The eastward sun is a new-made hope  
 From the dark of the night distilled;  
 But our Westward sun is a sunset sun,  
 Is the sun of a hope fulfilled.

So, out of the East they have always come,  
 The cradle that saw the birth  
 Of all of the heart-warm hopes of men  
 And all of the hopes of earth.  
 For out of the East a Christ arose,  
 And out of the East there gleamed  
 The dearest dream and the clearest dream  
 That ever a prophet dreamed.

Yea, into our waiting West they came  
 With the dream-child of the East,  
 To find the hopes that they hoped of old  
 Are a hundredfold increased.  
 For there in the East they dream their dreams  
 Of the things they hope to do,  
 But out of the West, our Crimson West,  
 The dreams of the East come true!

Yes they look at Kansas, Kansas, always leaping forward with bounding strides in the great race for material wealth and glory, always unsurpassed in all the sisterhood of states, consecrated always as a pioneer in every great movement for the welfare of the human race! May I suggest that if the spirit of high ideals for which Kansas has stood is to be carried forward, you women must help in the enterprise? May I emphasize the thought that success is always a journey, never a destination? And may I suggest that there are many cross-currents and cross-roads in the journey of life where the traveler may be waylaid? You of course know of the boy who came to the crossroads.

He came to the crossroads all alone  
 With the sunrise in his face  
 He had no fear for the path unknown  
 He was set for an ambitious race.

The road stretched east  
 And the road stretched west  
 No one showed him which way was the best.  
 So, the boy turned wrong and went on down  
 And lost the race and the victor's crown  
 And fell at last into an ugly snare  
 Because no one stood at the crossroads there.

Another boy on another day  
 At the self-same crossroads stood  
 He paused a moment to choose the way  
 Which would lead to the greater good.  
 The road stretched east and the road stretched west  
 But I was there to show him which was the best.

And the boy turned right and went on and on  
 He won the race and the victor's crown  
 And came at last to the mansions fair  
 Because I stood at the crossroads there.  
 Since then I have raised a daily prayer  
 That I be kept faithfully standing there  
 To help the runners as they run  
 And save my own, and another's son.

Will you be at the crossroads directing the runners which  
 way to go?

You will agree with me that Kansas these days is not  
 wanting in her thinkers who dare to do; she has her William  
 Allen Whites, her Victor Murdocks, her Margaret Hill McCarters  
 and other men and women whose names are legion, who have the  
 ability to think things through, with courage to dare and to  
 do. Kansas never retreats; always she marches forward under  
 the flag.

Your flag and my flag!  
 And how it flies today  
 In your land and my land  
 And half a world away.  
 Rose red and blood red  
 And strips forever gleam;  
 Snow-white and soul-white  
 The good forefather's dream.  
 Sky-blue and true blue with  
 Stars to gleam aright,  
 The gloried guidon of the day,  
 A shelter through the night.

Your flag and my flag!  
And oh! how much it holds,  
Your land and my land  
Secure within its folds!  
Your heart and my heart  
Beat quicker at the sight,  
Sun-kissed and wind-tossed  
Red and blue and white,  
The one flag, the great flag,  
The flag for me and you  
Glorified all else beside  
The red and white and blue.

## UNITED STATES v. DEWEY

No. 6886

District Court, D. Kansas, First Division

Feb. 18, 1941

Criminal law 1208(1)

A defendant who pleaded guilty to an indictment charging that he knowingly, unlawfully, wilfully and feloniously failed, neglected and refused to register under the Selective Training and Service Act of 1940 was given credit for one year on a contemplated three-year sentence because of having been in jail for some time and was ordered delivered to the custody of the Attorney General for two years with a recommendation that he be sent to the reformatory at El Reno, Oklahoma. Selective Training and Service Act of 1940, 50 U.S.C.A. Appendix 301 et seq.

Alexander Harlow Dewey was indicted for knowingly, unlawfully, wilfully and feloniously failing, neglecting and refusing to register under the Selective Training and Service Act of 1940, 50 U.S.C.A. Appendix, 301 et seq., and he entered a plea of guilty.

Judgment in accordance with opinion.

Lester Luther, Asst. U. S. Atty., of Topeka, Kansas, for the Government.

W. E. Atchison and Hugh MacFarland, both of Topeka, Kansas, for the defendant.

HOPKINS, District Judge.

The indictment in this case charges substantially that Alexander Dewey, being a male citizen of the United States more than 21 years of age and less than 36, that it was your duty to register under the Selective Training and Service Act of 1940, 50 U.S.C.A. Appendix. 301 et seq., and the rules and regulations passed in pursuance thereof, and that on or about the 16th of October, and within three years prior to the return of the indictment in the District Court of Kansas, and within the jurisdiction of this Court, you then and there did knowingly, unlawfully, wilfully and feloniously fail, neglect and refuse so to register, all contrary to the form of the statute and against the peace and dignity of the United States.

To this charge you have entered a plea of guilty. And so it becomes my duty to pass judgment upon you.

