

BEFORE THE BOARD OF ELECTION COMMISSIONERS OF KANSAS CITY,
MISSOURI.

In the Matter of the Verified COMPLAINT by John S. Davis, Against Violations of Federal and State Laws, During the PRIMARY ELECTION Held August 2nd, 1938, in Kansas City, Jackson County, State of Missouri, the United States of America.

NO.

TO: The Honorable Commissioners of the Board of Election Commissioners of Kansas City (in Jackson County, Missouri, the United States):

(1) Comes now John S. Davis (hereinafter referred to as the complainant), and for the basis of this complaint, respectfully states and shows:

(2) Complainant is a citizen of the United States of America: complainant is a citizen of the State of Missouri, complainant is a resident of Kansas City, Jackson County, State of Missouri, the United States of America* complainant was born in the year 1882, in the State of Missouri, in the United States of America: complainant has resided, from the year 1926 to the date of this complaint, in the city of Kansas City, in Jackson County, Missouri, the United States of America: complainant has resided, from June 20th, 1928, to the date of this complaint, at 1022 Myrtle Avenue, Kansas City, Missouri, the United States of America.

(3) A Primary Election was held in said Kansas City, Jackson County, Missouri, the United States of America, on August 2nd, 1938: on that date, the said Kansas City was divided into certain ward divisions and certain precinct divisions, for the purpose of that election: aforesaid 1022 Myrtle Avenue was thus located in the fourth (4th) precinct of the twelfth (12th) ward in said city: said address is within the 16th judicial circuit, and within the 4th congressional district, and within the 5th senatorial district, all within the State of Missouri:

(4) August 2nd, 1938 was the first Tuesday in August, 1938, and a Primary Election was held that day in aforesaid Kansas City, Jackson County, Missouri, the United States of America, at which election, certain political parties presented certain candidates for the nominations by said parties to certain offices: the electors thus had choices of voting for candidates for three (3) federal offices, and for twenty (20) state offices, and for six (6) county offices, and for sixteen township (16) offices, and for one (1) city office: the Democratic Party, among other political parties, had its name on the ballots that day, with certain candidates aspiring for said nomination by said party to said offices, which offices and candidates were as follows:

(4A)-FEDERAL OFFICES:

(4A-I) For Senator in Congress from the State of Missouri:

Bennett Champ Clark

Joseph T. Davis

Willis H. Meredith

Robert I. Young

(4A-2) For Representative in Congress from the 5th District of Missouri:

Joseph B. Shannon

(4A-3) For Representative in Congress from the 4th District of Missouri:

C. Jasper Bell

(4B) STATE OFFICES:

(4B-1) For Superintendent of Schools of the State of Missouri:

Lloyd W. King

(4B-2) For judge of Division No. 1 of the Supreme Court of Missouri:

Albert M. Clark

Clyde W. Wagner

(4B-5) For judge of Division No. 1 (unexpired term) Supreme Court of Missouri:

James V. (Josh) Billings

James M. Douglas

Ruth Crews Woodruff

(4B-4) For Judge of Division #3 of the Circuit Court of Jackson County, Missouri, for the
Sixteenth Judicial Circuit:

Thomas J. Seehorn

(4B-5) For Judge of Division #4 of the Circuit Court for the 16th Judicial Circuit of the
State of Missouri:

Brown Harris

(4B-6) For Judge of Div. 6 of the 16th Judicial Circuit Court:

Albert A. Ridge

(4B-7) For Judge of Division 7 of the 16th Judicial Circuit Court:

Ray G. Cowan

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(4B-8) For judge of Division #8 of the 16th Judicial Circuit Court:

Paul A. Buzard

(4B-9) For judge of Division #9 of the 16th Judicial Circuit Court:

Ben Terte

(4B-10) For clerk of the 16th Judicial Circuit Court (Jackson County):

Bernard T. Flannery

(4B-11) For prosecuting attorney for the 16th Judicial Circuit:

Waller W. Graves

(4B-12): For Representative in the General Assembly of Missouri, 1st District

John B. Haskell

(4B-13) For Representative in Missouri General Assembly, 2nd District:

William H. Lafferty

(4B-14) For Representative in Missouri General Assembly, 3rd District:

Max Assotsky

(4B-15) For Representative in Missouri General Assembly, 4th District:

Thomas J. Gill

(4B-16) For Representative in Missouri General Assembly, 5th District: Frank M.

Robison

(4B-17) For Representative in Missouri General Assembly, 6th District:

Edgar John Keating

(4B-18) For Representative in Missouri General Assembly, 8th District:

Vivian E. Phillips

(4B-19) For Representative in Missouri General Assembly, 9th District:

Samuel C. Hayden

(4B-20) For Representative in Missouri General Assembly, 10th District:

William Randall Smart

(4C) COUNTY OFFICES:

(4C-1) For presiding Judge of the County Court of Jackson County:

David E. Long

(4C-2) For Judge of western district of County Court of Jackson County:

Fred W. Klaber

(4C-3) For clerk of the County Court of Jackson County:

William Hicks

(4C-4) For Judge of the Probate Court of Jackson County:

Mitchel J. Henderson

(4C-5) For recorder of deeds of Jackson County:

Joseph S. Crisp

(4C-6) For collector of taxes of Jackson County:

George Harrington

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(4D) TOWNSHIP OFFICES:

(4D-1) For justice of the peace for 1st district of Kaw Township, Jackson County, State of Missouri:

Edward J. Noonan

(4D-2) For justice of the peace, Kaw Township, 2nd District:

Louis J. Mazuch

(4D-3) For justice of the peace, Kaw Township, 3rd District:

James J. Hurley

(4D-4) For Justice of the peace, Kaw Township, 4th District:

William E. Kehoe

(4D-5) For justice of the peace, Kaw Township, 5th District:

Preston Forsee

(4D-6) For justice of the peace, Kaw Township, 6th District:

Gil P. Bourke

(4D-7) For justice of the peace, Kaw Township, 7th District:

Joseph J. Dougherty

(4D-8) For justice of the peace, Kaw Township, 8th District:

Harry S. Davis

(4D-9) For constable of 1st District of Kaw Township, Jackson County, Missouri:

William A. Mobley

(4D-10) For constable, Kaw Township, 2nd, District:

Marion Nigro

(4D-11) For constable, Kaw Township, 3rd District:

George Levin

(4D-12) For constable, Kaw Township, 4th District:

Harry C. Bray

(4D-15) For constable, Kaw Township, 5th District:

Russell R. Jay

(4D-14) For constable, Kaw Township, 6th District:

John Burke

(4D-15) For constable, Kaw Township, 7th District:

Edward J. Maloney

(4D-16) For constable, Kaw Township, 8th District:

William Patrick Neville

(4E) City OFFICE:

(4E-1) For inspector of licenses for the city of Kansas City (in Missouri): James A. Taylor

A school bond ballot was also handed to each voter:

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(5) The polling place for casting votes at said Primary Election on August 2nd, 1938, for all those duly qualified and registered to vote in the 4th precinct division of the 12th ward division of said Kansas City, was held in a store in a one-story building, which store was located at 1003 Cleveland Avenue, in said Kansas City, Missouri:

(6) On August 2nd, 1938, complainant, and Mrs. Lulu E. Davis, and Miss Ethel L. Davis, and Mr. Spencer O. Davis (all named hereinafter), each were duly qualified and registered to vote in said Primary Election on August 2nd, 1938, at said 1003 Cleveland Avenue voting place for the 4th precinct of the 12th ward of said Kansas City, Missouri

(7) Said 1003 Cleveland Avenue is a distance of about two short city streets or blocks from said 1023 Myrtle Avenue, in said Kansas City, State of Missouri, for any pedestrian or vehicle:

(8) On August 2nd, 1938, at said Primary Election, at said voting place at 1003

Cleveland Avenue, Kansas City, Missouri, being the voting place for the 4th precinct of the 12th ward, the following election officials were acting as election officials at that time and place: the two election judges for the Democratic Party, were Mr. Harry Webb, 1841 Bennington Avenue, Kansas City, Missouri, and Mr. William E. Townes, 4815 East 7th Street, Kansas City, Missouri: the election clerk for the Democratic Party, was Mr. David Bricken, 918 N. Norton Avenue, Kansas City, Missouri: the two election judges for the Republican Party, were Mary L. Rincker, 6011 East 12th Street Terrace, and Mr. Francis Metcalf, 2310 Van Brunt Boulevard, each of Kansas City, Missouri: the election clerk for the Republican Party, was Therle A. Ramey, 3220 East 9th Street, Kansas City, Missouri: complainant alleges aforesaid names and addresses of said election officials, on information supplied by complainant's attorney herein(i.e. Mr. Samuel W. Liske, Esq., a member of the Kansas City, Missouri, Bar), which allegations are made on information and belief by complainant: complainant never has known the names or addresses of the inside or outside challengers for the Democratic

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Party or for the Republican Party who were on duty at that time and placet complainant alleges on information and belief, that the name of the Democratic Party inside challenger at that time and place, was and is William Campbell: said inside challenger of the Democratic Party, at that time and place, was called "Johnny" by other persons inside that 1003 Cleveland Avenue, on August 2nd, 1938, and this allegation is based on information supplied complainant by complainant's attorney herein, and this allegation is made on information and belief by complainant:

(9) Complainant was lawfully married to Lulu E. Davis, on December 13th, 1908, in the State of Missouri: Lulu E. Davis was born in 1890:

Lulu E. Davis is a citizen of the United States of America, and of the State of Missouri, having been born in the State of Missouri: Lulu E. Davis has resided at 1023 Myrtle Avenue, Kansas City, Missouri, from June 20th, 1938, to the date of this complaint:

(10) Seven children were born of complainant's aforesaid marriage to Lulu E. Davis, and each child was born in the State of Missouri:

the names of said seven children, and the year of birth of each, follows:

Ruth W. Davis-born in 1910

Spencer O. Davis-born in 1911

Harold F. Davis-born in 1914

Ethel L. Davis-born in 1917

Sarah Alice Davis-born in 1918

William E. Davis-born in 1922

Eileen L. Davis-born in 1926

(11) All of said children, except Ruth Y. Davis, have resided at 1003 Myrtle Avenue, Kansas City, Missouri, from June 20th, 1938, to the date of this complaint: each of said seven children is a citizen of the United States of America, and of

the State of Missouri:

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(12) From November, 1934, complainant has been employed as a laborer, on the rolls of the Works Progress Administration of the United States of America ("WPA"), and has thus worked on the SWOPE PARK PROJECT, in Kansas City, Missouri, the United States of America: complainant's salary from that work, has been, and is \$44.16 monthly: complainant has no other source of income: out of that \$44.16 monthly salary, complainant pays \$13.50 rent monthly for the occupation of the premises at 1023 Myrtle Avenue, Kansas City, Missouri: complainant spends the balance of his said \$44.16 monthly salary, for other necessities to help support his family: complainant is in debt to various merchants for the purchases of various necessities for his family, in the sum of about seventy-five (\$75.00) dollars: complainant lacks the money to pay his attorney herein, any fee for his attorney's services in drawing up this complaint, and in doing the work necessary to prepare the brief supporting this complaint: complainant lacks the funds necessary for an adequate investigation of the facts and matters alleged in this complaint, with a view to instituting the proper criminal and other proceedings against the allegedly guilty persons: (13) Complainant's attorney herein (.i.e Samuel W. Liske, Esq., 1001 Broadway, Kansas City, Missouri) has been a lifelong member of the Democratic Party, and has always voted the ballot of the Democratic Party, at every Primary Election, and at every General Election, and at every Special Election, at which he has voted: complainant alleges this fact on information and belief, based on information supplied complainant by said Samuel W. Liske, Esq.:

(14) Complainant has been a life-long member of the Republican Party, and has voted the ballot of the Republican Party, from the time complainant became of voting age, until August 2nd, 1938, in every Primary Election, General Election, and Special Election:

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(15) Complainant held the honorary position of election judge for the Republican Party, in the city registration of electors, held in Kansas City, Missouri, in February, 1936, for the ensuing city election thereafter:

(16) On August 2nd, 1938, in said Primary Election, complainant, and his wife, and his daughter (Ethel L. Davis), and his son (Spencer O. Davis), each went to the voting polls, and each of them then intended to vote the ballot of the Democratic Party, as each intended and desired to vote for certain candidates for nomination by the Democratic Party, and particularly for the nomination of James M. Douglas for the unexpired term of Judge of Division No. I of the Supreme Court of Missouri, as was the right and privilege of each:

(17) At that Primary Election, August 2nd, 1938, a strong fight was being waged for the Democratic Party nomination for the unexpired term of Division No. I of the

Supreme Court of Missouri, for the Judgeship thereof, between the faction of the Democratic Party supporting the candidacy of James M. Douglas and the faction of the Democratic Party supporting the candidacy of James V. (Josh) Billings: the dominant faction of the Democratic Party in Kansas City and in Jackson County, was pledged to support the candidacy of said James V. (Josh) Billings for aforesaid position, and to oppose the candidacy of aforesaid James M. Douglas: complainant alleges on information and belief that all the election officials of the Democratic Party at 1003 Cleveland including Avenue, Kansas City, Missouri, on August 2nd, 1938, and the inside challenger of the Democratic Party, and including the policeman assigned to guard that polling place, and including the/squad-car officers of the Police Department of Kansas City who came to that polling place (as stated hereinafter), each were ordered and pledged to support the candidacy of aforesaid James V. (Josh) Billings, and were ordered and pledged to oppose particularly the candidacy of aforesaid James M. Douglas: complainant alleges on information and belief, that

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the inside challenger of the Democratic Party at 1003 Cleveland Avenue, Kansas City, Missouri, on August 2nd, 1938, and his political allies, probably never read a single opinion that either Judge James V. (Josh) Billings or Judge James M. Douglas ever wrote in their entire judicial careers, and that said inside challenger and his allies thus were ignorant of the respective abilities and qualifications of those two candidates for the office for which they contended: Before that Primary Election, a statewide poll was taken of the lawyers of the State of Missouri, and the results showed that 2,490 Missouri lawyers voted for said James M. Douglas, and 338 Missouri lawyers voted for said James V. (Josh) Billings: the voters throughout the State of Missouri, on August 2nd, 1938, gave the nomination to said James M. Douglas, by a much wider margin than was generally anticipated by the "expert forecasters":

(18) The largest circulation of any newspaper in Kansas City, Missouri, is that carried by THE KANSAS CITY STAR, which is published by The Kansas City Star Company, a corporation, Kansas City, Missouri: the Democratic County Committee of Jackson County, Missouri, paid for a large advertisement in THE KANSAS CITY STAR, August 1st, 1938, page 10, columns 4-8, which advertisement ended thusly:

"WARNING!