From what has been said here, and from the report of the Probation Agent, who was directed to make a thorough investigation of your case, it appears that shortly after this Selective Service Act was passed, you took the position that you were a pacifist and because of your convictions, you refused to register for military service. The report shows that you come from a highly educated family; that your father spent a number of years in literary work, and assisted in making a translation for a new Webster's dictionary; that your mother is highly educated and that under your father's tutelage, you advanced more rapidly than other boys of your age. Suggestions also are made by the Probation Agent from his investigation that you take the position of being a martyr and desire to make of yourself a sacrifice to a cause. This report shows that you do a great deal of reading, especially along the lines of political science, and that you hold a firm conviction against war; that at the time of your arrest, you were an outstanding student at the University of Kansas; that your home is in Connecticut, and from these things and from what you now say and what your counsel says in your behalf, I conclude that you are much above the average in intelligence. You have had the benefit of the advice of eminent counsel, and now you come before the court and openly and without hesitation say that you refuse to be bound by the laws of your land. You refuse to obey one of the solemn mandates of your country at a time when all of us believe and understand that our country is in great danger--when perhaps its very existence is threatened.

In times like these when the whole current of civilized life appears to be unsettled, it is well not only that we reflect upon the foundation principles of our American system of government, but that we do all we can to sustain those principles. Upon those principles rests the very fabric of our republic. We should realize more than ever before that upon those same principles depends the career of human liberty. I sometimes wonder if the great majority of our people actually think about or have any real conception of the liberties that we enjoy. Our forefathers established here a government in which there was no aristocracy of either birth or wealth. It was conceived in liberty and dedicated to the rule of equality. Our American system represents the collective wisdom, the collective industry, the collective common sense of people who for centuries had been seeking freedom, freedom from tyranny of government actuated or controlled by the personal whims and prejudices of kings and dictators. The result is a government founded upon principles of reason and justice, a government of laws and not of men. Our Bill of Rights provides that all political power is inherent in the people and all free governments are founded on their authority and instituted for their equal protection and benefit. The American character, following the motives and ideals of our



forefathers, is attuned to an understanding and appreciation of these fundamental ideas of free government.

One isolated in the wilderness may do largely as he pleases because his conduct affects no one else, but not so under our complex civilization. Adherence to the principles of our system, which amounts to respect for and observance of law, is the cornerstone of government. It is the only guarantee of the rights of the individual,--therefore, respect for all laws should be maintained. Therein, lies the safety of society. Disregard for and violation of one law makes it difficult to observe and enforce others. If one citizen claims the right to disregard some law, his neighbor may claim a similar right to select others which he may disregard. Neither has such a right, and such a course, if carried to the extreme, would mean universal chaos. It would mean removal of the foundations of all government.

It was Abraham Lincoln who said, "Let reverence for the law be breathed by every American mother to the lisping babe that prattles on her lap. Let it be taught in the schools, in seminaries, in colleges. Let it be written in primers, spelling books and in almanacs. Let it be preached from the pulpit, proclaimed in legislative halls, enforced in courts of justice, and, in short, let it become the political religion of the nation." The rights and privileges preserved by the Constitution may not continue unless every one of us shall recognize his responsibilities and duties under the Constitution.

With these principles in mind, let us look for a moment at the world situation which brings us eventually to the consideration of your case.

During the past few years the integrity and sanctity of treaties and agreements between nations have been next to abandoned; nations which keep their word have become the exception to the rule. High ideals, tolerance, morality in government have been repeatedly swept to the winds. Property has been confiscated, people driven from their homes, and the individual citizen's rights to life and liberty imperiled by the will of the despot.

In 1929, fifty-five nations of the world had adopted the Kellogg-Briand treaty outlawing war. It was agreed among them that they would condemn recourse to war for the solution of international controversies. They renounced war as an instrument of national policy in their relations with one another. They agreed that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin which might arise among them, should never be sought except by pacific means. 46 Stat. 2343.

The treaty was ratified by the Senate of the United States in February, 1929. Notwithstanding its provisions, it has since been broken by Germany, Italy, and Japan.

In September 18, 1931, Japan started the destruction of international organization by the conquest and seizure of Mukden. During 1931-32 she seized the whole of Manchuria with an area of 508,000 square miles, larger than Germany and France combined. She was the first nation to withdraw from the League of Nations and by such action to reject all peaceful methods of settlement.

Once started, aggression became contagious. In 1933, Mr. Hitler came to power in Germany and, in violation of treaty, began the rearmament of his country. Encouraged apparently by the non-interference of the Western Powers in the Manchurian Incident, Mussolini, in the fall of 1935, invaded Abyssinia.

On March 6, 1936, German troops without resistance from other powers, marched into the demilitarized Rhineland. In the same year the Spanish Civil War broke out, and the rebels were openly supported by Italy and Germany which had meanwhile formed the Axis.

In March, 1938, Hitler seized Austria, 32,000 square miles. By the Munich agreement, the Sudetan areas of Czechoslovakia were added to his domain in September. He seized the remainder of Czechoslovakia, 55,000 square miles, in March 1939, while Mussolini annexed his neighboring ally, Albania.

On September 1, 1939, Germany attacked and carried out her conquest of Poland.

In 1940, she effected the successful conquest of Denmark, Norway, Holland, Belgium, France and Rumania. No one knows what next may happen. If we can conceive England defeated, what next may we expect? Many fear for the very existence of our democratic institutions. The doctrines and aggressions of the dictator nations become every day more menacing to our republic. The bloody conflicts the dictators have imposed on the conquered countries evidence the fact that they do not propose to end until all freedom shall have been blasted from the earth. And so the conditions call for the immediate establishment by this country of a nucleus of armed forces properly equipped to meet any emergency. Practically everyone realizes the need of a constructive, practical national defense policy.

Considering all these things, the Congress in its wisdom, in order to protect the integrity and institutions of the

United States, adopted a law providing a system of selective compulsory military training and service.

Under this act, while large numbers of men are subject to registration and are liable for military training and service, only comparatively few of those registered will actually be selected and inducted for military training and service.

The Congress thought it advisable that all men between the ages of 21 and 36 should be registered and classified in order to obtain information essential for the most efficient operation of the system of defense, such as, for example, information as to the particular type of work they are engaged in, and that for which they may be fitted.

The act is based on the principle that every citizen owes a duty to defend the nation. Under its terms, the burdens of military service will be borne equally by all classes regardless of economic means. We should remember that in order to have the privileges and benefits of citizenship in this country, we each must assume some burdens and discomforts. We should examine our own moral fiber and character and above all, do our duty. The times make it imperative that every one of us should realize that he owes everything he has, his life, his property, and everything else, to the cause of preserving the liberties we cherish. So far as is necessary, our Government has the right to call upon us to make that sacrifice.

Before our peace and liberty were threatened, everyone had a right to discuss in private and in public the question whether the United States should prepare for her defense. Everyone had a right to argue that there was no sufficient cause for alarm; that it would be wiser to wait until the aggressors actually were here. Everyone holding such views had the right to influence public opinion and, if possible, affect the action of the President and the Congress to whom the people of the country by their Constitution have entrusted the power to determine questions of this kind. However, that question has now been decided by those who had the sole right to decide it. The question is no longer open. Conscription has been ordered.

Every intelligent person knows that the power to make such a decision is one of the most essential, vital, and momentous of all the powers of government. We cannot maintain our independence or protect our citizens against oppression or continue to be free, without such power being delegated to some authority, and one of the chief duties of citizenship in a time of great emergency like this is to recognize such authority. One of the essential and underlying objects of the union which formed this nation was to create a lawful authority whose decision and action upon questions of this kind should bind all the states and all the people of every state.

The Constitution under which we have lived more than a hundred and fifty years declares: "We The People of the United States in Order to\* \* \*provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution." The Constitution so ordained vests in Congress the power to raise and support armies, to provide and maintain a navy, and it vests in the President the power to command the army and navy. The law under which you are being prosecuted was enacted after long opportunity for reflection and discussion. When the decision had been made and the act adopted, the duties and the rights of every one of us had immediately to submit to change. It became our duty to stop discussion upon the question decided, and to proceed immediately to do everything in our power to enable the government to succeed in the preparation decided upon.

We all know that it is a fundamental necessity of government that it shall have the power to decide great questions of policy, and to act upon its decision. In order that there shall be action following a decision once made, the decision must be accepted by every one.

Your spirit is one of rebellion against the laws of the United States, against your government. The effect of your action and those like you is to hinder and lessen the preparation for the emergency which the government deems necessary to success. If a third or half of the people would decide to violate some law which he disapproves, we would have anarchy. The purpose and effect of such an attitude would be so plain that it would be impossible not to conclude that such citizens are at heart traitors to their country.

When the Axis powers did actually apply their principles of action to other peaceful nations by invasion, they violated every solemn covenant they had made to observe the law of neutrality established for the protection of peaceful states. They ruthlessly sent their armed forces to do pillage and destruction to their peaceful neighbors. They committed wholesale murder of defenseless old men, women and children, without warning and in contempt of every law and the dictates of humanity. In the face of all these atrocities, you are one of the very few willing to violate the laws of your country and indirectly at least give aid and comfort to these world assassins.

What shall be done about it? What is the duty of this court? In this country we have a natural abhorrence of compulsion. We like to believe that the individual citizen will come forward immediately and voluntarily do his duty. When danger immediately threatens, we expect every man to do his duty.

The principles of selective service enunciated by this law under consideration are so fair, so just and so democratic that they should meet immediately the approval of all men. Frequently we hear in this court the oath made by the applicant for citizenship to the effect "That he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty; \* \* \* that he will support and defend the Constitution and laws of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same."

If there are in this country naturalized citizens who are taking part in obstruction of our government in the preparation for defense, they are false to their oaths. If they are repudiating their obligations of citizenship, they should be returned to the land from which they came. We might all appropriately repeat that little verse, written by Sir Walter Scott:

"Breathes there a man with soul so dead  
Who never to himself hath said  
This is my own, my native land;  
Whose heart has ne'er within him burned  
As home his footsteps he hath turned  
From wandering on a foreign strand.  
If such there be, go mark him well  
For him no minstrel's rapture swells.  
High though his title, proud his name  
Boundless his wealth as wish can claim,  
Despite his title, power and pelf  
The wretch concentrated all in self  
Shall, living, forfeit fair renown  
And doubly dying, shall go down  
To the vile dust from whence he sprung  
Unwept, unsorrowsed and unsung."