TO REPUBLICANS WHO ENTITLED TO VOTE

"Sec. 10271 — It shall be the duty of the challenger to challenge and the duty of the judges of election to reject the ballot of any person attempting to vote other than the ticket of the party which he is known to be affiliated, unless such person, when challenged, obligates himself, by oath or affirmation, administered by one of the judges, to support the party nominees of the ticket he is voting in the following general election. All Judges of the election shall have authority and are empowered to administer such

oath, or affirmation, and any person offering to vote who shall fail or refuse to take or make such oath or affirmation when demanded by such challenger, or be required by any judge, shall not be allowed to vote at any such primary election. Page 67, Election Laws, Democratic County Committee"

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Complainant alleges on information and belief that the foregoing paid advertisement by the Democratic County Committee was deliberately intended to frighten members of the Republican Party who intended to switch over to the Democratic Party, in order to vote for the candidacy of said James M. Douglas, into not switching to the Democratic Party: the foregoing advertisement names "Sec. 10271" so the average reader thinks that is a statute or constitutional provision: the heading is brazenly entitled as "WARNING! TO REPUBLICANS": that advertisement does not state the true law on the point advertised, which complainant now alleges on information and belief based on advice of complainant's attorney herein, as shown in detail in complainant's brief supporting this complaint: said advertisement thus is false and misleading, and violates the criminal laws of the State of Missouri, which complainant now alleges on information and belief, based on advice of his attorney herein, and shown in detail in complainant's brief supporting this complaint:

Ordinarily, all members of the Republican Party who desire to vote the ballot of the Democratic Party in any Primary Election, or any other election, are welcomed with open arms, but, since the Democratic County Committee of Jackson County, and the inside challenger and his allies at 1003 Cleveland Avenue, Kansas City, Jackson County, Missouri, were pledged and ordered to vote for the aforesaid candidacy of said James V. (Josh) Billings, and to oppose particularly the aforesaid candidacy of said James M. Douglas, therefore said Democratic County Committee of Jackson County, and said inside challenger and his allies at 1003 Cleveland Avenue preferred that all members of the Republican Party vote the ticket of the Republican Party, and that no Republican should vote the ticket of the Democratic Party: to that Democratic County Committee for Jackson County, and to that inside challenger and his allies at said 1003 Cleveland Avenue voting place, the best interests of the Democratic Party thus were relegated to an inferior

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position, because the selfish desires of that faction of the Democratic Party were more important to its members than the best interests of the Democratic Party, regardless of how ignorant the members of that faction were as to the respective qualifications of the two said contending candidates:

Complainant states that the Democratic inside challenger, and his allies, at said 1003 Cleveland Avenue, assaulted and battered complainant and complainant's

son, and assaulted complainant's wife, as hereinafter stated, for the sole reason that complainant, his wife and son had voted the ballot of the Democratic Party, and that inside challenger and his allies suspected that those votes went for the candidacy of aforesaid James M. Douglas:

Complainant states that the inside challenger of said Democratic Party, at 1003 Cleveland Avenue, Kansas City, Missouri, challenged complainant, and challenged complainant's wife, and challenged complainant's son and daughter, as hereinafter stated, because that inside challenger suspected and thought that said electors intended to vote for the candidacy of said James M. Douglas:

On September 13th, 1938, at Jefferson City, State of Missouri, at the Platform Convention of the Democratic Party of the State of Missouri, the Platform adopted, included the following:

"Warmest indorsement to the candidates of...James M. Douglas for the state supreme court

"Pledge our candidates and each of them to a continuation of a government of progress, economy and efficiency."

(19) Complainant does not know the name or address of the police officer or officers assigned to duty at 1003 Cleveland Avenue ,Kansas City, Missouri, on August 2nd, 1938: complainant alleges on Information and belief, that the name of a police officer assigned to that place for August 2nd,1938, was and is Mr. H. Hartman, who resides at 3214 East

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30th Street Terrace, Kansas City, Missouri, and that said F. Hartman was deputised for the day by the Police Department of Kansas City, Missouri, and was given police badge #1,156, and was paid six (\$6.00) dollars by the city of Kansas City, Missouri, for his said services that day: complainant bases his foregoing allegations as to F. Hartman on information supplied complainant by complainant's attorney, who went to the headquarters of said Police Department, on September 9th, 1938, about 2:30 o'clock, P.M., to inquire as to the name and address of that police officer, and Chief of Police Coffey asked complainant's attorney why he wanted that information, and when complainant's attorney politely told him of the assault and battery (stated hereinafter), said Chief of Police replied to complainant's attorney as follows:

"That is a pile of shit, if you ask me. All about guys getting beat up election day. We investigated them all and there was nothing to it...That is a pile of shit—all those cases— if you will pardon my English."

Complainant states that the Police Department of Kansas City, Missouri, is composed of men who are among the most active members of that faction of the Democratic Party who were pledged and ordered to support the aforesaid candidacy of said James V. (Josh) Billings, and particularly to oppose the candidacy aforesaid of James M. Douglas: the same is true of the office of the Prosecuting Attorney of Jackson County, Missouri,

and of the Office of the City Counsellor of Kansas City, Missouri, so that any complaints by complainant on the matters herein to said governmental departments, would be disregarded, in all probability, and complainant states that this is a matter of common and judicial knowledge: complainant respectfully requests that the Board of Election Commissioners of Kansas City, Missouri, use its powers and influences to see to it that a special prosecuting attorney and/or special prosecuting attorneys, be appointed to prosecute impartially, the allegedly guilty persons in the matters named herein:

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(20) Complainant alleges on information and belief that the inside challenger of the Democratic Party, at 1003 Cleveland Avenue, Kansas City, Missouri, on August 2nd, 1938, appeared to be about 40 or 45 years of age, and about five feet, seven inches in height, and about 150 pounds in weights complainant alleges on information and belief that the others in the group that attacked complainant (as stated hereinafter) looked to be like clean-cut American citizens:

(21) Complainant has been an ill man, as may be verified from the records of the Alfred Benjamin Dispensary, Admiral Boulevard near Harrison Avenue, Kansas City, Missouri: That dispensary's department of Internal Medicine, on form no. 3, on April 25th, 1935, has the following report by Dr. Th. Nelson, on complainant:

"Chief Complaint and History:

"Has had hay fever for last 10 years. Has asthma last six years... Has colds frequently. States a doctor at Gen. Hosp. five years ago told him he had Tuberculosis. Has been to Mount Vernon three months. Leeds five months. Lost fifteen pounds weight during that time. Has weighed about same since. ...One daughter was in open air school for several years. X-ray showed she had lung trouble. But is well now.

Weight 150.

Physical examination:

ex-4-25-35. Cryptic tonsils Pulsating neck
Vericosities in lower chest
Chest. Troposius Spasm bilaterally more pronounced on right.
Indefinite rales on both apices. Otherwise negative Heart.
regular tones Very forceful no murmurs

Treatment and Progress:

July 29-58 Growing left testicle 10 year duration increasing in size.."

That dispensary's Department of Dermatology records about complainant:

Diagnosis: Multiple hemorrhagic papillomata scrotum. Multiple warts which have been scratched and made hemorrhagic

Treatment:

Lotion F & A — equal Parts"

That dispensary's Department of Urology, has the following report on complainant:

7-29-38

CHIEF COMPLAINT Trouble with Testicles for past ten years

CLINICAL DATA No pain. F= 2-3xdj 0-1xN.

Sometimes difficult starting urine...

Left testicle palpable and about size of right— palpable elastic mass above left testicle— Lingual glands—not palpable.

Urethra-neg.

Rectal Examination Prostate small, smooth symmetrical

Sphincter tone good. Hemorrhagic, sealy

Seminal Vesicles eruption over scrotum— Pt states itching for past three years— also on back.

CYSTOSCOPY

Passage of Asytoscope Referred to dermatology

Residual Urine Wasserman ordered I.A. Wien

Bladder Capacity Left Hydrocele

Character of Bladder Content I Eczemia I.A. Wien

Trigone 8-5-38 Didn't see dermatologist I.A. Wien"

(22) On August 2nd, 1938, complainant, and his wife, and his daughter Ethel L. Davis and son Spencer O. Davis were driven to the polls, from their home at 1023 Myrtle Avenue, Kansas City, to 1003 Cleveland Avenue Kansas City, in an automobile owned by Mrs. L. A. Kelly, who resides at 3818 East 9th Street Terrace, Kansas City, Missouri: complainant alleges said ownership of said car on information and belief: that car was driven that day by a man whose name and address are unknown to complainant: the car left complainant's home at about 4:30 P.M., August 2nd, 1938, and arrived at said 1005 Cleveland Avenue, about a couple of minutes later:

(23) In going to the polls on August 2nd, 1938, no weapons of any kind were carried by complainant, nor by his wife, nor by his said daughter and son, and no weapons of any kind ever have been carried by them, as they are law-abiding, peaceable, and home-loving citizens, and good Protestants, and enjoy such reputations in the community: they had no reasonable cause to believe, and they did not anticipate that any of them would be molested in going to, or in returning from said voting place:

(24) In going to the polls August 2nd, 1938, complainant, his wife, and their said daughter and son, each went with the sole motive of peacefully and lawfully voting the ballot of the Democratic Party, and partly motivated by their intention and wish to vote for the aforesaid candidacy of James M. Douglas, as was their right and privilege:

(25) Complainant and his said family believe, as do millions of other American citizens, that every American citizen has the right and privilege to vote according to his or her conscience, without having his or her life and limbs endangered, and that the right thus to vote freely, is guaranteed by the Constitution of the United States of America, and by the Constitution of the State of Missouri, and by all the laws of the land:

(26) On August 2nd, 1938, outside the voting place at 1003 Cleveland Avenue, Kansas City, Missouri, before entering same, "sample" ballots (printed for the Democratic County Committee for Jackson County, for distribution to the electors throughout said county, advocating that the electors vote for the candidates named on said ballots, and said ballots thus recommended that the electors vote for James V. (Josh) Billings for the position of Judge of Division No. 1 of the Supreme Court of Missouri, or the unexpired term thereof) were handed to complainant, his wife, and said daughter and son, by some people who were outside said polling place, and in front of its entrance: those sample ballots were taken into said polls, without comment, by complainant, his wife, and their said daughter and son:

(27) On August 2nd, 1938, about 4:35 P.M., complainant, and his wife (Lulu E. Davis), and their daughter (Ethel L. Davis), and their son (Spencer O. Davis), entered the room at 1003 Cleveland Avenue, Kansas City, Missouri, where was located the polling place for the 4th precinct of the 12th ward of said Kansas City, Missouri: complainant was the first

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member of his family who then stepped up to the election judges in said polling place, and requested the right to vote the ballot of the Democratic Party: immediately, the inside challenger for the Democratic Party spoke out in a surly tone of voice, referring to complainant and to his wife, daughter and son:

"I'll challenge all that hunch of Kelly voters. They're all damned Republicans."
Complainant then politely replied:

"Yes. I'm Republican, And proud of it."

The inside challenger for the democratic Party then shouted at complainant:

"You damned Republican!"

One of the election Judges then asked complainant if he would obligate himself, by oath to be administered by one of these election judges, to support the nominees of the Democratic Party ticket, in the following General Election, to be held in November, 1938: complainant politely replied he would so obligate himself, if required so to do in order for him to vote in the Primary Election: said oath was then administered to complainant by one of those election judges, and complainant signed a blank printed form to that effect: a ballot of the democratic Party was then handed to complainant and the school bond ballot, and he took them into the voting booth, and voted these ballots, and voted aforesaid candidacy of said James M. Douglas for said Judgeship, besides voting for

other candidates for other federal and state, county, township and city offices, on the Democratic Party ticket:

(28) Lulu E. Davis (complainant's wife), and Spencer O. Davis (their son), then requested the right to vote the ballot of the Democratic Party: the inside challenger of the democratic Party then challenged each of an their ballots: election judge then asked each of them if they would obligate themselves, by oath to be administered by an election Judge, to support the nominees of the Democratic Party, in the General Election, in November, 1938, and each of them replied they would do so,

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if required of them, and each of them did do so, signing a printed form handed to each of them by one of the election judges: each of them voted the Democratic ballot and the school bond ballot.

(29) Ethel L. Davis (complainant's daughter) then requested of said election judges, the right to vote the ballot of the Democratic Party: the inside challenger of the Democratic Party then challenged her ballot on the ground she was a known Republican: Ethel L. Davis was born in the year 1917, and thus was just twenty-one years of age, and she had voted only once before in all her life, which vote she cast in the city election held in Kansas City, Missouri, earlier in the year 1938, for the candidates of the Coalition Party: one of the election judges at 1003 Cleveland Avenue, on August 2nd, 1938, after aforesaid challenge, then asked her if she would obligate herself, by oath, to be administered by one of the election judges, to support the nominees of the Democratic Party, in the General Election to be held in November, 1938: Ethel L. Davis replied that she would so obligate herself, if required so to do: then the election judges and election clerks replied that all the printed forms used for such oaths had been used up, and no more such blank forms remained in said polling place at 1003 Cleveland Avenue, and no more such blank forms were left at the office of the Board of Election Commissioners of Kansas City, Missouri, so that Ethel L. Davis could not be given such an oath by said election officials, and so she could not vote the ballot of the Democratic Party: one of the election judges then told Ethel L. Davis to vote the ballot of the Republican Party, but she replied that she refused to vote the ballot of the Republican Party, as she desired, intended and requested the right to vote the ballot of the Democratic Party: one of the election officials then said:

"Let her sign the same affidavit as her father or mother."

An election judge replied:

"The law would not allow that."

The election officials did not copy their printed form, in ink or pencil, on any blank piece of paper, as they could easily have done:

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Ethel L. Davis then did not vote at all, as said election judges refused to permit her to

vote the ballot of the Democratic Party: complainant alleges on information and belief, based on the advice of complainant's attorney herein as shown in the brief supporting this complaint, that the actions of the election judges in denying request to Ethel L. Davis, her request that she be permitted to vote the ballot of the Democratic Party, was an unconstitutional and unlawful denial of her right and privilege: Ethel L. Davis had intended to vote, among voting for the other federal, state, county, township and city offices, for James M. Douglas for judge of Division No. I of the Supreme Court of Missouri, for the unexpired term thereof:

(30) LULU E. Davis (complainant's wife), and Spencer O. Davis (complainant's son), each voted for James M. Douglas for the unexpired term for judge of Division No. I of the Supreme Court of Missouri, and each of them also voted for candidates for the other federal, state, county, township and city offices, and complainant alleges this on Information and belief, based on the statements of his wife and son to him, since said elections:

(31) On August 2nd, 1938, at said 1002 Cleveland Avenue, Kansas City, Missouri, immediately after complainant, and his said wife and son had voted, and after his said daughter had been denied the right to vote as she requested, complainant, his wife, daughter and son, walked out of said room at 1003 Cleveland Avenue: 1003 Cleveland Avenue is on the east sidewalk of Cleveland Avenue: they then walked south on said east side of Cleveland Avenue, to a point about fifty (50) feet distant from the entrance and exit to said voting place at 1003 Cleveland Avenue, and looked around for the automobile which had driven them to the polls a few minutes before, as they then intended to return to their home at 1022 Myrtle Avenues that automobile was no longer in sights

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a man in the group then congregated in front of the door of 1003 Cleveland Avenue, shouted at complainant, his wife, daughter and son:

"You needn't look for your car. We chased him away."

a lady who was one of those then congregated in front of the voting place at 1008 Cleveland Avenue, then shouted at complainant, his wife, daughter and son:

"You don't have to look for your car. We chased them away."

The lady who shouted that remark, lives in the residence which is located at the northwest corner of 11th Street and Myrtle Avenue, and which is diagonally opposite from complainant's home at 1023 Myrtle Avenue, in Kansas City, Missouri: complainant alleges on information and belief that that lady who shouted that remark is Margaret McDonald, and lives at the foregoing address: complainant has seen that lady who shouted that remark, get into a two-seater automobile which has a blue-tag on it which reads: "FINANCE DEPARTMENT", or words to that effect, and complainant has seen that lady get into such a car, with someone else from aforesaid address, a number of different mornings: complainant alleges on information and belief that aforesaid lady who

shouted that quoted remark, works at the City Hall of Kansas City, Missouri, 414 East 12th Street, Kansas City, Missouri, and that she drives daily to work in said car: complainant alleges on information and belief, that aforesaid lady who shouted that quoted remark, appears to be about thirty years of age:

The aforesaid lady and man who shouted the aforesaid quoted remarks were part of a crowd of about a dozen people who were then congregated in front of the entrance and exit at said voting place at 1003 Cleveland Avenue, Kansas City, Missouri: that crowd was there before complainant, his wife, daughter and son entered that voting place, as well as after they left it: complainant knew that the law required that no crowds must be permitted to congregate and electioneer within one hundred (100) feet of any polls on election day, and so complainant

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complainant replied to the lady and man who shouted the foregoing quoted remarks, with this suggestion:

"If you are so particular about obeying the law, why don't you obey it yourselves, and go back where you belong?"

Complainant's aforesaid remark was no sooner finished, than the inside challenger of the Democratic Party rushed out of the voting place at 1003 Cleveland Avenue, and followed by about five other men (the latter probably being from the crowd that was in front of that voting place at 1003 Cleveland Avenue), ran the fifty feet to the point where stood complainant, complainant's wife, daughter and son: that inside challenger of the Democratic Party, then said to complainant in a belligerent and threatening manner:

"Are you looking for trouble?"

Complainant politely replied to him:

"No. I'm just looking for my car."

That Democratic inside challenger then hotly said to complainant:

"If you are, you can get a Hell-of-a-lot of it. You damned Republicans ought to stay where you are. What are you doing messing around in a Democratic primary?"