In the dictator nations one man can create war for all the people, at any time, for or without cause. He can give the command and bombs are rained on peaceful cities and villages. He gives the order and literally thousands of innocent men, women and children are put to death. This country will not follow such a path of blood and destruction. Those countries have no constitution such as ours to protect the rights of the people. The framers of our Constitution refused to delegate such power to any one man, no matter who he might be. They placed that power in the hands of many, into the hands of men of our own choosing, directly responsible to the people. Our representatives have enacted this rule now under consideration. The overwhelming majority of the people abide by it. You are among the few who reject it and refuse to obey. Laws to be effective must have

penalties for their breach. Congress provided that the violator of this law might be required to serve a prison term not to exceed five years. I will be lenient with you. I had thought to assess a three-year sentence, but will give you credit for one year because of your having been some time in jail. If your record is such as to warrant it, the Parole Board may release you before the entire sentence is served. The judgment of this court is that you be delivered to the custody of the Attorney General for a period of two years, with the recommendation that you be sent to the Reformatory at El Reno, Oklahoma.

INSTRUCTIONS TO FEDERAL GRAND  
JURY AT FORT SCOTT, KANSAS  
MAY 4, 1931

Gentlemen of the Grand Jury:

Conformable to the practice in federal courts it becomes my duty to charge you concerning the law that shall govern you in your deliberations. In so doing I shall direct your attention to a few of the fundamental principles of our government, the function of a grand jury in our system, and the importance of your duties as members thereof. We live under what may be said to be a dual form of government. That is to say, we are citizens of two sovereigns, the state and the United States. The state comes under the purview of state laws, the United States under federal laws. This is a federal court, so your concern here will be only with matters thought to be or said to be in violation of federal laws. While you are impaneled here and report the result of your deliberations to the court, you are a grand jury of the United States rather than of the court. And as members of a grand jury you are officers of the United States charged with the performance of serious duties.

It is sometimes worth while to reflect on changes occurring in our advancing civilization. It was not so long ago that the world was governed largely by kings. Their rule was sometimes conformable to whims and personal prejudice rather than to reason and justice. So long as the king maintained the respect of his subjects he was able to maintain law and order. When respect for him waned, anarchy began. Sometimes it reached the point where another, more respected, seized the reigns of government. Now our government was formed on a different basis--"a government of law and not of men." We have a nation composed of many peoples, coming practically from every country and clime, speaking every tongue and inheriting every prejudice. Such a nation can be bound together only by law.

Ours is a constitutional government of three separate branches--the legislative, the executive, and the judicial. The legislative which makes the laws, the executive which enforces them, and the judicial which ascertains the facts and construes and applies the laws pertaining thereto. It is important that no department improperly encroach upon the prerogatives of another. The grand jury is a fact-examining body, a part of the judicial arm of the government. In the performance of your duties as such you should use care not to permit yourselves to question the wisdom of laws enacted by Congress, because that would tend unduly to encroach upon the legislative branch. That is to say, you should apply the laws as you find them, to the facts submitted to you.

The theory of our government is that every citizen, however humble, is equal to the greatest. His rights and privileges are just as secure. Human freedom consists in perfect adjustment of human energies, activities and interests. One isolated in the wilderness may do largely as he pleases, because his conduct affects no one else, but under our complex civilization freedom is something more than being left alone. In these days of whirling dynamos, fast-moving automobiles, of the airplane and radio, with great aggregations and combinations of capital and wealth, there must be watchful, resolute interference of government to see that there be fair play among men. Therefore, the program of government must necessarily be positive, rather than merely negative.

Our Bill of Rights provides that "all political power is inherent in the people and all free governments are founded on their authority and are instituted for their equal protection and benefit." This status, however, is maintained only when men respect and obey the law. Respect for law is the cornerstone of government. It is the only guarantee of the rights of the individual, and therefore respect for all laws should be maintained. Therein lies the safety of society. Disregard for and violation of one law makes it difficult to enforce others. If one citizen claims the right to disregard some laws, his neighbor of necessity has a similar right to select others which he may disregard. Neither has such right and such a course if carried to the extreme would mean universal chaos. It would mean removal of the foundations of all government. If we have wholesale disrespect for and non-ob servance of law, who shall maintain order in society? A citizen who cherishes the protection of law in organized society cannot feel himself secure if he himself is the example of contempt for law. In this age of the world there is the need for an awakened conscience, an awakened realization of true self-interest on the part of those who may suffer most when reverence for law is forgotten. Reverence for the obedience to law should spring really more from the leaders of men than from the humbler citizens; because obedience to law is what makes government, not the names by which government is designated.

Lax enforcement of law encourages a disrespect for government, and disrespect for government encourages the commission of crime. So long as laws are upon the statute book they should be obeyed by all citizens. None can properly avoid this duty. Officers charged with enforcing the laws should especially respect, obey and enforce them. And those who will not respect and obey the laws must pay the penalty for their violation, else we and our government will reap the results of lawlessness. All are entitled to equal and exact justice. The business of government is to look after the interests of



the people, to see that men are restrained from injuring one another. Laws are the product of civilized society, enacted to protect the innocent and punish the guilty. We should all be sensible to the value of government and not consent in any wise to its debasement.

Because government means either power and success or weakness and failure, your actions and mine will either help to make it a success or assist in causing its failure. Our American government has grown through centuries of struggle. Mr. Gladstone once said that our constitution is the most wonderful work ever struck off at a given time by the brain of men.

We are sometimes inclined to dwell too strongly on our rights rather than our duties; our duties should have first consideration. Men should obey the laws even if such obedience is contrary to their desires or personal interests, because laws are the rules of the nation and only through observation and enforcement of the rules can civilization be perpetuated, and our rights protected.

The individual citizen is the republic's strength and hope. He has a duty and a responsibility which he may not transfer to his government, nor to others, because he as a part thereof is, the government. It is the citizen's duty as well as his privilege and glory to stand firmly against all movements and efforts to weaken the force of law.

In order that the government may the most perfectly discharge its duty to the people and carry into full effect the purpose for which it was organized, it is essential that each citizen render faithfully those services which he is called upon to perform. He should render them willingly and intelligently.

The people of this country as a whole have learned the art of self law. They have respected and obeyed the mandates of the courts because they have trusted in their judiciary. They have visioned a splendid concept of a government made free by law. You as a grand jury are an arm of the court and of course it rests with you to help sustain the court in all of its functions. You may wonder why all this effort to select 23 men for service in the capacity of a grand jury. The reason is that without your co-operation and your high endeavors the criminal law of your district cannot be properly administered; without your intelligent and patriotic effort and unless you conceive the extent and magnitude of your duties, the court cannot properly carry on.

Therefore you will perceive that your duties are of a very high order. The responsibility falls entirely upon you

to set the machinery of the federal criminal law in motion in order that the other officers and the court may then execute their duties in accordance with the law's provisions.

Laws to be effective must have penalties for their breach. There must be provisions it is necessary that there be a public accuser. It is provided that accusations in felony cases may be returned only by a grand jury. Therefore I repeat that you have been selected for the responsible work of setting the machinery of the law in motion. You are to execute what may be termed the functions of an examining magistrate. To guard against the escape of criminals and to secure to yourselves freedom and independence in your inquiries your deliberations are to be kept secret. That means secrecy from all people and for all time. The reason for it is that men are more apt to present matters to you if they know that their testimony is not to be divulged.

There is one occasion only in which you might be compelled or permitted to reveal the deliberations of your body and that is if subpoenaed before a court. But it would be an occasion most rare that the court would permit you to disclose it.

You will observe from the oath that has been administered to you that you are expected to investigate all infractions of the criminal law in your district which may come to your knowledge. You are not to deal with civil matters in any sense.

It is not your duty to try the merits of each case but you are merely to inquire whether there is sufficient ground to believe that a crime has been committed and whether there is probable cause to put the accused upon his trial for the commission of such crime.

Entire unanimity is not required of you as in a case of a jury for trials, but the concurrence of at least 12 of your number is necessary to the finding of a bill. In case there are 12 votes in favor of accusation this is taken to be the act of your body and it will be the duty of your foreman to sign a bill of indictment thus found and to give it authenticity and legal effect as your act although his own opinion may happen to be against it.

Infractions of various statutes, for instance, violations of the national banking or postal laws, illegal trafficking in automobiles, drugs, narcotics and alcoholic drinks may, one or all, be drawn to your attention. Sometimes an offense may be a violation of both state and federal laws. For example, the manufacture, possession or sale of intoxicating liquor is an offense against both the state and the national laws. Theft of an automobile is an offense against the federal

law. It will be your duty to return indictments if the facts warrant, even if the same or a similar offense is likewise a violation of the state law. Your sole function will be to inquire whether a crime against the national laws has been committed, and if so, whether there is reasonable ground to believe that the defendant committed it.

One of the foundation purposes of the constitution of the United States is to promote the general welfare. The framers of the constitution, no doubt believing new conditions might arise, expressly provided a method by which changes in the constitution could be made. Since the adoption of the original constitution 19 amendments have been added thereto. The original constitution with the amendments thereto composes the basic or fundamental law of the land.

Law is the embodiment of the moral sentiment of the people. It defines every man's rights. It is the very bulwark of our liberty.

Constitutions are enforced and laws are made effective only by action of public officials. There should be a whole-hearted co-operation by state and federal officers in the enforcement of all laws. The experience of the states and the nation has proven beyond question that our laws can be enforced whenever and wherever the officials in good faith attempt it. No man, nor set of men, is stronger than the government. The forces of orderly government should be organized, informed, and on duty.' The greatest service one may render his country is to strive for its highest welfare in times of peace as well as in war.

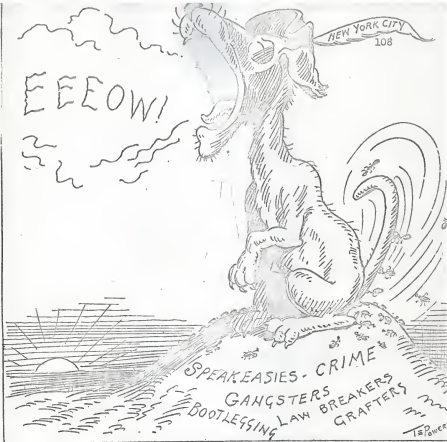
Therefore, let me sum up that it is neither your duty nor mine to concern ourselves with the wisdom of laws that have been enacted. Our duties--yours and mine--require the application of the laws as we find them. The district attorney's office is the law office of the court. Reports of alleged wrong doing are presented to the district attorney's office. The district attorney or an assistant from his office will bring to your attention the matters that are said to be in violation of the laws of the district, for your investigation. In cases in which you may desire to return true bills of indictment, the district attorney will prepare the form of the indictment for you. However, the question of returning indictments and in what cases rests solely and alone in your good judgement under your oaths. The district attorney and his assistants will be glad. I am sure, to advise you as to all phases of the law and otherwise assist you in any proper manner you may desire.