Complainant politely replied:

"I've got a right to vote for whom I please."

That Democratic inside challenger then struck complainant with that challenger's brass-knucks(which were on that challenger's fist), under the right side of complainant's chin: a couple of men then attacked complainant: complainant was then hit with a black-jack, on complainant's right arm, and right shoulder, and right ear: those blows made complainant's right arm and right shoulder bruised and black and blue: that attack split complainant's right ear open, and his ear was lacerated, and was cut, and caused that opened wound then to bleed freely: complainant was then rendered unconscious, and fell senseless to the side-walk: then those attackers picked up complainant's unconscious body, and threw it over a two-foot high fence adjoining that place of attack, onto an adjoining empty lot:

When those men attacked complainant, then complainant's wife pleaded with them to stop their attack, and tried to push them away from beating complainant: one of the men in that crowd then raised his fist and aimed a blow at complainant's wife, but he did not deliver that blow when he was shouted at by another of the men in that crowd:

"Don't hit her or we'll get in trouble."

Complainant's son Spencer O. Davis then attempted to interfere with the beating administered to complainant: one of the attackers then shouted at Spencer O. Davis:

"Do you want some of this, too?"

Spencer O. Davis kept silent: then Spencer O. Davis was attacked and he was given a black eye on his right eye, and his face was bruised and made black and blue, and his right eye was swollen and almost shut: the right eye of Spencer O. Davis remained thusly for about a week: Spencer O. Davis was backed against the back end of a parked automobile when he was attacked: Spencer O. Davis now refuses to talk about that attack* complainant alleges on information and belief that since said attack, Spencer O. Davis has been threatened by those attackers or their allies, that Spencer O. Davis should not admit he knows anything about said attack, but should answer all questions with the simple answer:

"I don't know anything about it."

Complainant, his wife and daughter are willing and ready to testify to their knowledge of aforesaid matters, as well as the following matters: Complainant alleges on information and belief that if Spencer O. Davis is placed under oath, he probably will testify to his knowledge of the matters in this complaint:

Complainant alleges on information and belief that two of the men in the crowd attacked complainant, while two others attacked Spencer O. Davis, and the other two men in the crowd stood by ready to lend any assistance, and adding to the strength of the attackers so as to prevent any assistance to complainant from disinterested bystanders:

Aforesaid attack was without just cause or provocation, and the attackers willfully, wrongfully and unlawfully assaulted, beat, wounded and injured complainant, and complainant's son: those attackers did unlawfully, maliciously and feloniously assault complainant and his son, with intent to do unto complainant and his son, some grievous bodily harm, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the city of Kansas City, and of the county of Jackson, and of the township of Kaw, and of the state of Missouri, and of the United States of America: the raising of an attacker's fist against complainant's wife, constituted a clear assault: complainant's daughter was placed in fear of an attack upon her, because she was complainant's daughter, and because she had requested the right to vote as did

complainant, and that was the cause of said attack: the attack on complainant was with deadly weapons which are prohibited by law, and even though said attack placed complainant's life and limbs in danger, no arrests were made of any of those who made said attack:

An automobile siren blew then from an approaching automobile: the attackers then stopped their attack, and walked back to the front of the voting place at 1003 Cleveland Avenue, which allegation complainant makes on information and belief based on information told him by his said wife and daughter, since that attack: Therle A. Ramey, 3228 East 9th Street, Kansas City, Missouri, the election clerk of the Republican Party at 1003 Cleveland Avenue, came running out of that voting place, and ran to the place of attack, saying (referring to complainant, his wife, daughter and son):

"These people did not do anything. Let them alone."

Complainant makes that last allegation on information and belief, based on what his wife and daughter told him since that attack:

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A man then came running from the direction of the voting place, and said:

"What is the matter here? Who started this?"

Complainant's wife replied to that man:

"Are you an officer?"

That man replied:

"I'm supposed to be."

Complainant's wife then said to that man (pointing out the attackers):

"They were beating us up. That bunch back there."

That man then walked back to the crowd in front of the voting place, talked to people in that crowd out of earshot of complainant, or complainants wife, son or daughter, and then that man returned to the place of attack, waving his arms all the way from 1003 Cleveland Avenue to the place of attack, fifty feet away, as though to shoo away complainant, and complainants wife, and complainant's daughter and son, and that man said in a loud voice directed at complainant, complainants wife, daughter and son, so that those in that crowd in front of 1003 Cleveland Avenue, could hear him:

"You have no business here anyway. Go on back home."

Complainant then leaned on the arm of his wife, and with his right ear bleeding freely, and in a dazed and senseless condition, staggered home, accompanied by his wife, and their said daughter and son: they thus walked from that place of attack, south on Cleveland Avenue to 10th Street Terrace, and then East on 10th Street Terrace to Myrtle Avenue, and then south on Myrtle Avenue to 1023 Myrtle Avenue, a distance of about two short city streets or blocks: complainants right ear bled freely all the way on that walk from the place of said attack to his home: noone offered to drive complainant to his home:

The automobile that blew its siren as it approached the scene of that attack, after that

attack, was a squad-car containing two police officers of the city of Kansas City, Missouri: those two officers, after

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conversing with the attackers, and after thus probably learning that the attack was caused by the votes of former Republicans for the Democratic Party, and particularly for James M. Douglas for Judge of the Supreme Court of Missouri, made no arrests, and apparently did not even make a report of said attack to the Police Department of Kansas City, Missouri:

Complainant does know that the inside challenger of the Democratic Party at 1003 Cleveland Avenue, on August 2nd, 1938, was one of those attackers: complainant does not know the names or addresses of the other five men in that crowd that made that attack: complainant alleges on information and belief that said Democratic inside challenger knows and/or ought to know the names and addresses of those five other men who were his allies in said attack, and that the names and addresses of those five other men, as well as that of that Democratic inside challenger, is known and/or ought to be known by the two police officers in that squad-car of the Kansas City Police Department, and by the city policeman assigned to guard said voting place all that election day, and by the outside challenger of the Democratic Party, and by the Judges and clerks of election at 1003 Cleveland Avenue:

During the aforesaid attack, complainant's wife looked across the street and saw a man sitting on the front porch of the residence which is the second house on Cleveland Avenue, south of 10th Street, on the west side of Cleveland Avenue, and complainant alleges that man saw that attack, but that man has, since that attack, denied that he saw anything of aforesaid attack: complainant believes that said man, placed under oath, may testify as to his knowledge of aforesaid matters: complainant does not know the name of that man:

Complainant did not see any police officer on duty at that voting place, at any time before that attack: about three or four days after that attack, complainant's daughter (Ethel L. Davis) went to buy some

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needed groceries, at the grocery store of Herb Beatty, which grocery store is located at 1001 Cleveland Avenue, Kansas City, Missouri, and directly adjoins the place which was the voting place at 1003 Cleveland Avenue, and while in that grocery store three or four days after that attack, said Ethel L. Davis heard Herb Beatty tell another man in that grocery store, that the policeman who was assigned to that voting place at 1003 Cleveland Avenue, on August 2nd, 1938, was inside said grocery store while the foregoing attack was made, and after that attack, that policeman went out to pick up the man who had been knocked down, but that policeman was frightened away by the attackers: complainant now alleges on information and belief that said policeman was

inside that grocery store, during that attack: complainant alleges on information and belief based on information told him by complainant's attorney herein, that on September 10th, 1938, complainant's attorney herein went to said grocery store to interview said Herb Beatty, and said Herb Beatty then and there told complainant's attorney herein that on August 2nd, 1938, late in the east afternoon, said Herb Beatty was standing on the east sidewalk of Cleveland Avenue, in front of the entrance to his grocery store, and that he stood there during that attack on complainant, but that said Herb Beatty did not look in the direction (of that attack until after that attack was over, when a man was laying down, and that said Herb Beatty did not know anything about that attack, and that said Herb Beatty did not know whether the policeman assigned to that voting place at 1008 Cleveland Avenue for August 2nd, 1938, was inside or outside his grocery store during that attack, and said Herb Beatty also said that said policeman came into his grocery store a number of times during that election day, and that immediately after the beating, Herb Beatty saw a city police car go to the scene of the attack, with its siren blowing as it approached the scene: complainant states that his

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attorney herein, and complainant are each of the opinion that said Herb Beatty is afraid to tell what he does know, and what he did see, and that he has been intimidated into being told to say that he knows nothing of said attack, despite the fact that his aforesaid admissions belie his own professed ignorance of anything about said attack:

complainant alleges on information and belief, that under oath, said Herb Beatty may tell what he does know and what he did see of aforesaid matters in issue herein:

Aforesaid 1003 Cleveland Avenue is located much less than one hundred feet from the nearest corner south of said 1003 Cleveland Avenue: complainant's statement that said attack took place within fifty feet of 1003 Cleveland Avenue, and this is well within the 100 feet that the law establishes for the polling place limits, is an irrefutable allegation:

(32) On August 2nd, 1938, as soon as complainant reached his home at 1023 Myrtle Avenue, Kansas City, Missouri, his relatives wanted him to send for a private doctor, but complainant refused because he could not afford such expense, and instead he asked his daughter, Sarah Alice Davis to telephone General Hospital to send a doctor to his home, as his right ear was still bleeding: the nearest telephone to complainant's home is located in the home of Mr. and Mrs. C. J. Lamb, at 1019 Myrtle Avenue as complainant cannot afford to have a telephone in his own home: Sarah Alice Davis then went to 1019 Myrtle Avenue, and telephoned to General Hospital, 24th and Cherry streets, Kansas City, Missouri, and told them of complainant's condition from aforesaid attack at the voting place: the hospital's agent who answered that telephone then replied that complainant should come himself to that hospital: Sarah Alice Davis then telephoned, at that place and time, to complainant's son-in-law (i.e. Mr. Roy Gross, who had married complainant's daughter Ruth W. Gross), and Sarah Alice Davis then told Mr. Gross what

had happened, and asked him to drive his automobile to 1023 Myrtle Avenue right away, to drive

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complainant to said General Hospital, as soon as possible, to have his bleeding ear attended to by a doctor: Mr. Gross then drove his automobile to 1023 Myrtle Avenue, and picked up complainant and complainant's daughter Sarah Alice Davis, who went along because of complainant's dangerous condition: they arrived at said General Hospital, at about 6:30 o'clock, P.M., August 2nd, 1938: a doctor in the Receiving Ward of that hospital looked at complainant's ear, and then said to complainant:

"What's the matter? Didn't you vote right?"

Complainant politely replied:

"I guess some people didn't think so."

Complainant alleges on the advice of his attorney herein, that aforesaid question by that doctor was uncalled for, and highly improper and unethical, and merits a rebuke from the Board of Election Commissioners of Kansas City, Missouri: since that hospital is a charitable hospital for patients who cannot afford to pay for its services, it should be administered in as non-political a manner as possible, but, while complainant's ear was bleeding, complainant was in no condition to pursue his legal rights, as the taxpayers who have money, pay good salaries to outlaw administration officials to administer the laws properly, but the same faction of the Democratic Party which opposed the candidacy of James M. Douglas, controlled the jobs and economic lives, as well as professional acts and opinions of those who ran that hospital: complainant then was ordered to lay on the operating table, and that doctor then inserted two stitches in the right ear of complainant, dressed it, and covered it with gauze and tape, in the immediate presence and sight of said Sarah Alice Davis: that doctor then told complainant:

"That will have to be treated every day."

That doctor then took complainant into the clerk, and he gave her, complainant's name and address, but stated nothing about the maimer

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in which complainant received that injury: complainant then asked that man of medical sciences:

"Do you have to make any kind of a report on this?"

That medical puppet of the political faction opposed to complainant, brazenly replied:

"No. That is all."

Complainant was then driven back to his home at 1023 Myrtle Avenue, Kansas City, Missouri, in the automobile of said Mr. Gross, accompanied by said Sarah Alice Davis: Complainant has not seen any records of said General Hospital on said matter: complainant's attorney went to said General Hospital, and asked to see the records on said medical attention in complainant's case, but was refused that right and privilege on

the ground that said hospital had a rule that prevented it from showing its records to anyone, unless the person requesting same, first obtained a written order for such examination from Dr. Schorer, Director of Health of Kansas City, Missouri: complainant alleges on the advice of his attorney herein, that aforesaid rule of said hospital, is unconstitutional, as that is a hospital maintained by the citizens of Kansas City Missouri, and is the general hospital of that city for all patients who cannot afford to pay for such services, and there is no reason in the wide world to justify such a hospital in refusing to permit any lawyer for any patient to see that hospital's own records on the patient that lawyer represented: complainant alleges that such a rule operates to protect just such alleged criminals as those who attacked complainant on August 2nd, 1938, and also serves to the hospital doctors and employees who thus took complainant's case, but failed to make any record of the most important fact as to how complainant received the very injury that sent him to that hospital: complainant alleges on information and belief, based on information supplied by his attorney herein, that his attorney herein has reasonable grounds for not going to see the Director of Health, because complainant's attorney herein has reasonable grounds for belief

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that making such a request for such information, with the addition that complainant's attorney intended to file a complaint thereon with the Board of Election Commissioners of Kansas City, Missouri, and also to file certain civil suits, and ask to have appropriate false criminal actions instituted, would probably lead to the false arrest of complainant's attorney and the false imprisonment of complainant's attorney in the "Observation Ward" of that very General Hospital, on the pretended ground that complainant's attorney was being held "for observation", but on the inarticulate ground that complainant's attorney had that peculiar type of mentality that considered it a crime for any member of the faction of the Democratic Party that opposed James M. Douglas for aforesaid position in said election, to act as the members of said faction have acted, as sworn to by complainant in this complaint: since the so-called psychologists and psychiatrists who would then examine complainant's attorney, would have received their appointment by that very faction of the Democratic Party which opposed that nomination of James M. Douglas, complainant fears his attorney would be imprisoned incommunicado, on some illegal ground covered in a shroud of mystic language used by such psychological and psychiatric puppets: since complainant and his attorney do not have hypocritical an army to protect their lives, against such hypocritical champions of "democracy" and Christianity, therefore complainant and his attorney herein are reasonable in not further pressing complainant's theoretical right to see the aforesaid records of complainant in said General Hospital: Complainant does not make such allegations against Dr. Schorer personally, but simply against those of his inferiors who have thus acted unconstitutionally against complainant's attorney herein on past occasions, in connection with other political matters:

(33) Complainant was supposed to work on August 3rd, 1938, on the "WPA" Project at Swope Park, Kansas City, Missouri, but, due to aforesaid injuries, complainant was unable to work that day, and did not work that day:

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(34) On August 4th, 1938, at the First-Aid Station of the "WPA" Project at Swope Park, Kansas City, Missouri, the "WPA" doctor then and there dressed the wound in complainant's right ear (which dressing took place about 11:30 o'clock, A.M. that day):

(35) On August 5th, 1938, at aforesaid Alfred Benjamin Dispensary, complainant's right ear was dressed by a nurse at that institution:

(36) On August 6th, 1938, complainant's right ear was dressed at his home at 1023 Myrtle Avenue, by a nurse from the Visiting Nurses Association of Kansas City, Missouri, which association has its offices in the Rialto Building, 906 Grand Avenue, Kansas City, Missouri:

(37) August 7th, 1938, was a Sunday, and all the charitable institutions in Kansas City, Missouri, were closed for that day, so that complainant's right ear was not dressed that day:

(38) On August 8th, 1938, complainant's right ear was dressed at said 1023 Myrtle Avenue, by a nurse from said Visiting Nurses Association of Kansas City, Missouri:

(39) On August 9th, 1938, complainant went to aforesaid Alfred Benjamin Dispensary, and the doctor then and there removed two stitches from the lobe of complainant's right ear, and a nurse dressed the ear: complainant alleges on information and belief, based on information supplied by his attorney herein, that the records of said dispensary show that the name of that doctor was and is Dr. Kovitz, and read "Stitch removed":

(40) On August 10th, 1938, a nurse from aforesaid Visiting Nurses Association of Kansas City, Missouri, again visited complainant at his home at 1023 Myrtle Avenue, and cleaned that wounded ear, and then and there said the wound had healed so that it would not require any more dressings:

(41) Aforesaid medical institutions are each charitable institutions for patients who cannot afford to pay for their services: complainant was such a non-paying patient:

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(42) WHEREFORE, all the foregoing premises considered, John S. Davis, complainant, respectfully moves the honorable commissioners of the Board of Election Commissioners of Kansas City, Missouri, for the following relief:

(42-A) Said Board shall cause to be instituted adequate investigations, in order to determine the exact facts on the matters named in this complaint, including the names and addresses of each of those who were guilty of their unlawful attack upon complainant and his said son, and of their illegal assault upon complainant's said wife and daughter, on August 2nd, 1938, as stated aforesaid:

(42-B) Said Board shall inform complainant of the name and address of the inside challenger of the Democratic Party, at the voting place for the 4th Precinct of the 12th Ward of Kansas City, Missouri, at 1003 Cleveland Avenue, Kansas City, Missouri, during the Primary Election held August 2nd, 1938:

(42-C) Said Board shall examine Herb Beatty, 1001 Cleveland Avenue, Kansas City, Missouri, under oath, to determine his exact knowledge of the matters in issue herein:

(42-D) Said Board shall examine under oath, the man who sat on the front porch of the house which is the second house on Cleveland Avenue, on the west side thereof, south of 10th Street, Kansas City, Missouri, during the attack in issue herein, to determine his knowledge thereof:

(42-E) Said Board shall examine under oath, to determine the exact knowledge of the attack in issue herein, held by the election judges and clerks, and by the outside and inside challengers, of both the Democratic and Republican parties, and of the police officer assigned to patrol that polling place at 1003 Cleveland Avenue, on August 2nd, 1938, and of the two police officers who came to the scene of the attack After the attack, in a squad-car of the Kansas City Police Department, and said Board shall ask each of those officials why

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none of them exercised their lawful authorities to arrest the persons guilty of aforesaid illegal attacks made within the limits of the polling place for the 4th Precinct of the 12th Ward of Kansas City, Missouri:

(42-F) Said Board shall ask the inside challenger for the Democratic Party, and the Democratic and Republican election judges, what law they think gave them any grounds for making challenges against complainant, and his wife, and his daughter and his son, on the ground that each was a known Republican, and what law they think gave them any grounds to require an oath that each such challenged person would obligate himself or herself, to support the nominees of the Democratic Party, in the General Election to be held in November, 1938, and what law they think gave them the right to deny Ethel L. Davis the right to vote the ballot of the Democratic Party, simply because those officials claimed they had run out of printed forms they used for taking aforesaid oaths after challenges aforesaid: if they are ignorant that the law is Jo the opposite of their actions, then each of them merits criminal prosecution, as ignorance excuses noone, and they should be removed from their respective offices in the future:

(42-G) Said Board shall ask each of those who acted as aforesaid (against complainant, his wife, daughter and son), including the inside challenger of the Democratic Party, and the Democratic election judges, and the police officer assigned to that voting place at 1003 Cleveland Avenue, and the two city police officers who came there after the attack in a police squad-car of Kansas City, and each man in the crowd that made that attack, whether or not each of them ever read a single opinion in any case in which James M. Douglas or James V. (Josh) Billings acted as a judge, and if so, the name of the case,

and the gist of the opinion, and when same was read, and why it was read, and how many such opinions of either or both judges aforesaid were thus read, as tending to prove the malice and sheer ignorance of each of those officials in opposing the candidacy of said James M. Douglas as aforesaid which motivated aforesaid attack against complainant, and failure to arrest anyone:

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(42-H) The doctor at General Hospital, on August 2nd, 1938, who asked complainant, before he inserted two stitches in complainant's wounded and bleeding ear: "What's the matter? Didn't you vote right?", should be rebuked by the Board for his unethical, unprofessional, and unconstitutional questions, as tending to intimidate complainant into believing complainant might not receive any medical attention, or that he might not receive proper medical attention because complainant did not "vote right" in the opinion of that doctor and his political allies:(42-J)The Board should institute appropriate proceedings in the Circuit Court of Jackson County, Missouri, at Kansas City, against the General Hospital of Kansas City and Director of Health of Kansas City, Missouri, in order to require them to change their pretended rule at said hospital which denies to any attorney for any patient or former patient, as well as denies to any patient or any former patient, the right to examine the hospital records in his own case, without first going to said Director of Health of Kansas City, Missouri, and without first telling that Director of Health of Kansas City, Missouri, the reasons for said request to see such records, on the ground that said rule is against public policy, and especially so in a political case such as this complainant's case:

(42-K) The Board should institute appropriate proceedings in the Circuit Court of Jackson County, Missouri, at Kansas City, against said General Hospital and said Director of Health of Kansas City, Missouri, in order to require that hospital to keep a record of the true nature of each case, and especially of all reports of injuries caused by such political attacks as that made on this complainant, and that immediately on such reports being made, requests should be made to have the accusers swear out warrants for the arrests of those accused, and that reports of such attacks be made promptly to every law enforcement body with appropriate jurisdiction, and also that reports be made to the various newspapers of Kansas City, Missouri, as prompt and wide publicity is the

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surest guarantee that the guilty persons will be arrested, and prosecuted, and tried, and convicted, and sentenced, and that they will serve their sentences, and that will tend to act as preventives against future such outrages:

(42-L) The Board shall cause to be instituted appropriate criminal proceedings against all allegedly guilty persons in the matters in issue herein:

(42-M) The Board shall use its power and influence to recommend and see to it that the criminal proceedings that should be instituted against the allegedly guilty persons, shall

be prosecuted by a special and/or special prosecuting attorneys, in the Circuit Court of Jackson County, Missouri, on the grounds that the present prosecuting attorney, and his assistants, in said county, are each members of the faction of the Democratic Party which strenuously opposed the nomination of aforesaid James M. Douglas, and hence each of them is personally interested in the matters in issue herein, and hence each of them is disqualified from conducting such prosecutions:

(42-N) The Board should recommend that each of the present circuit judges in Jackson County, be disqualified from sitting in any prosecution arising from this complaint, on the grounds that all of them but Judge Cleary, were elevated to their seats on that Bench with the support of that faction of the Democratic Party which opposed the nomination aforesaid of James M. Douglas, while said Judge Cleary was appointed by the present governor of Missouri, which governor strongly supported the said nomination of said James M. Douglas, and, therefore, each of the circuit Judges for the 16th Judicial circuit of the State of Missouri, has a personal interest in such prosecutions, and hence, each circuit judge of the 16th judicial circuit, is disqualified from sitting in such prosecutions: the Board should recommend that an impartial Judge be selected to preside over such prosecutions:

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(42-W) The Board should severely reprimand the members of the Democratic County Committee of Jackson County, for their false and misleading, as well as threatening advertisement, in THE KANSAS CITY STAR, August 1st, 1938, page 10, columns 4-8, inclusive: the Board should recommend that said members of said Democratic County Committee should be removed from their said offices, and that they should never again be permitted to hold any such offices of honor and trust within the jurisdiction of the Board: (42-X) The Board should request that state as well as federal prosecutions should be instituted against those allegedly guilty of the crimes alleged (in accord with complainant's supporting brief, presented herewith to the Board, and made part hereof, at this point, by reference: complainant, on the advice of his attorney herein, states that said supporting brief quotes the true laws applicable to this complaint, which allegation complainant makes on information and belief):

(42-Y) The Board should recommend and/or demand that "lie tests" on the "lie detector machine" (now owned by the Police Department of Kansas City, Missouri, by the use of funds of the taxpayers of Kansas City, Missouri), should be given to each of the officials, and officers, and witnesses described in this complaint as having alleged knowledge of certain facts relating to this complaint: (said "lie tests" should not be conducted by the police officers of said Police Department of Kansas City, Missouri, as their uses of said machine have been limited to petty crimes mainly, such as automobile tire thieves, but have never been used by them against the major crimes, such as "election frauds", and the "prostitution of the ballot", and the undermining of democracy by crimes against the administration of the laws: said police officers of said police department, are members of

the faction of the Democratic Party which opposed the nomination of aforesaid James M. Douglas, and hence each of those police officers has a personal interest, which disqualifies each of them from conducting such "lie tests": such "lie tests" should be conducted by any impartial expert, such as Professor Leonarde Keeler, of the Crime Detection Bureau of Northwestern University, Chicago, State of Illinois (which is where the police officers

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of the Kansas City Police Department received their instructions and training in the technical operation of such "lie tests": said Professor Keeler was considered expert enough by the Kansas City Bar Association, to come to Kansas City, Missouri, a few years ago, and give a lecture to that association's members, on such "lie tests": said Professor Keeler has an international reputation as an expert in that field:) such "lie tests" should be given by Professor Keeler, or by any other disinterested agency, such as the Federal Bureau of Investigation, of the Department of Justice, of the United States of America:

(42-Z) The Board should take such other actions, as to it may seem proper and just, under the circumstances of this complaint:

Respectfully submitted,

(signed) John S. Davis, Complainant

John S. Davis, Complainant

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THE UNITED STATES OF AMERICA)

STATE OF MISSOURI) SS.

COUNTY OF JACKSON)

John S. Davis, of lawful age, being duly sworn, on his oath, alleges and states, that he is the complainant in the foregoing complaint, and that affiant has read and signed aforesaid complaint, and affiant further states that the facts and matters therein stated, are true, to the best of his knowledge and belief:

(signed) John S. Davis

John S. Davis

The foregoing is duly sworn to, and duly subscribed, by aforesaid John S. Davis, who is personally known to me, before me, this 17th day of September, 1938: My commission expires April 15th, 1939

(signed) Neva L. Cloud

NOTARY PUBLIC WITHIN AND FOR JACKSON COUNTY, STATE OF MISSOURI,
THE UNITED STATES OF AMERICA.

Respectfully submitted,
Samuel W. Liske, Esq.
Attorney for John S. Davis, Complainant
1001 Broadway
Kansas City
State of Missouri
The United States of America
Victor 6984
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BEFORE THE BOARD OF ELECTION COMMISSIONERS OF KANSAS CITY,
MISSOURI.

IN THE MATTER OF THE VERIFIED COMPLAINT BY JOHN S. DAVIS, AGAINST
VIOLATIONS OF CERTAIN FEDERAL AND STATE LAWS DURING THE PRIMARY
ELECTION, AUGUST 2nd, 1938, IN KANSAS CITY, MISSOURI: NO.

COMPLAINANT'S BRIEF supporting
VERIFIED COMPLAINT AGAINST VIOLATIONS OF CERTAIN FEDERAL AND STATE
LAWS DURING THE PRIMARY ELECTION, AUGUST 2nd, 1938, IN KANSAS CITY,
MISSOURI:

TO: The Honorable Commissioners of the Board of Election Commissioners of Kansas
City (in Jackson County, State of Missouri):

I. STATEMENT OF FACTS:

Complainant, a life-long Republican, decided to vote the ballot of the Democratic Party in the Primary Election held August 2nd, 1938, partly motivated by the desire to vote for James M. Douglas for the position of candidate for judge of the Supreme Court of Missouri, Division No. 1, for the unexpired term thereof. Federal and state offices were in issue, and complainant voted for certain federal candidates on the Democratic ticket, as well as for certain state candidates. After leaving the voting place, and while fifty feet from the entrance to the voting place, on his way home after having voted as aforesaid, complainant was violently assaulted and battered by a group of about six men, who hit complainant with brass knucks and with a blackjack, knocking complainant senseless for about an hour, and making him black and blue on his head, arm and shoulders, and cutting open his right ear, which bled freely. He was thus knocked to the sidewalk, and picked up and thrown over a fence onto an empty lot.

One of his assailants was the inside challenger of the Democratic Party at the voting

place for the 4th Precinct for the 12th Ward, located at 1003 Cleveland Avenue. When complainant voted, that inside challenger had challenged complainant's ballot on the ground complainant was known to be a Republican: complainant had then been offered a blank affidavit swearing complainant would vote for the Democratic nominees in the General Election to be held in November, 1938, and complainant was required to sign such an affidavit before he was permitted to vote, and complainant did sign such an affidavit. Said inside challenger ran out of the polling place, after complainant voted, and to the point where complainant then stood, fifty feet from the polling place. Said inside challenger called complainant a rotten Republican who had no "right" to be "messing around" in a Democratic Primary. Complainant alleges on information and belief that the name of said inside challenger is "William Campbell" and that he was called "Johnny" inside that voting place, but complainant does not know his residence. Complainant does not know the names or addresses of the other five men who were in the group that attacked complainant. Said inside challenger and his allies opposed the candidacy of aforesaid James M. Douglas for aforesaid judgeship, and supported instead, the candidacy of James V. (Josh) Billings. The forecasters of that election predicted a close race between said Douglas and said Billings for said judgeship. The inside challenger and his allies attacked complainant, primarily because of complainant's switch from the Republican Party to the Democratic Party, in order to vote for aforesaid Douglas for said judgeship. The inside challenger and his allies were indifferent to the other state or federal offices.

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Complainant went to the polls that day, accompanied by his wife, daughter and son, each of whom intended to vote the Democratic Party ballot, partly in order to vote for said Douglas for said judgeship. Said inside challenger of the Democratic Party challenged each of them on the alleged ground each was a known Republican, and each of them were then required by the election judges, to sign affidavits obligating themselves to support the Democratic nominees in the General Election to be held in November, 1934, and each agreed to sign such affidavits. Complainant's wife and son then signed such affidavits, and each of them then voted the Democratic Party ballot and voted for said Douglas for said judgeship, and voted for other state and federal candidates. Complainant's daughter was told there were no such affidavits left, and it was suggested she vote the Republican Party ballot, but she refused so to do, and was then denied the right to vote at all, and so she did not vote at all, as she insisted on voting the Democratic Party ticket, which the election judges denied her the right to do.

When complainant was attacked, his son, daughter and wife were each standing near him. His son was also attacked by said group of six men, and his son received a "black" eye, and his eye and face were made black and blue by the bruises, and remained so for about one week thereafter. Complainant's son did not visit any doctor. Complainant's wife and daughter were not hit, but one of the men in that crowd had lifted

his fist to aim a blow at complainant's wife, which he was ordered not to do by another man in that group.

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Complainant, his wife, daughter and son carried no weapons, and gave no provocation for said attack, which was caused because of aforesaid switch from the Republican to the Democratic Party partly to vote for said Douglas for said judgeship.

The policeman assigned to duty at that polling place was not in sight before the attack. At this time the evidence is not definite whether that policeman then was inside xx a grocery store. After the attack, that policeman clearly ordered complainant, his wife, daughter and son away, and told them gruffly they had no right to be there anyway. That policeman did not arrest any of those who attacked complainant, and his son, and who threatened complainant's wife. A police squad-car of Kansas City, Missouri, drove up to that scene after the attack, but arrested noone. The Republican clerk in that polling place ran out to the scene, and said to the attackers: "These people did not do anything. Let them alone." The Democratic and Republican judges of election did not arrest anyone. Noone has been arrested for that attack, to the date of this brief. The policeman at that polling place who came up to the scene after the attack, in order to pick complainant up from the ground, was frightened off by that group of attackers.

On being shooed away by that policeman, complainant leaned on the arm of his wife for support, and in a dazed condition, walked to complainant's residence, some two short city streets or blocks distant from said polling place, with complainant's ear bleeding all the way, on that walk home.

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On August 2nd, 1938, complainant was driven to the General Hospital, 24th and Cherry streets, Kansas City, Missouri, in the automobile of complainant's son-in-law. At that hospital, a doctor cleansed complainant's ear, and then inserted two stitches in the lobe of that ear, and the ear was dressed. On August 4th, 1938, that ear was dressed by a doctor at the First-Aid Station of the WPA Project of the United States, at Swope Park, Kansas City, Missouri. On August 5th, 1938, that ear was dressed at the Alfred Benjamin Dispensary, Admiral Boulevard near Harrison Avenue, Kansas City, Missouri. On August 6th, 1938, that ear was dressed by a nurse from the Visiting Nurses Association of Kansas City, Missouri, Rialto Building, 906 Grand Avenue, Kansas City, Missouri. On August 8th, 1938, the ear was dressed by a nurse from the Visiting Nurses Association of Kansas City, Missouri, aforesaid. On August 9th, 1928, the ear was dressed at said Alfred Benjamin Dispensary, and the stitches were then removed by a doctor. On August 10th, 1938, the ear was dressed for the last time, by a nurse from said Visiting Nurses Association of Kansas City, Missouri. Each of those organizations is a charitable organization and charged no fee for said services. August 7th, 1938, was a Sunday, and the charitable organizations were closed that day.