You may now retire to your grand-jury room and complete your organization, and when you have finished your work, or any time before, you may report to the court.

APPENDIX B

## ON THE SANTA FE TRAIL.





In an interview following his sentencing of Jack "Leg" Diamond, gangster, to four years in prison, Judge Richard J. Hopkins, Kansas federal jurist "loaned" to the New York district temporarily, said:

"New York reminds me of that silly Arkansas dog. This hound sat on an anthill, howling loud and long because an ant had bitten him. But he was too lazy to move off the anthill.

"You New Yorkers are sitting on an anthill crawling with racketeers who defy your laws. You howl about their defiance but you do nothing about it."

If Judge Hopkins had been talking about Chicago his remarks would have been equally pertinent.

APPENDIX C

ALFRED LONDON

Q. When did you first meet Hopkins?

A. I can't remember when I first met Dick Hopkins, but I can remember when I first voted for him which was in the election of 1910. I don't think I met Dick really until I became the third district manager before I went into the services in Henry Allen's campaign. Of course Allen first laid down the foundations of his campaign and then he went into the Red Cross of February or March, 1918. I voted for, I remember him of course I voted for him. I knew Dick Hopkins long before I met him because I voted for him. As I say I didn't meet him until 1918 when he was running for Attorney General.

Q. What about the Stand-Pats and the Progressives? Can we compare these factions to present conservative and liberal factions?

A. By and largely speaking, we can say the Stand-pats and Progressives were like the liberals and conservatives, but of course I can remember when liberals were the wets and conservatives, dry. So the terms liberal and conservative have always been to me loose terms. But the Stand-patters as we call them, Senator Lodge as you recall was the railroad and utility man, but we didn't have utilities back in those days.

Q. What about Hopkins' dehornment from appointing senate committees in 1909?

A. The dehornment of Hopkins was only a political move; a very basic political move. The chairman was very important in the legislature. As I say, the railroads wanted to be represented and wanted to name the chairman of the committees.

Q. Were the stand-pats for monopolies?

A. More so yes. Teddy Roosevelt in 1912 was the big issue in those days, and in 1914 also. The primaries and election of United States senators. The issue was monopolies or trust busting.

Q. Wasn't Curtis a leader of the Stand-pats?

A. Yes, Curtis was a leader of the Stand-pats, but still was supported by Republicans of Kansas. William Allen White was one of his delegates and also Jim McLaughlin of Paola, in his nomination for president.



- Q. Hopkins had trouble getting appointed for Federal Judge under Hoover. Do you know anything about this controversy? Was it the fight between the Progressives and Stand-pats?
- A. By and large, generally speaking, yes. That was probably it. Two judges, two individual, rather lawyers that were possibilities of getting the appointment. The drys were very strong. Oh yes, there was considerable opposition.
- Q. What do you know about the Pollock and Hopkins fight?
- A. The only thing I can think of and I'm not sure about this but it might be a lead for you. The Gurnsey Bank in Independence, the government, the Federal District Attorney, was prosecuting Mr. Gurnsey Sr. It had to do with bank loans. The case was set before Judge Hopkins, and it was postponed for one reason or another, a new lawyer was appointed and didn't have time to familiarize himself with the case. I think that lawyer was Bill Yokums of Wichita. He called me to ask me to call Pollock to postpone the case for that reason, which I did. However then they took advantage of it. They went before Judge Hopkins and pleaded guilty and then appealed to the Circuit of Appeals, to Pollock and he gave them a nominal fine and no other. Hopkins always regretted that.
- Q. Hopkins wrote this about you, Mr. Landon in a letter from Hortense Gibson. "Alf Landon finally united the split in the Republican party. Alf attempts to take a sort of middle of the road attitude and placate both sides and in endeavoring to do this, he made an alignment with John Hamilton. Landon was a progressive but knew how to get along with all."
- A. Well, I didn't make any alignment with John Hamilton. John Hamilton had been elected speaker of the house in 1926, I believe and by then for Governor in 1928, but was beat by Clyde Reed. Now Dick, is a sample of the times when Dick Hopkins wrote about didn't know what he was talking about. I didn't make any alignment with John Hamilton, in fact I don't know whether Hamilton supported me in the primary of 1932. As far as I know he did not. He managed the campaign in 1930, but was defeated by Clyde Reed. In 1932, I did unite the Republican Party. I did name John Hamilton national committeeman in 1933. Why? The Democrats had bought all the air time on radio to give election returns. By noon they were giving false returns that I was running behind Woodring. John Hamilton went to the radio station and wrote out a personal check for any time remaining and started giving false returns saying I was ahead. I won and John Hamilton saved the day for me. That's what happened. I owed it to him.

- Q. Was it common for Hopkins to write about what he didn't have full facts about? If so, can you give me any other examples?
- A. Oh, I might, but I don't . . . can't think of any right off hand.
- Q. Besides being a politician, what kind of man was Hopkins?
- A. He was a very dedicated public servant, conscientious, and he had deep convictions. He was of public service all his life. He took an important hand in who was nominated in politics, local offices and state offices.
- Q. Hopkins made a great deal of speeches. Did you ever see him speak?
- A. I don't believe I ever heard any of his speeches. He did a lot of speaking, but I don't believe I ever heard him.
- Q. Do you think his participation in the Anti-Saloon League helped him win his elections?
- A. Now that you mentioned it, that was one of the factors in the early campaigns. That was one of the factors that held up his appointment with Mr. Hoover. To begin with in state politics, that may have made him popular in 1910.

HELLEN STOWELL

Q. You said you were elected when?

A. I was elected in 1914 and 1916 as the first lady to be County Clerk. They said it was no place for a lady, on the republican ticket, in that day we only had one democrat here and that was Finnup, but he registered Republican.

Q. Did you know Foster and Foster?

A. Edgar Foster was a good criminal lawyer and later became probate judge. He had one son Horace. He was kind of a nervous sort of a fellow. He married a local girl here, oh I can't think of her last name now.

Q. Wasn't Horace or Edgar in the Attorney General's office when Hopkins was?

A. I don't think so.

Q. I think Hopkins practiced with them here.

A. No, it seems to me his office was over Duckwalls store and alone. He was County Attorney.

Q. When prohibition was popular in Kansas, was Kansas all prohibition?

A. Yes, I would say so. I remember when O. Brown was elected Sheriff and Abe Shulman, County Attorney, They decided to clean up the county. My gosh, we had bootleggers and murderers and gamblers, etc. They, the night before my first term began, Age Burtis, who managed the opera house, he had a party and the two Miles brothers who had the lumber yard, they made a raid on them, of course Mr. Burtis was Mayor and they had to dismiss it, because they were leading businessmen. Age and your grandfather, (Hopkins) were very good friends. Capps just a second edition of Age. I remember when he came over one time to write a letter in my office. His wife was in Missouri visiting some of the girls.

Q. What kind of a man was my grandfather?

A. Your grandfather was dignified, friendly and pleasant. He was a good politician, reserved, not a kidder or anything like that.

Q. Was he very shrewd?

A. He was a good politician, we know that or he wouldn't have gotten where he did. He was always interested in state politics, not so much local politics. He was Lieutenant Governor, Attorney General, etc., so you know he was a shrewd politician or he wouldn't have gotten where he did. And he knew the right people. Nice personality. Of course I think that of all the lawyers. I'm kind of prejudiced.

Q. I have read about some problems he had as Attorney General because of his association with the Anti-Saloon League. What do you know about this?

A. No, I don't know anything about that. I do know he was active in the Anti-Saloon League. I wanted to go down there, but my mother was so sick. I got a job, but I had to come home. Well, he must have been an awful good politician because he got an awfully lot of people mad at him. After he divorced his second wife, I remember he was in the paper alot, which was embarrassing to him. They did it to kind of smear his name, but he was an awfully nice person to deal with. It was just politics and spite. I remember I used to always get Christmas cards from him, and I remember I got one after all of the scandals and he said this Christmas card was sent because he really appreciated his real friends.

Q. Do you remember a Mr. Fred Crabbe?

A. No, I don't even remember the man your grandfather sent me to see. But I do know that the man who hired me did so strictly because of Dick.

## CLIFFORD HOPE SR.

- Q. In several biographies I have collected it says that Hopkins was instrumental in getting you elected speaker of the House.
- A. Well, I don't know, I don't recall he was too important in that, but I really don't recall much about that.
- Q. In several letters from Judge Vance and Judge Hutchinson thanked Hopkins for helping in your appointment.
- A. Well it was a Klan thing. As you know he was very much opposed to the KKK. Of course by that time was on the bench in 1926, when I was running for speaker. It looked like I got an 8 or 10 lead, I don't recall what the Republican lead was at the time, but I thought I had a greater lead than I had. But as it came right down to it, I only had a lead of 2. That was definitely the work of the Klan. Charles B. Griffith who was Assistant to the Attorney General, had a suit to oust the Klan from Kansas. For a year or so, just that year in 1926, the Supreme Court had rendered a decision that a corporation could not operate in Kansas unless they had approval from the board, which included the Secretary of State and two other officers. Frank Ryan was Secretary of State and the Attorney General were against it. So, I am sure that he helped me, but we really weren't too close at that time. There was not much I could do for him at that time. He was much beyond me at that time. I really don't have recollection that he helped me much.
- Q. I want to know when you were first elected into politics.
- A. Well, I was elected into the lower house of the legislature in 1920 and reelected in 1922 and 1924. I was elected speaker pro tem in 1924 and in 1925 was elected speaker. I then ended my career in the legislature and then ran for congress.
- Q. What association did my grandfather have with the Anti-Saloon League?
- A. Well, I don't know much about that except he was for the prohibition law. I don't have much information except I have read Clugston's story, and there it charges that he had association with the Anti-Saloon League. Of course he was very successful in those years, nominated and elected by the majority, and of course I don't think very many people took Clugston too seriously because he was a synical sort of fellow. I knew him quite well, he was

reporter for the Topeka paper and he was around the state house for many years. Personally I liked him very well, but he had a strong pen.