Complainant works on the WPA project at said Swope Park, and has worked for the WPA from November, 1934, to the date of this brief. Complainant receives \$44.16 monthly pay for his said work. Out of that salary, complainant pays \$13.50 rent monthly, and also buys other necessities from his said pay, for his family. Complainant owes about seventy-five (\$75.00) dollars in debts to various merchants for sundry necessities purchased for his family.

Complainant is a citizen of the United States, born in 1882, in the State of Missouri, and has resided in Kansas City, Missouri, from 1926 to the date of this brief. In 1908, complainant duly married

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his wife in the State of Missouri: seven children were born of that marriage, all within the State of Missouri: all but one of those seven children reside at 1023 Myrtle Avenue, Kansas City, Missouri, with complainant and his wife.

On August 2nd, 1938, complainant, his wife, daughter and son were lawfully entitled to vote in the Primary Election held that day, and were lawfully entitled to vote at the time and place and in the manner in which they offered to vote.

II. POINTS OF LAW.

1. A CITIZEN WHO HAS VOTED IN A PRIMARY ELECTION, AND IS RETURNING TO HIS HOME, AND IS FIFTY FEET FROM THE POLLS, AND IS ASSAULTED AND BATTERED BY SOME SIX MEN, WITHOUT PROVOCATION, AND SOLELY BECAUSE HIS ATTACKERS RESENTED THAT CITIZEN SWITCHING FROM HIS LIFE-LONG REPUBLICAN AFFILIATIONS TO THE DEMOCRATIC PARTY IN ORDER TO VOTE FOR A CERTAIN CANDIDATE FOR THE SUPREME COURT OF MISSOURI WHO WAS OPPOSED BY THOSE ATTACKERS, HAS THE RIGHT TO CAUSE THE BOARD OF ELECTION COMMISSIONERS OF KANSAS CITY, MISSOURI, TO INSTITUTE A THOROUGH INVESTIGATION, AND TO CAUSE TO BE INSTITUTED, APPROPRIATE CRIMINAL AND OTHER PROCEEDINGS AGAINST THE GUILTY PARTIES.
2. A CITIZEN KNOWN TO BE A REPUBLICAN, WHO ASKS TO VOTE THE DEMOCRATIC PARTY BALLOT, BUT IS CHALLENGED, MAY NOT BE REQUIRED TO SIGN ANY AFFIDAVIT OBLIGATING HIMSELF OR HERSELF TO SUPPORT THE NOMINEES OF THE DEMOCRATIC PARTY IN THE FOLLOWING GENERAL ELECTION AFTER THE PRIMARY ELECTION AT WHICH HE OFFERED TO VOTE.
3. THE JUDGES OF ELECTION WHO DENIED A LADY THE RIGHT TO VOTE THE DEMOCRATIC PARTY BALLOT, IN A PRIMARY ELECTION, AFTER SHE WAS CHALLENGED ON THE GROUND SHE WAS A KNOWN REPUBLICAN, AND AFTER SHE AGREED TO SIGN AN AFFIDAVIT AGREEING TO SUPPORT THE

DEMOCRATIC NOMINEES IN THE FOLLOWING GENERAL ELECTION, ON THE GROUND THE JUDGES OF ELECTION HAD RUN OUT OF THEIR SUPPLY OF SUCH AFFIDAVIT BLANKS, VIOLATED THEIR OATHS AS ELECTION JUDGES.

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III. ARGUMENT (On all 3 Points):

IIIA—APPLICABLE STATE LAWS:

The major premise which should guide all discussion on the issues in any alleged violation of the election laws, is the Preamble to the Constitution of the State of Missouri, which preamble, enacts (underlineation by complainant herein):

"We, the people of Missouri, with profound reverence for the Supreme Ruler of the Universe, and grateful for His goodness, do, for the better government of the State, establish this Constitution."

Article II of that constitution is entitled: "BILL OF RIGHTS: Section 9 of the Bill of Rights, enacts:

"Elections must be free and open. —That all elections shall be free and open; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."

Section 32 of that Bill of Rights, enacts:

"Rights reserved.—The enumeration in this Constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people."

R.S. Mo. 1 29, Chapter 61 is entitled: "ELECTION LAWS".

Article II of said chapter 61, is entitled: "GENERAL PROVISIONS":

Section 10, 192 thereof, enacts:

"How elections shall be conducted.— The place of holding the elections shall be designated, and the judges and clerks of election appointed in such districts or for such election precincts, and the elections therein shall be conducted, in all respects, in the same manner as is hereinafter provided by law for the townships."

Chapter VII of R.S. Mo. 1929, is entitled: "BALLOTS, VOTING AND RETURNS":

Section 10, 322 thereof, enacts, in part, thusly:

"No officer of election shall disclose to any person the name of an candidate for whom any elector has voted. No officer of election shall do any electioneering on election day. No person whatever shall do any electioneering on election day within any polling place, or within one hundred feet of any polling place..Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor."

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R.S. Mo. 1929, Chapter 61, has an Article XVII, which ART. XVII is entitled:

"REGISTRATION AND ELECTION IN CITIES HAVING ONE HUNDRED THOUSAND

INHABITANTS OR OVER."

Section 10,613 thereof, provides, in part, thusly:

"Challengers--how selected--their rights and duties.—

"...The chairman of the managing committee of each political party for such city may remove any challenger appointed by him, and substitute another in his place...Each political party shall also have the right to a challenger placed conveniently outside of the polling booth, but not in the way of the voters...."

Before the Primary Election of August 2nd, 1938, the present Board of Election Commissioners of Kansas City, Missouri, ordered to be printed, a certain sixteen (16) page pamphlet, which it distributed to each judge and clerk of election, before the election: the front cover of that pamphlet read:

"Each Judge and Clerk Read Carefully, and Take with You to the the Polling Office

SYNOPSIS of the ELECTION LAWS

with Instructions to Judges

and Clerks for

PRIMARY ELECTION

August 2, 1938

Issued by

BOARD OF ELECTION COMMISSIONERS

Phone, Vctor 0770

Ground Floor, Court House Kansas City, Missouri

Form 52—8-2—8M"

On the bottom of pages 2-16, inclusive, in that pamphlet, was printed, in large type, the following:

"READ THE LAW. KNOW THE LAW. GUESS AT NOTHING."

Page 2 of that pamphlet, read in part, thusly:

"The judges are instructed to be on band at their polling places at 5:30 o'clock A.M. sharp on the morning of August 2, 1938. At that time one of their number should read out loud, so that the other five election officials may hear, the following paragraphs in these instructions:

"..... "Roll Call", page 4;....Secrecy of ballot, "page 5; "COUNTING THE BALLOTS," page 11; "No Electioneering Within 100 Feet of Polls", page 15;" Some Things Which Must Be Done", page 16...

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Page 2 of that pamphlet continued:

"CARDS OF "INSTRUCTIONS TO VOTERS"

"The Judges must post...one of these cards ONE HUNDRED FEET AWAY on each side of the polling place, in public view.

"If any question arises as to the meaning of these instructions, call the Election Commissioner's office—Victor 0770."

Page 3: "RULES AND REGULATIONS FOR ELECTIONS

"READ THE LAW

"The Judges and Clerks are urged to read carefully the Election Laws, Unless they do so and familiarize themselves with all the requirements, they run risk of fine and imprisonment."

Page 4: "ELECTION OFFICIALS

"The Judges and Clerks, in all cases, must follow the law and instructions given by the Board of Election Commissioners, and must not take instructions from any other person, any precinct captain or or any political committee.

"JUDGES OF ELECTION

"The judges of Election have and shall exercise the right of conducting and superintending the election according to law in the election booths, and no officer, policeman or other person shall direct or otherwise interfere with the voters.

"ROLL CALL

"..The Judges should have all challengers and watchers subscribe to the oath attached to the authority of each and return the oaths in the envelope marked "Oaths, Affidavits, etc." "

Page 5: "SECRECY OF BALLOT

"It is an offense punishable by imprisonment in the state penitentiary for any officer of the election, either at the election or at any other time, to undertake to ascertain or disclose, or to permit any other person to ascertain how any person shall have voted and any violation of the law in this respect will be prosecuted by the Board of Election Commissioners to the full extent of the law. The integrity, secrecy and sacredness of the ballot is the very foundation of our institutions and must be maintained. Responsibility for enforcement of secrecy of the ballot rests squarely upon the Judges of Election."

Page 6: "WHO ENTITLED TO VOTE

"Sec. 10269. No person shall be entitled to vote at any primary unless a qualified elector of the precinct and duly registered therein, and known to affiliate with the political party named at the head of the ticket he calls for, and attempts to vote, or obligates himself to support the nominees of said party at the following general election. Page 67, Election Laws.

"Sec. 10271—It shall be the duty of the challenger to challenge and the duty of the judges of election to reject the ballot of any person attempting to vote other than the ticket of the party with which he is known to be affiliated, unless such person, when challenged, obligates himself, by oath or affirmation, administered by one of the judges, to support the party nominees of the ticket he is voting in the following general election.

All judges of the election shall have authority and are empowered to administer such oath, or affirmation, and any person offering to vote who shall fail or refuse to take or make such oath or affirmation when demanded by such challenger, or be required by any judge, shall not be allowed to vote at such primary election. Page 67, Election Laws."

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Page 8 of said pamphlet provided:

"CHALLENGED VOTERS

"A challenge is an objection made to the person's right to vote." (Page 9): "If any person registered shall be challenged as disqualified, the person challenging shall assign his reasons therefor, and thereupon one of said Judges shall administer to the party challenged an oath to answer questions; and if he or she shall take said oath, he or she shall then be questioned by said Judge or Judges or challenger touching such cause of challenge, and touching his or her qualifications and identity. But if a majority of the Judges, that is, three or more, are of the opinion that he or she is the person so registered and a qualified voter, his or her vote shall then be received accordingly, When two or more Judges believe a challenge well taken the challenge is sustained. A voter whose vote is thus rejected by the Judges may afterwards produce and deliver to such Judges affidavit of challenged voter in form provided, subscribed and sworn to by him or her before one of said Judges, also supported by affidavit of a registered voter who is a householder residing in such precinct; such affidavit to be in form provided; which shall be subscribed and sworn to in the same way; whereupon the vote of such person shall be received and entered as other votes and deposited in the ballot-box. But such Clerks and Judges having charge of such registers shall state in their respective reports the facts in such case, and the affidavits so delivered to said Judges shall be preserved and returned to the office of the Board of Election Commissioners.

"Section 45, Page 297, Election Laws.

"A court order registration is subject to challenge in the same way any other registration is,

"No voter against whom a challenge has been sustained shall be issued a ballot until an affidavit of Householder is provided.

"All challenged votes supported by an affidavit of Householder must be deposited in the ballot-box.

"HOUSEHOLDER

"The word Householder, as used herein, shall mean the chief or head of a family, who resides with the family as a family, and who supports and provides for such family as an independent family.

"Section 45A, Page 298, Election Laws,

"CHALLENGERS

"Properly designated and authorized challengers are permitted within the Polling

Places and are stationed where they can hear and see the voters and ballot boxes, and such challengers may not electioneer nor perform any other duty than that of challenger..."

(Page 10): "...The law authorizes challengers, one for each party, to be stationed conveniently outside of the voting place and to be appointed in like manner as the inside challenger..."

"Section 47, Page 289, Election Laws."

Page 10: "PENALTY FOR EXCLUDING AND DELAYING VOTE

"Any Judge or Clerk of Election who shall wilfully exclude or cause any unnecessary delay in receiving the ballot of any voter, or in entering the name of such voter upon the Poll-Book, or who shall refuse to receive such ballot, as required by"(Page 11): "law, shall be deemed guilty of a misdemeanor and will be punished to the full extent of the law..."

"COUNTING THE BALLOTS

"...

"In this election Federal candidates are chosen. False certification or other fraud is a violation of Federal Law."

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Page 14 of said pamphlet read, in part, thusly:

"GIVE SPECIAL ATTENTION

"The Judges and Clerks can, by inattention to their duties, or ignorance of the law, deprive persons of their just rights as voters at the polls, and thereby also permit illegal voting. The Election Commissioners have given this synopsis of the law to every Judge and Clerk of Election, so there can be no excuse for any mistakes, which cannot occur except through gross negligence or an utter disregard of the duties imposed by the law on such Judges and Clerks..."

Page 14: "CARE OF POLLING PLACE" (Page 15): "May we ask that you do your utmost to have the premises properly cared for, avoid profanity, drinking, excessive use of telephones, and anything else which would render our use of the property undesirable to the owner?"

"JUDGES AND CLERKS

"Any Judge or Clerk, challenger or other person, who shall, within any polling place, electioneer for or against any candidate shall be deemed guilty of a misdemeanor and subject to both fine and imprisonment. You are expected to observe this provision of the law to the letter....

"Section 82, Page 319, Election Laws.

"NO ELECTIONEERING WITHIN 100 FEET OF POLLS

"No person shall electioneer within a polling place or obstruct, hinder or delay the election or interfere with the free ingress, or egress of the voters to the polling places by electioneering or loitering within one hundred feet of the polls, and the Judges of Election

are instructed to see that this rule is enforced.

"As soon as convenient the Clerks should step off one hundred feet each way from the door of the polling place and there mark, with chalk provided, this place on the side-walk. No electioneering is allowed within one hundred feet of the polling place.

"Section 10332, Page 89, Election Laws.

"POLICE.....They shall, through the progress of the election, obey the orders of the Judges, who are, by virtue of their office, preservers of the peace, and may cause a rests.

"No warrant of arrest is necessary, and an officer making an arrest by direction of the Judges shall be protected in making such arrest.

"Section 48, Page 500, Election Laws."

Page 16: "SOME THINGS WHICH MUST NOT BE DONE

"9th. Do not go to the polls on the morning of the election without having read over and over again these instructions....

"Respectfully,

J. E. WOODMANSEE, Chairman,

LEWIS ELLIS, Secretary,

EDGAR SHOOK,

BRUCE FORRESTER,

Board of Election Commissioners."

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Page 6 of aforesaid pamphlet sets forth "Sec. 10271" from :Page 67, Election Laws". As a matter of fact section 10271, R.S. Mo. 1929, is set forth on pages 67 and 68 of the ELECTION LAWS OF THE STATE OF MISSOURI-REVISED FOR 1927-28 (Dwight H. Brown, Secretary of State). That Section 10,271, is part of Article V of Chapter 61 of R.S., Mo. 1929: said Chapter 61 is entitled: "ELECTION LAWS": said Article V is entitled: "PRIMARY ELECTIONS". Aforesaid "Sec. 10271....Page 67, Election Laws", as printed on page 6 of said pamphlet of the Board of Election Commissioners of Kansas City, appeared in a paid advertisement over the name of the "Democratic County Committee", under the following title:

"WARNING!

TO REPUBLICANS

WHO ENTITLED TO VOTE"

That advertisement appeared in THE KANSAS CITY STAR, August 1st, 1938, page 10, columns 4-8, inclusive. AFORESAID SECTION #10,271, CLEARLY WAS AND IS UNCONSTITUTIONAL, according to the Supreme Court of Missouri, In Banc, in the year 1914, in the case of STATE ex rel DUNN vs, COBURN, 260 Mo. 177, at 205:

"Another provision of our primary law ordains that the judges at a primary election may determine to what political party voters belong, and, in cases of doubt, may swear the person offering to vote to support the nominees of the party whose ticket

he desires to vote in the primary. (Sec. 5873, R.S. 1909)

"I cannot bring myself to believe that the legislator who penned the last-mentioned section of our primary election law had ever read our Constitution. It is certainly more probably that he had been reading"(Page 206): "some oath of allegiance, than that he had read and digested the command of our Constitution requiring all elections to be free and open. Just think of swearing a voter to support the nominees of a party at a time when he does not know who such nominees will be! The voter having a right to change his mind at any time before his ballot is cast at the general election, this law requiring him to take an oath to support the nominees of a party is not only unconstitutional, but amounts to a rape upon the personal rights of the person thus sworn. Consider the folly of pretending to authorize a judge of election to search the conscience of a free elector and determine what kind of a ticket he ought to vote. We have recently witnessed the spectacle of four million voters of this republic changing their political allegiance in ninety days. Outside the Almighty, who possesses sufficient wisdom to say on what day each of those four million electors changed their minds, or on what day they, or others, will not change their political allegiance? In my humble opinion section 5873, Revised Statutes 1909, is not only in conflict with the Constitution, but is a malevolent attempt to

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"drive free American citizens along certain narrow partisan channels like cattle in a lane, without according them an opportunity to think and choose for themselves."