- Q. Do you know anything about confiscated funds while my grandfather was Attorney General?
- A. No I wouldn't. I heard some rumors and there were people who believed it, but I don't know anything about that. Of course Clugston asserts that Capper, Allen and Hopkins were all the same calibre that they wealed the big stick in czar like authority in there prejudices. Of course Judge Hopkins was in distinguished company. Of course he took in with Landon there too in the same connection. There isn't anybody, that I can think of that Clugston approved of at that time. He took to the Democrats too, but there wasn't anybody who Clugston took out against that won.
- Q. What do you know about the delay of Hopkins' appointment to the Federal bench?
- A. Well, I was in Washington at that time. There was alot of opposition there is no question about that. I don't know at what extent President Hoover . . . before Hopkins was nominated there was a lot of pressure. Of course those times were different than at present when there was alot of hold-over opposition. When Hopkins ran for legislature on the progressvie ticket, there was alot of opposition. Of course after Alf Landon came there wasn't much problem. Alot was from the Mulvane authority.
- Q. What was the Mulvane authority?
- A. Well, he was national committeeman, I'm not sure, but during all those years he was national committeeman. But there was a division of parties all through those years, from 1912 on. No doubt he was opposed to Hopkins.
- Q. It says my grandfather and others used a religious appeal for their campaigns.
- A. Well I know Curtis when running for Vice President. What he was talking about there was wet-dry in Smith campaign. Of course Kansas was much more of a Protestant state than it is now in combination with the wet-dry problem. It wasn't any more an issue as it would have been anytime. Most of the Catholics were Democrats as they are now. Curtis had been in the other camp from Capper, and Bristow was in opposition to Curtis in 1912 and was defeated by the Democratic candidate for legislature, and Bristow, a progressive was defeated by Curtis. Curtis tried to get

along with everybody and Capper even more so. I have no doubt at all that the Conservative party tried to get Curtis to use his influence, and if he didn't support Hopkins, I imagine he stayed neutral. Curtis was a dry, but the whole Republican party was dry. But as far as putting on a moral, religious campaign, they all did, even back to St. John.

- Q. Is this the reason Kansas has always been a Republican state because they have always been "puritan" oriented?
- A. Yes, I think that entered into it. Of course most of the . . . it was not only Catholic but it was the other immigration in Kansas. The Czechs came in and Germans and they were Democrat and wet. The foreign groups that came in, the Sweds, Czechs, and Minonites, who didn't play much of a part in politics.
- Q. Do you know anything about Fred Crabbe?
- A. I don't know about Fred Crabbe. I heard alot of stories, and of course he finally had to get out.
- Q. Were you acquainted with Crabbe?
- A. I met him just around the legislature. He didn't pay much attention to me, for he knew my position and there was no reason I needed to ever get in touch with him, nor him me.
- Q. Clugston says that the reason Hopkins was elected to the Supreme Court was through the financial backing of Crabbe.
- A. I don't remember much about that.
- Q. To get away from politics for a minute. I was born after Hopkins died, so I didn't know him. Can you tell me what kind of a man he was; stature and mannerisms.
- A. He, well I didn't have much contact with him. I heard him speak several times and I thought he was a good speaker. He had a lot of support of Kansas and especially by the Kansas City Star and had a high standing in the state. He was not a man to compromise with his enemies. He was a man of principle with those men who knew him. Even with the changes at that time, apparantly they weren't accepted by the people of Kansas.
- Q. How was he as a speaker?
- A. He was a solemn sort of a speaker, very good, he wasn't like the southern orators or anything, but gave a lot of patriotic speeches.

RICHARD J. HOPKINS: A RHETORICAL ANALYSIS

by

ROBERT M. HOPKINS

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AN ABSTRACT OF A MASTER'S THESIS

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The purpose of this thesis has been to discuss the rhetoric of Richard J. Hopkins and his participation in Kansas politics. Hopkins served the State for thirty-four years as representative to the Kansas legislature, Lieutenant Governor, Attorney General, Justice of the Supreme Court of Kansas, and United States Federal Judge of the fifth district. His service began in 1909 and ended with his death in 1943.

Hopkins was a controversial figure in Kansas and incurred the wrath of people throughout his political career. He was a member of the Republican party and identified with the Progressive faction. He gave strong support to the liquor prohibitory movement and strove for total liquor prohibition in the United States.

This work has been separated into three different areas; Hopkins' life, ideas, and speeches. The first two sections prepared the ground-work for a rhetorical analysis of Hopkins' writings. It is concluded in this third chapter that Hopkins' influence on Kansas politics was derived from his moral and religious convictions. Therefore, the prominent political, social, and economic issues of Kansas are mentioned and are associated with Hopkins' ideas.

Hopkins' speeches were centered around two major issues--liquor prohibition and law observance. These issues are analyzed according to two of Aristotle's three artistic proofs, ethos-(character) and pathos-(emotion). It was also observed that his speeches contained a recurring call to action, and that he predominantly used the ceremonial type of oratory to

persuade his audience.

Hopkins was a well-known individual in Kansas, but this study is the first compilation of his life, ideas, and speeches. Therefore, the research involved mainly primary sources, including Hopkins' personal file, which is available in the Kansas historical society. Included also in this work are three interviews with individuals who were either associated or acquainted with Hopkins--Alfred Landon, Mrs. Helen Stowell, and Clifford Hope Sr.

This project enables one to look more closely into the life of Kansas and Richard J. Hopkins according to the moral and religious sentiment of the times. One can also observe Hopkins' influence on Kansans by way of his persuasive appeal.