The foregoing opinion by Justice Brown, of the Supreme Court of Missouri, was irrefutable in 1914, when primary elections were first getting a foothold in our political system. Events since then have added to the weight of the reasoning and opinion of Justice Brown. The SYNOPSIS OF THE ELECTION LAWS for the PRIMARY ELECTION AUGUST 2, 1938, issued under the names of the four honorable commissioners of the Board of Election Commissioners of Kansas City, Missouri, in citing section 10,271, R.S., Mo. 1929, thus erroneously instructed the judges and clerks of election as to the true law applicable thereto. If the Board had any doubts as to the legal status of said Section 10,271, R.S., Mo. 1929, then, it is respectfully submitted, the duty of the Board required it to institute proper legal proceedings to obtain an interpretation thereof by the courts: Missouri has a DECLARATORY JUDGMENT ACT, and the very purpose of that Act is to obtain rulings of the courts interpreting doubtful statutes. In the opinion of this complainant's counsel herein, Sec.10,271, R.S., Mo.1929, was and is clearly unconstitutional, under the reasoning of Justice Brown, of the Supreme Court of Missouri, in aforesaid case. The erroneous instruction by the Board, on aforesaid point, does not excuse the judges and clerks of election, nor the challengers, nor the Democratic County Committee, from their attempts to rely on that statute, as ignorance of the law excuses noone, and particularly so, such officials. At most, the erroneous instruction of the Board on this point, may be cited only in mitigation

of the penalties to be inflicted on the judges and clerks of election, and on the Democratic inside challenger, at the polls at 1003 Cleveland Avenue, for their actions in challenging complainant, his wife, daughter and son. The Democratic County Committee of Jackson County, is

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clearly liable for its false and misleading, as well as threatening advertisement in THE KANSAS CITY STAR, the day before the Primary At most, that Democratic County Committee may cite the erroneous instruction aforesaid by the Board of Election Commissioners, only in mitigation of the degree of punishment to which the members of that Democratic County Committee are liable. That advertisement of the Democratic County Committee in the newspaper in Kansas City with the largest circulation, on the very evening of the Primary Election, clearly had the effect of frightening great numbers of the registered members of the Republican Party (who might have voted the Democratic Party ballot—in order to vote for the candidacy of James M. Douglas for the unexpired term of judge of Division No. 1 of the Supreme Court of Missouri on the Democratic Party ticket) so that said Judge Douglas thus was deprived of many votes he would have received within the jurisdiction of the Board of Election Commissioners of Kansas City, Missouri, but for that fraudulent, false, misleading and threatening advertisement of the Democratic County Committee in the newspaper in Kansas City which was the strongest supporter of the candidacy of said Judge Douglas. Complainant contends that said advertisement clearly was a violation of the criminal laws of the State of Missouri. Cf. R.S. Mo. 1929, Chapter 30, which is entitled: "CRIMES AND PUNISHMENTS": Article 8 thereof is entitled:

"MISCELLANEOUS OFFENSES": cf. section 4, 308 thereof:

"PUBLICATION, DISSEMINATION OR CIRCULATION OF UNTRUE, MISLEADING OR DECEPTIVE ADVERTISEMENTS-MISDEMEANOR-PENALTY. Any person..or association who, with intent to..in anywise dispose of..service, or anything offered by such person...or association, directly or indirectly...or to induce the public in any manner to enter into any obligation relating thereto, or to acquire...an interest therein, makes, publishes, disseminates circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper... an advertisement of any sort regarding..service, or anything so offered to public, which advertisement contains an assertion, representation or statement of fact which is untrue, deceptive or misleading, shall be guilty of a misdemeanor, and shall upon conviction thereof be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county Jail not

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"less than ten days nor more than ninety days, or by both such fine and imprisonment; providing that nothing herein shall apply to any proprietor or publisher of any newspaper or magazine who publishes, disseminates or circulates any such advertisement without the knowledge of the unlawful or untruthful nature of such advertisement."

See *State vs. Carruthers* (Mo.) 21 S.W. (2d) 895.

Sec.4, 273, R.S. Mo. 1929, enacts;

"Penalty for circulating obscene matter. Every person who shall manufacture, print, publish, buy, sell, offer for sale or advertise for sale, or have in his possession, with intent to sell or circulate, or shall give away, distribute or circulate any obscene, lewd, licentious, indencent or lascivious...paper...article or other publication of indecent, immoral or scandalous character, or shall write, print or publish, sell or circulate, any... advertisement or notice of any kind giving information,directly or indirectly, when, where, how, of whom or by what means any of the things hereinbefore mentioned can be had or obtained, and whoever shall print or publish in any newspaper any vulgar, scandalous, obscene or immoral pleadings or evidence in any case or proceeding before any court or tribunal whatever, shall, on conviction thereof, be fined not more than one thousand dollars nor less than fifty dollars, or be imprisoned not more than one year in the county jail, or both; but nothing in this section shall be construed ao as to affect teaching in regular medical colleges, or public standard medical books, or reports of medical societies, or the regular practitioners of medicine, or druggists in their legitimate business."

R.S., Mo. 1929, section 4, 274 is entitled:

"Id. Carrying or placing same in postoffce,-penalty."

(There is no letter "i" in the next to last word of that title, so that what is intended as "postoffice" is printed as "postoffce"— a misprint that permits an argument against the constitutionality of that section, based on that grammatical error in printing.)

R.S.Mo.1929, section 4,266 enacts:

"Publishing obscene newspaper, magazine, etc.—penalty. Every person or persons who shall, within this state, engage in the business of editing, publishing or disseminating any newspaper...devoted mainly to the publication of...intrigues between men and women, and immoral conduct of persons, or any person or persons who shall knowingly have in his or her possession for sale, or shall keep for sale, or expose for sale, or distribute, or in any way assist in the sale, or shall gratuitously give distribute or give away, any such newspaper..in this state, shall be deemed guilty of a felony, and on conviction thereof, shall be punished by imprisonment in the penitentiary for a term of not less than two nor more than five years."

Section 4268, R.S.No.1929, is entitled; "Sale of certain books and papers to minors prohibited." This section denounces the same crime as that denounced in section 4,266,R.S., Mo. 1929, but sec.4, 268 makes such offense a misdemeanor;

Cf. State vs. Van Wye, 136 Mo.227, 37 S.W. 938.

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Assuming that sections 4,308 and 4,273 and 4, 274 and 4,266 of R.S., Mo.1929, are held by the courts, not to apply to the newspaper advertisement in issue herein, then complainant contends said advertisement comes within the general crime denounced as a public nuisance, and also within the general powers of the courts to maintain the purity of the courts, since the very judges of those courts, and the clerks of those courts, ran for offices in this Primary Election, and such courts have a general superintending power over all inferior tribunals. See Mo.Con.: Preamble:Art.II, secs, 1-5,9, 10, 13-15, 29-32: Art.III:Art.IV,sec.53:Art.VI, secs.1, 22, 23: Art,VII, secs.1-4.

If It be ruled that there is no law at all against such a fraudulent, false, misleading and threatening advertisement which thus practically disenfranchises many voters (which this complainant does not grant, but now merely assumes for the sake of this argument on this point), then it is the duty of the Board of Election Commissioners of Kansas City, Missouri, to report to the governor of the State of Missouri, that such is the state of the law, and that said law should be amended, and said Board should recommend that the Legislature of the State of Missouri enact the proper legislation, and that the governor, as the chief executive of the state, report on said inadequacy of the laws, in his annual message, and in using the prestige and power of his highest state office, to obtain the needed amendments as soon as possible. Cf.Mo.Con.,Art. V, Section 9:

"The Governor shall, from time to time, give to the General Assembly information relative to the state of the government, and shall recommend to its consideration such measures as he shall deem necessary and expedient. On extraordinary occasions he may convene the General Assembly by proclamation, wherein he shall state specifically each matter concerning which the action of that body is deemed necessary."

The failure of the Board of Election Commissioners to Institute appropriate proceedings to determine the validity or invalidity of Section 10,271,R.S.,Mo.1929, before the Primary Election, and

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before the Board printed its SYNOPSIS OF THE ELECTIONS LAWS, was caused, probably, by erroneous advice from counsel as to the state of the law on that point in issue. In view of the large extent to which the Bar of Kansas City, Missouri, has advised the electors of Kansas City, Missouri, that the electors have no legal redress for the prevention or punishment of violations of the election laws, and in view of the failure of our organized means of communication to advise the electors as to their true powers, and in view of the fact that this complainant's attorney is of the opinion that the electors have adequate laws already on the books to protect the electors in their every grievance, this complainant's attorney has gone to the bother and trouble of doing a bit of research

on the laws that may be found by anyone who cares to go to similar trouble and expense, in order to answer in irrefutable manner, each argument urged against any investigation or prosecution of violations of the election laws. If it be held that the advertisement of August 1st, 1938, is not punishable by law, then the electors of Kansas City are helpless against the future occurrences of fraudulent, false, misleading and threatening newspaper advertisements, on the eve of every election: since our electors depend to the largest degree, for their sources of information, upon the newspapers of the city, that would mean that our news may be poisoned by anyone with sufficient money to pay for any fraudulent, false, misleading and threatening advertisement against any group of electors such advertisement may be aimed at: in effect, that permits parasitic money groups to exploit innocent groups of electors who don't have a chance to learn the truth: to permit such advertisements as that of August 1st, 1938, without punishment, is to make mockery out of our election laws, and out of our democracy and Christianity: complainant respectfully contends such a hypocritical interpretation is not the law, but if it is, then it is

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the duty of the Board of Election Commissioners of Kansas City to admit its helplessness against such outrageous sterilising of our election laws, and to request the governor of the state to convene a special session of the state legislature to enact whatever laws may be needed to guarantee that elections may be held in Kansas City without the electors of the city being misled by fraudulent, false, misleading and threatening newspaper advertisements and that any such advertisers and such newspapers, will be promptly and adequately punished to the full extent of laws that are adequate.

The foregoing laws are adequate provisions expressly enacting that the limits of the polling place extend one hundred feet on either side of the polls, and that, within those limits, the judges of election are conservators of the peace, who have adequate legal powers to cause the immediate arrests of all persons who commit breaches of the peace, and that such arrests may be made without a warrant. The city policeman assigned to such polling place may also make such arrests, and such is his duty. The attorney for the Board of Election Commissioners of Kansas City is of the opinion the said city policeman is only an agent of the city, not controllable by the Board. Complainant's attorney respectfully dissents from such an interpretation of the laws. This brief supports the view that said city policeman, while he was deputised by the city of Kansas City, to guard that polling place on August 2nd, 1938, and was paid for his said services, still the fact that federal, and state, and county, and township, and city offices and candidates were being voted for at that Primary Election, made that policeman the agent and policeman acting on guard at that time and place, for the United States of America, and for the State of Missouri, and for the county of Jackson, and for the township of Kaw, and for the city of Kansas City. He was the only police officer assigned to guard that voting place that day, and the statutes of Missouri expressly ordered

that policeman to obey the orders of the election judges and to make immediate arrests on the orders of the election judges, without any warrant, and without any question, and the statutes went to the extent of protecting that police officer from any suits for false arrest or false imprisonment for his thus making arrests without warrants. It is the duty of the United States of America, and of the State of Missouri, and of Jackson County, and of Kaw Township, and of Kansas City, to provide adequate police protection at the Primary Elections in which candidates for offices of those governments, are contending for nomination: to deny this existence of this duty, is to say that said governments silently acquiesce in the widespread use of force and intimidation that has been prevalent at every primary, general and special election ever held in Kansas City, by which the armed ruffians deliberately hired for such purposes by the organizations of certain political parties, thus willfully and maliciously intimidate as many electors as they can to vote as they order, or to stay away from the polls altogether. The attorney for the Board of Election Commissioners of Kansas City is of the opinion that the Board has no jurisdiction over any assaults that take place on electors outside of the polling place: complainant's attorney respectfully differs from that opinion. If the Board has no jurisdiction over assaults outside the polling places, then the law authorises, by silent acquiescence, that gangs of cutthroats may congregate one foot outside the entrance to said polling place, and threaten the lives of those who enter to vote unless they vote as ordered by such mercenary prostituted puppets, and to beat up, or perhaps even murder, those voters who vote against such orders, and then come out of those polls to a heating of within an inch of their lives, or perhaps of their lives, all within plain sight of the election judges and clerks, and of the policeman assigned to guard that polling place, because

our election laws have been interpreted so as to relieve our election officials of all duties affecting the electorate, except that of collecting their salaries for sitting like ignorant and cowardly puppets at the polls on election day! Yet, such has been the brazen interpretation of our election laws! Such an interpretation hardly would be sustained under the cold light of day. No government on the face of the earth, deserves the name of "government", if it is as emasculated s that. The very least any government can do, is to guarantee that in any election, voters will not be assaulted nor intimidated within one hundred feet of the polling place, and such is the law today: within those territorial limits, it is the bounden duty of the election judges to cause the immediate arrests, without warrants, of any person or persons who commit any breach of the peace, or assault, or intimidation. Despite the outrages committed in the complaint of this complainant, not a single arrest was made by anyone. The election judges knew what happened. The election clerks knew it. The Democratic Party inside challenger ran outside and was one

of those guilty of the crimes committed. The policeman assigned to that polling place made no arrests, and even ordered complainant, his wife, daughter and son, away, on the grounds they had no right even to be there, in the opinion of that arm of the law. The squad car of the Kansas City Police Department came to the scene of the assault, immediately after the assault, but made no arrests. The city policeman assigned to that polling place, and the two police officers in that squad car, did not even make a report to the Police Department of Kansas City, of the assault. Noone telephoned the office of the Board of Election Commissioners, to report said assault, or to inquire as to what they should do. The attackers had been permitted to congregate in front of the polling place (except the inside challenger—who was inside the polling place until he led the attack), in violation of the laws,

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and, after the attack, those attackers brazenly walked back in front of the polling place, and stood there, and conversed with the police officer assigned to guard that polling place, and the squad car officers, A short while later, complainant had to have two stitches inserted in his ear, at General Hospital, but that was not done until the hospital doctor brazenly and unethically asked complainant:

“What’s the matter? Didn’t you vote right?”

That hospital has cleverly omitted to record the manner in which complainant received the injury that necessitated those two stitches. That hospital’s authorities failed to call a policeman or other law administration official to swear out warrants for the arrests of those guilty of those crimes, as far as the records now show. The only element necessary to fulfill a complete 100% non-political conspiracy of murderers, blackguards, thieves, traitors, ignoramuses and cowards that honeycomb our democratic and Christian Kansas City is a non-political report of the Coroner of Jackson County offering a non-political burial to complainant! If this Board of Election Commissioners of Kansas City, Missouri, lacks jurisdiction to entertain this complaint, under the brutal facts hereof, then complainant suggests humbly that the words "democracy" and "Christianity" deserve to be blotted out of our laws. Complainant respectfully contends this Board has ample jurisdiction hereof.

The attacks named in the complaint clearly violate a number of prohibitions in our criminal laws, Cf, R.S. Mo. 1929; Section 4,013:

"Mayhem...on purpose and of malice aforethought, cut..the ear...or disable any limb or member of any person, with intent to...maim or disfigure such person penitentiary for a term not exceeding twenty five years."

Sec.4.014: "Assault with intent to kill....assault or beat another with a deadly weapon, or by any other means or force likely to produce death or great bodily harm, with intent to..malm...or in resisting the execution of legal process....shall be punished by imprisonment in the pentientary not less than two years."

Sec.4,015? "Punishment for assault....assault with intent to kill, or to do great bodily harm, or other felony, the punishment for which assault is not hereinbefore prescribed...imprisonment in the penitentiary not exceeding five years, or in the county jail not less than six months, or by a fine of not less than \$100 and imprisonment in the county jail not less than three months, or by a fine of not less than \$100."

Sec. 4,016: "Maiming by procurement of another...by culpable negligence of another, in cases and under circumstances which would constitute murder or manslaughter if death had ensued...imprisonment in the penitentiary..."

Sec.4,017: "Common assault."

Article 7 of R.S. Mo. 1929, is entitled: "OFFENSES AGAINST PUBLIC ORDER AND PEACE" cf. thereunder, secs. 4,220, 4,221, and 4,222:

Sec-4,220: "Affray. If two or more persons shall, in any public place, voluntarily or by agreement engage in any fight, or use any blows or violence toward each other, in any angry or quarrelsome manner, or do each other any wilful mischief, or if any person shall assault another and strike him, in any public place, to the terror or disturbance of others, the person or person so offending shall be deemed guilty of an affray, and, on conviction, shall be punished as for a misdemeanor."

Sec. 4,221: "Unlawful assembly. If three or more persons shall assemble together with the intent, or being assemble shall agree mutually to assist one another, to do any unlawful act, with force or violence, against the person or property of another, or against the peace of to the terror of the people, such persons so assembling, and each of them, shall be deemed guilty of an unlawful assembly, and on conviction thereof shall be punished as for a misdemeanor."

Sec. 4,222: "Riots. If three or more persons, being assembled as mentioned in the last preceding section, shall proceed to carry out their purposes, or do any unlawful act in furtherance of said purposes, in a violent, unlawful or tumultuous manner, to the terror or disturbance of peaceful citizens, every person so offending, or who shall aid or assist in doing any unlawful act, shall be deemed guilty of a riot, and being convicted thereof, shall be punished as for a misdemeanor: Provided, that nothing in this section contained shall be construed to exempt any person offending against its provisions for any higher or heavier punishments annexed by law to any felony which may be committed by such rioters."

R.S.Mo.1929, Chapter 30, Article III is entitled: "OFFENSES BY PERSONS IN OFFICE, OR AFFECTING PUBLIC TRUSTS AND RIGHTS AND CONCERNING ELECTIONS".

Sec.3,957 thereof enacts:

"Intimidating voters. -If any person, by menaces, threats or force, or by any other unlawful means, either directly or indirectly, attempt to influence any qualified voter in giving his vote, or to deter him from giving the same, or disturb or hinder him in the free exercise of his right of suffrage, at any election held under the Constitution or laws of this state, the person so offending shall, on conviction thereof, be adjudged guilty of a misdemeanor."

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Chapter 61 of R.S. Mo. 1929 is entitled: "ELECTION LAWS": Article XIV thereof is entitled: "CORRUPT PRACTISES":Section 10476 thereof, enacts:

"Use of, or threat to make use of, violence etc., to compel or induce persons to vote—penalty.— Every person who shall directly or indirectly, by himself, or any other person on his behalf, make use of or threaten to make use of any force, violence or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person, in order to induce or compel such person to vote or refrain from voting at any election, or who shall, by abduction, duress, or any fraudulent device or contrivance, impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce or prevail upon any elector either to give or refrain from giving his vote at any election, shall be guilty of a misdemeanor, and upon conviction thereof shall he punished by imprisonment in the county jail not less than one month and not more than one year."

Article XVII of Chapter 61 of R.S., Mo. 1929, is entitled:

"REGISTRATION AID ELECTION IN CITIES HAVING ONE HUNDRED THOUSAND INHABITANTS OR OVER": Section 10,388 thereof, enacts, in part, thusly:

"Impersonation and other grimes. If, at any election hereafter held in any such city, any person...shall by force, threat, menace, intimidation,or otherwise unlawfully, either directly or indirectly, influence or attempt to Influence any elector In giving his vote; or prevent or hinder, or attempt to prevent or hinder, any qualified voter from freely exercising the right of suffrage; or, by any such means, induce or attempt to induce any such voter to exercise any such right; ...or, shall knowingly, wilfully or fraudulently interfere with, delay or hinder, in any manner, any judge of election, poll clerk or other officer of election in the discharge of his duties; or to refuse or neglect to comply with his duties, or to violate any law regulating the same,... or refuse to receive the vote of any person entitled to vote therein; or shall aid, counsel, advise, procure or assist any voter, Judge or other officer of election, or any person whomsoever, to do any act by law forbidden or in this article constituted an offense; every such person shall, upon conviction

thereof, be adjudged guilty of a felony, and shall be punished for each and every such offense by imprisonment in the penitentiary for not less than two nor more than five years."

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R.S. Mo. 1929, Chap. 61, Art. XVII, Section 10,632 enacts, in part:

"Punishment of judges.- Every judge of election who shall willfully exclude any vote duly tendered, knowing that the person offering the same is lawfully entitled to vote at such election;....shall, upon conviction thereof, be adjudged guilty of a felony, and shall be punished by imprisonment in the penitentiary for not less than two nor more than five years."

R.S. Mo.1929, Chap.61, Art. XVII, Section 10,641, enacts:

"Disobeying lawful commands of registration or election officer- penalty. — If, at any general registration of voters or revision thereof, or on any day of election, or during the canvass of the votes cast thereat, any person shall cause any breach of the peace, or be guilty of any disorderly conduct, violence or threats of violence, whereby any such registration, revision, election or canvass shall be impeded or hindered; or whereby the lawful proceedings of any judge of election, or board of registration, or poll clerk or other officer of such election, or challenger, or person designated to be present at the canvass of any ballot, as hereinbefore provided, is interfered with) every such person shall, upon conviction thereof be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county Jail for not less than thirty days nor more than one year, or by a fine of not less than two hundred and fifty dollars, nor more than one thousand dollars, or by both such fine and imprisonment."

R.S.Mo.1929, Chap.61, Art. XVII, Section 10,642, enacts:

"Interference with duties of officers, etc.--penalty.--

"If,...on any day of election...any person shall cause breach of the peace, or be guilty of any disorderly conduct, violence or threats of violence, thereby any such... election... shall be impeded or hindered; or whereby the lawful proceedings of any Judge of election, or board of registration, or poll clerk or other officer of such election, or challenger, or person designated to be present at the canvass of any ballot, as hereinbefore provided, is interfered with)every such person shall, upon conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in the county Jail for not less than thirty days nor more than one year, or by a fine of not less than two hundred and fifty dollars nor more than one thousand dollars, or by both such fine and imprisonment."

R.S.Mo. 1929, Chapter 30, Article IV is entitled: "OFFENSES AGAINST THE LIVES AND PERSONS OF INDIVIDUALS":Section 4,029 thereof enacts:

"Carrying concealed weapons.— If any person shall carry concealed upon or about his person, a dangerous or deadly weapon of any kind or description, or

shall go into any church or place where people have assembled for religious worship, or into any school room or place where people are assembled for educational, political, literary or social purposes, or to any election precinct, on any election day, or into any court room during the sitting of court, or into any other public assemblage of persons met for any lawful purpose other than for militia drill, or meetings called under militia law of this state, having upon or about his person, concealed or exposed, any kind of firearms, bowie knife, spring-back knife, razor, metal knucks, billy, sword cane, dirk, dagger, slung shot or other similar deadly weapons, or shall, in the presence of one or more persons, exhibit any such

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"weapon in a rude, angry or threatening manner, or shall have any such weapon in his possession when intoxicated, or, directly or indirectly, sell or deliver, loan or barter to any minor any such weapon, without the consent of the parent or guardian of such minor, he shall, upon conviction, be punished by imprisonment in the penitentiary not exceeding two years, or by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in the county jail not less than fifty days nor more than one year, or by both such fine and imprisonment: Provided, that nothing contained in this section shall apply to legally qualified sheriffs, police officers and other persons whose bona fide duty is to execute process, civil or criminal, make arrests, or aid in conserving the public peace nor to persons travelling in a continuous journey peaceably through this state."

The Kansas City Court of Appeals, in 1886, in the case of STATE OF MISSOURI vs. JAMES HALL, 20 Mo. A .397, at 402, said:

"The charge against the defendant is that of carrying concealed upon his person a certain deadly and dangerous weapon, to-wit, a pair of metal knucks." (Page 403): "In this case, therefore, the question whether the "brass knucks" in proof were or were not a deadly or dangerous weapon was a question of law for the court, and not a question of fact for the jury....

"The record contains no further description of the "knucks" in proof than that they were "a pair of brass knucks". In holding that "a pair of brass knucks" is a dangerous weapon within the meaning of our statute the court committed no error."

BELL vs. THE STATE (1889) 89 Ala.61 at 62, 8 So.133:

"The evidence tended to show that the weapon concealed by the defendant was one substantially resembling brass-knuckles, made of lead, and apparently constructed so as to be adapted to like use, and designed for unlawful ends.

"The carrying concealed of a barbarous weapon of this class, which is usually the weapon of an assassin, and an index of a murderous heart, is absolutely prohibited

by..the Criminal Code of this State. The law does not recognize it as a weapon of self-defence..

"The court did not err in ruling that this provision did not embrace brass-knuckles...Good reason to apprehend an attack is no justification or mitigation of the offense of carrying concealed about the person brass-knuckles..."

R.S.Mo. 1929, Chap.30, Art.II, sec.3979, enacts: "Breaches of the peace and disorderly conduct.— If, at any..day of election..any person shall cause any breach of the peace, or be guilty of any disorderly conduct, violence or threats of violence whereby any such..election..shall be impeded or hindered; or whereby the lawful proceedings of any judge of election, or..clerk,or other officer of such election, or challenger or persons designated to be present at the canvass of any ballot as herein provided, are interfered with; every such person shall, upon conviction, be adjudged, guilty of a misdemeanor, and punished by imprisonment not less than thirty days nor more than one year."

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R.S. Mo,1929, Chap. 30, Art.II, Section 3,980, enacts:

"Electioneering for candidates by certain officers prohibited.-

"It shall be unlawful for any Judge of election, clerk or person designated as a challenger under any laws of this state, or any person or persons within the polling place, to electioneer for any candidate, party or proposition. Any violation of this section shall be a misdemeanor, and shall be punished by imprisonment not less than ten days nor more than ninety days, or by a fine of not less than fifty dollars nor more than one hundred dollars."

The Missouri Constitution, Article VI is entitled: "JUDICIAL DEPARTMENT": Section SB thereof, enacts:

"Circuit judges, terms and duties.— The Judges of the circuit court shall be elected by the qualified voters of each circuit; shall hold office for the term of six years, and shall reside in and be conservators of the peace within their respective circuits."

R.S. Mo.1929, Chapter 61, Article XVII, Section 10,585 enacts:

"Judges to constitute precinct boards of registry to be peace officers.—The Judges of election shall constitute the board of registry in the precinct for which they shall be appointed; and they, subject to the superior authority of the election commissioners, shall have authority to keep the peace and to cause any person to be arrested for any breach of the peace or for any breach of the election laws or any interference with or obstruction of registration of voters on any day of registration or revision thereof, and it shall be the duty of all officers of the law present to obey the orders of such judges, except as they may conflict with or be qualified by the orders of the election

commissioners."

R.S., Mo. 1929, Chapter 61, Article XVII, Section 10,648, enacts:

"Offenses by police officers—penalty.-- If any police officer shall, at any election precinct, assault or drive away from the polls any duly qualified voter, or prevent, or attempt to prevent, any such lawful voter from exercising his elective franchise; or, shall disobey any lawful order of any election commissioner, deputy election commissioner or Judge of election; or shall intimidate, assault or interfere with any judge of election, clerk of election, challenger or watcher in the performance of his duties, or wilfully permit any other person to intimidate, assault or interfere with them or any of them; or, shall knowingly fail to arrest anyone attempting to vote the second time at such precinct, after having voted once thereat; he shall, upon conviction, be adjudged guilty of a felony and be punished by imprisonment in the penitentiary for not less than two nor more than five years. In addition thereto, the board of police commissioners of any city aforesaid, upon complaint being made to it that any officer has been guilty of any of the offenses aforesaid, shall cite said officer before the board for trial; said trial shall be public, upon oral testimony, and the board shall issue subpoenas for all witnesses required by said complainant and said defendant officer, and said board of police commissioners shall have power to compel the attendance of witnesses at said trial. If, upon such trial, said officer shall be found guilty of any of the offenses aforesaid, he shall be summarily dismissed from the force; and upon sworn complaint being made to said board of police commissioners that any officer has been guilty of any of the offenses aforesaid, said board shall at once

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"suspend said officer, and shall not reinstate him until after trial before said board and acquittal."

Mo. Con., Art. VIII, Sec. 3:

"All election officers shall be sworn or affirmed not to disclose how any voter shall have voted!..."

R.S. Mo. 1929, Chap.61, Art.II, Sec.10,200, enacts:

"All judges, clerics and voters shall be free from arrest, except for felony or breach of the peace, in going to, attending on and returning from election."

R.S.Mo. 1929, Chap.61, Art.II, Sec.10,202,enacts:

"Judges may punish for contempt.— The judges of the election shall preserve good order and punish any disorderly person for contempt by fine not exceeding twenty dollars, at their discretion, and commit the offender to the Jail of the county until the fine imposed be paid."

R.S. Mo. 1929, Chap,61, Art.XVII, Section 10,614, enacts, in part:

"Election commissioners, deputy election commissioners and Judges of election shall have authority to keep the peace, and to cause any person to be arrested for any breach of the peace or progress of..election...for any breach of election laws, or any interference with the progress of..election...and it shall be the duty of all officers of the law present to obey the order of such officials, and an officer making an arrest by the direction of the election commissioners, deputy election commissioners and Judges of election, shall be protected in making arrest."

R.S.Mo.1929, Chap,61, Art. XVII, Sec.10,567,enacts,in part, thusly:

"..Each commissioner before taking office shall take an oath of office before the circuit court having Jurisdiction in said city, or before a Judge thereof, which oath shall be in substance in the following form, viz.:

"I ___ do solemnly swear(or affirm) that...I will support the Constitution of the United States, and the state of Missouri, and the laws passed in pursuance thereof to the best of my ability, and will faithfully demean myself and honestly discharge the duties of the office of election commissioner for said city.

"....Said board of election commissioners shall make all necessary rules and regulations, not inconsistent with this article, with reference to the registration of voters and the conduct of elections; and shall have charge of and make provisions for all elections,...to be held in such city..at any time. The board... shall have full power and authority to direct Judges an clerks as to their duties in relation to registration and election, and the laws relating thereto and to compel compliance therewith; and "two of the commissioners of opposite political parties shall have the power on any day of...election, to remove any Judge or clerk who, in their opinion, is failing to perform his duty;..."

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R.S.Mo.1929, Chapter 61, Article IV, Section 10,236, enacts:

"The judges, clerks and tellers of any primary election held for the purpose of nominating candidates for election.... shall, before entering upon their duties, take and subscribe the oath prescribed by law for judges and clerks of election."

R.S. Mo.1929, Chap.61, Art,II, Section 10,210,enacts:

"The judges, before entering upon their duties, shall take the following oath:

" "I do solemnly swear that I will impartially discharge the duties of the present election according to law, to the best of my ability, and that I will not disclose how any voter shall have voted, unless I am required to do as as a witness in a proper judicial proceeding, so help me God"..."

R.S. Mo.1929, Chap.61, Art, XVII, Section 10,575, enacts, in part:

"After the commissioning of such judges and clerks, they shall again be notified to

appear at the office of said board of election commissioners, and shall then and there, after taking the oath of office before the board of election commissioners, or any member thereof, or some clerk of that office, who are hereby authorized to administer such oaths, receive their commissions, and the oath of office shall be in writing, and subscribed by each one, and shall begin substance as follows:

"I _____ do solemnly swear (or affirm).... that I will support the laws and Constitution of the United States, and of the state of Missouri, and that I will honestly discharge the duties of and faithfully demean myself in the office of judge or clerk of election...for the ___ precinct of the ward of ___ the city of ___ In the county of ___ in the state of Missouri, according to the best of my abilities....."

Article III of Chapter SO of Section 3,965 of R.S.Mo.1929, provides for the punishment for neglect of duty by a judge or clerk, thusly:

"If the judges and clerks of any election, or any of them, shall wilfully neglect, refuse or omit to perform any duty enjoined or required of them by law with respect to holding and conducting such election, receiving or counting out the ballots and making proper return thereof,...or disclose the name or names of any of the candidates or persons voted for by any voters at such election, shall be deemed guilty of a misdemeanor."

R.S. Mo.1929, Chap. 61, Art.VII, Section 10,331, enacts:

"Every public officer, upon whom any duty is imposed by this article, who shall willfully neglect or omit to perform such duty, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a term of not less than six months, or by a fine of not less than two hundred and fifty and not more than three thousand dollars, or by both such fine and imprisonment."

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R.S.Mo.1929, Chapter 61, Article XVII, Section 10,653 enacts:

"Commissioners to aid in prosecuting offenses.- It shall be the duty of such election commissioners to aid in the prosecution of all crimes and offenses against this article, and they shall keep a book in which shall be entered all complaints against persons alleged to be guilty of the violation of this law, and when in the Judgment of such election commissioners such offense has probably been committed, it shall be their duty to cause a prosecution to be instituted in accordance with the provisions of this article, and cause the parties to be punished accordingly."

PIKE vs. MEGOUN (1869) 44 Mo.491, at 499:

"The conclusion is that, under the law as it stood in 1866, the registration officers were not responsible for refusing to register a person, however erroneous that refusal might have been, if it was" (Page 500): "produced merely by a mistake in judgment. But if the refusal was corrupt, or actuated by malice, or to gratify personal spite, they would not

be protected, but would be liable to an action by the person injured."

STATE OF MISSOURI vs. FLYNN (1906) 119 Mo.A.712, at 715:

"On March 12, 1904, a primary election*(Page716): "The defendant Flynn had been detailed and assigned to perform the duties of a police officer at the polling place of said precinct while the primary election was in progress. The indictment charges in substance that it was Flynn's duty to preserve the peace at said primary election and prevent any one from obstructing voters who were seeking to exercise the right of voting; that then and there in the immediate presence and view of said Flynn, John Lavin and John McAuliffe, and other persons whose names were to the grand Jury unknown, unlawfully interfered with and obstructed certain named citizens who were then and there voters, and were entitled to vote at said election and who were lawfully exercising such right. The indictment names twenty-four citizens and voters who were obstructed and interfered with...by Lavin, McAuliffe, and other persons unknown, were committed by assaulting the said qualified voters, intimidating them, pushing them from the line of position of voters at the polling place, and placing other persons in front and between said persons for the purpose of preventing said voters from entering the polling place and casting their votes. The indictment further charged that Flynn, while acting as a police officer and witnessing "said unlawful conduct and interference with and obstruction of the aforesaid qualified voters by the aforesaid John Lavin, John McAuliffe, and others, did then and there unlawfully and wilfully permit and neglect to prevent the aforesaid unlawful interference with the obstruction of the qualified voters aforesaid, in the manner aforesaid, by the said John Lavin and John McAuliffe" (Page 717): "and others; he the said Tim Flynn as such police officer aforesaid, having then and there the power, authority and means at his hands to prevent the aforesaid unlawful interference with and obstruction of the voters aforesaid contrary to the statute in such case made and provided and against the peace and dignity of the State."

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(Page 722): "It goes without saying that if a police officer charged with the duty of keeping the peace and protecting citizens while exercising the right of suffrage, permits rioters to assault peaceable men and drive them from the polls, he is guilty of culpable neglect of duty, unless he is powerless to prevent the crimes."

(Page 723): "From ancient times the law has been that sheriffs, constables and other police officers have authority to prevent riots, keep the peace and arrest persons who raise riots and affrays, and are punishable on indictment for wilfully refusing to do so...Various assaults and outrages were perpetrated to accomplish this unlawful end, the witnesses say, in defendant's sight and observed with such indifference on his part, and such threatening responses to those who appealed to him for protection, as strongly incline to prove he was in sympathy with and conniving at the offenses. In the cases last cited it was ruled, in effect, that a police officer of whatever grade, who does not, in

emergencies such as were presented to the defendant, exercise reasonable authority, firmness, courage and activity to suppress law-breakers, is himself guilty of an offense." (Page 728): "The opinion was prepared prior to the decision by the Supreme Court of the case of State v. Boyd, ___ Mo. ___. That case was an indictment against defendant Boyd, who was a member of the St. Louis police force, for misconduct in office, to wit; the wilful and knowing neglect of an official duty. The Supreme Court in a carefully considered opinion, expressly decided that such an indictment was fatally defective if it did not contain an averment, not only that the violation of an official duty was knowingly and wilfully committed, but also that it was corruptly committed. According to that determination by the court of last resort in this State, the indictment in the present case is fatally defective and therefore, we reverse the judgment."

THE STATE ex rel O'MALLEY vs. LESUER, Secretary of State(Div.1,1890)
103 Mo.253, at 263:

"The same considerations which should induce courts of justice to maintain the purity of the ballot-box, when the final vote is taken, equally operate with them to promote honesty and prevent and condemn fraud when a preliminary vote is taken or a nominating convention held. There can be no difference in principle in its application to the various situations mentioned.

"And though it is said that "the decalogue has no place in politics" yet when the tribunals of the country are appealed to in matters having political complexion and bearing; when once they acquire jurisdiction in a "(Page 264): "proper way of such matters, they will administer justice, promote honest dealing and condemn fraud precisely as they do when administering the law in cases sounding in damages or sounding in contract.

"...the Democratic ...party... He certainly cannot claim the benefits of party organization, while at the same time denying the obligatory force of all reasonable party regulations."

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STATE ex rel GUION vs. MILES (In Banc,1908) 210 Mo.127, at 143.

"the Act of the General Assembly approved March 13,1901...The General Assembly manifested their full recognition of the importance of the primary law enacted...by modelling It along the same general lines applicable to general elections in this State... the lawmakers had in mind the safeguarding of the rights and privileges of the electors in the expression of their will at the polls. The primary elections under this act are under the supervision of the same officers, that is to say, the election commissioners of the city having a sufficient population to act under the provisions of the primary law, as is provided in the conduct and management of general elections for the election of officers of this State.. the General Assembly fully recognised the equal importance of primary and general elections and proceeded along lines at least approaching the strictness of

the provisions applicable to general elections held under the laws of this State."(Page 145):"..the controlling features of it were, in the main, copied from a statute of New York of 1896, which was carried into the revision of the statutes of New York of 1901, vol.4, page 4331...State ex rel. v. Reynolds, 190 Mo. 583.."

THE STATE ex rel STADE vs. TAYLOR (In Banc,1909)220 Mo. 618, at 633:

"In the absence of a prohibition in the organic law, the Legislature had the plenary power to provide for the secrecy of the ballot in primary elections and needed no express authority in the Constitution to enable it to do so, and hence there is nothing in the case of Dooley v. Jackson that in any manner militates against the conclusion that the same regulation and protection of our laws in regard to the secrecy of the ballot were extended over primary elections held under the Act of 1907, and in our opinion section 2116 is applicable to frauds by judges and clerks of such a pri-" (Page 634): "mary. (Ex parte Allen, 67 No.534; State ex rel v. Geiger, 65 Mo. 306.)"

R.S. Mo. 1929, Chapter 61, Article XII, Section 10,434 enacts (in part):

"Statutes liberally construed that will of voter not to be defeated.

"This statute shall be liberally construed so that the real will of the voter shall not be defeated by any informality or failure to comply with all the provisions of this law..."

NEELEY vs. FARR, 158 P.458, Ann.Cas.1918 A23, 61 Colo. 485 at 509: "We are unable to find a precedent where like, or similar conditions, have been considered as in this case, wherein private the public character of an election, and to arbitrarily take charge of and conduct the same as if it were the sole private business of the corporation." (Page 510): "We find no such example of fraud within the bookstand must seek the letter and spirit of the law in a free government, as a scale in which to weigh such conduct. "That decision was in the face of a dissent by Chief Justice Gabbert, who said, at page 533): "How then can it be said that the voters in the precincts involved were coerced or intimidated, in the absence of a scintilla of testimony that a single voter was influence in marking his ballot by any act of an election official or an official of a coal company?"

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"THE CHARTER AND REVISED ORDINANCES OF KANSAS CITY, MISSOURI-1928 REVISED, ARRANGED, ANNOTATED, INDEXED AND EDITED BY JOHN B.PEW, ASSISTED BY BURROUGHS N. MOSMAN," each of the Kansas City Bar, was printed in 1928 by the Fratcher Printing Co., Kansas City, Missouri: Article XVI thereof, of the charter of said city, is entitled: "NOMINATIONS AND ELECTIONS": Section 417 thereof enacts, in part, thusly:

"General Laws to Apply. All elections provided for by this charter, whether primary elections, elections for the choice of officers, or elections for the submission of

questions to the voters, shall be conducted by the election authorities prescribed by law; and the provisions of the election laws of the state shall apply to all such elections, except as provision is otherwise made by this charter...."

No other provision is made by that charter, which leaves the general election laws of the state of Missouri, the determinative factor, as far as the charter of Kansas City is concerned.

IIIB—ARGUMENT IN BEHALF OF FEDERAL JURISDICTION OF THIS COMPLAINT (concurrent with state jurisdiction hereof):

This complainant has assumed that the reason for the assaults and batteries described in the complaint herein, was because complainant and his family switched from the Republican to the Democratic Party, primarily in order to vote for the candidacy of James M. Douglas for the unexpired term of judge of Division No. I of the Supreme Court of Missouri, on the Democratic Party ticket, and because the attackers suspected that, and because the attackers opposed that nomination. Up to now, complainant has no direct and explicit proof that such was the motivation for the attacks. It may be that the attackers, when examined under oath, may deny that such was their motivation. If the attackers admit that such was their motivation, then the fact that federal offices were at stake, and that complainant and his wife and son voted, and complainant's daughter was denied, without any right, the privilege of voting, for certain candidates

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for the federal offices at stake in that Primary Election, clearly bring that Primary Election within federal jurisdiction. It is the duty of the federal government to protect the lives and limbs of electors at a primary election in which federal offices are at stake, and particularly so within the limits of each polling place: since the state laws here make one hundred feet from the polls the extent of the polling place limits on either side of the polling place, and since the federal statutes are silent on that exact geographical limits, and since the federal government knowingly and willingly participated in said primary election, therefore the express limits defined by the state laws are binding and/or highly persuasive on the federal government. The beatings here took place within fifty feet of the polls, immediately after the electors had voted, and were on their way to their home. The federal government assigned no federal officer to guard that polling place during that primary election, but the city of Kansas City did assign and deputise for that day and place, a special police officer, who was the only police officer on duty throughout that election day at that place, and since the federal government knew that said city would provide a police officer, and since the federal government failed to provide its own police officer, therefore the federal government is charged with thus silently acquiescing in said city police officer acting as the police officer at said election to protect all electors voting there for federal and state offices: said police officer thus became a federal agent, for that purpose, for that time and place.

The candidates for the federal offices in issue, paid filing fees for their candidacies for such federal offices, to the political parties contending in that primary election, and such funds are used to defray the expenses of part of that Primary Election, Whether or not said police officer be held a federal agent for aforesaid purposes, still the federal government clearly owed a duty to

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complainant, his wife, daughter and son, to protect their lives and limbs, while they were 50 feet outside the polling place, on their way to their home, immediately after going to the polls to vote at a Primary Election in which federal offices were in issue, and the federal government clearly breached that duty. The fact that the assaults and batteries were motivated solely or primarily by resentments against votes for a certain state office (judge of the Supreme Court of Missouri), does not relieve the federal government of Jurisdiction hereof, because that took place at a Primary Election in which federal offices also were at stake, and assaults and batteries are Just as dangerous whether aimed at voters for state offices as at voters for federal offices, and police officers are not charged with the duty of inquiring, before making such arrests, whether the guilty parties are committing their crimes because of votes for state or federal offices (which would be the ludicrous situation if the character of the office voted for, must be learned before determining if the federal government has jurisdiction). The federal government, at elections where federal and state offices are in issue, has the duty of protecting the lives and limbs of all electors at the polling places at such elections. Attacks made because of state offices, naturally result in intimidation of voters on all federal offices, because voters fear for their lives and limbs, regardless of the state or federal office in immediate issue. To hold otherwise would make bitter mockery of primary elections where federal offices are in issue. If such mockery is held to be the law, then it is the imperative duty of the Board of Election Commissioners of Kansas City, Missouri, immediately to recommend to the president and the congress of the United States of America, that amendments should be adopted to remedy such a situation. Complainant contends that such hypocritical emasculation of law administration, is not the law,

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but is only a shield used for a hiding place for ignoramuses and cowards, it is respectfully submitted, and this complaint and brief adequately sustain federal jurisdiction, even if it be granted that the attacks were motivated exclusively by resentments against votes for a certain state office. The right to vote freely, is itself a matter of federal jurisdiction, If the proof develops that the attacks were not motivated by resentments against votes for a particular state office, but were made for some unknown reason, as may be the proof hereafter, then the jurisdiction of the federal government is without any question, present in this case. (If these accused herein should admit that their attacks were

motivated exclusively or primarily because of their resentments against votes for a certain state office, then those attackers would subject themselves to the additional penalties prescribed by law for electioneering for a certain candidate, within prohibited territory, and the fact such attackers probably would be advised by the most able counsel that could be purchased by that faction of the Democratic Party represented by those attackers, adds weight to the probability that the true reason for the attacks in issue herein, would not be admitted by those attackers: if not admitted, that adds to the strength of the argument that the federal government has jurisdiction of this complaint).

The Constitution of the United States of America, in its Preamble, defines what should be the major premise in all interpretations of said constitution (underlineation by complainant):

"WE the People of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, 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 for the United States of America."

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The Constitution of the United States of America, Article IV, Section 4, enacts:

"The United States shall guarantee to every state in this union a Republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence,"

U.S. Con., Amendment I, in part, enacts thusly:

"Congress shall make no law respecting..the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

U.S. Con., Amendment IX:

"The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

U.S. Con., Amendment XIV, In part enacts thusly:

"Sec.1.... No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

U.S. Con., Amendment V enacts in part, thusly:

"....nor shall any person....be deprived of life, liberty, or property, without due process of law;..."

"United States Code Annotated" was published in 1927 by West Publishing Company, St. Paul, Minnesota, and Edward Thompson Company, Northport, Long Island, New York State (hereafter cited as USCA. In said USCA, title 8 is entitled: "ALIENS AND CITIZENSHIP": Chapter 3 thereof, is entitled: "CIVIL RIGHTS": section 43 thereof, enacts:

"Civil action for deprivation of rights. -Every person who, under color of any statute, ordinance, regulation, custom, or usage of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution or laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.
(R.S.section 1979.)"

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U.S. Con., tit.8, chap.3, section 47 enacts:

"(1) Conspiracies; preventing officer from performing duties. "If two or more persons in any State...conspire to prevent by force, intimidation, or threat, any person from...any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any...district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties;

"(2) Same; to intimidate party, witness or juror, or obstruct justice. If two or more persons in any State...conspire... or if two or more persons conspire for the purpose of impeding, hindering,obstructing, or defeating, in any manner, the due course of Justice in any State....with intent to deny to any citizen the equal protection of the laws, or to injure Mm or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

"(3) Same; to deprive citizen of rights or privileges. "If two or more citizens in any State...conspire or go in disguise on the highway...for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State...from giving or securing to all persons within such State...the equal protection of the laws; of if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice President, or as a Member of the Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if

one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having or exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.(R.S. section 1980).

U.S.C.A., tit.8, chap.3, section 48 enacts:

"Same; action for neglect to prevent. Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section, are about to be committed, and having power to prevent or aid in the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action;.....

...death...may recover not exceeding \$5,000 damages... (R.S .section 1981.)"

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U.S.C.A., tit.8, chap. 3, section 49 enacts:

"Prosecution of violation of certain laws. The district attorneys, marshals, and deputy marshals, the commissioners appointed by the district and territorial courts, with power to arrest, imprison, or bail offenders, and every other officer who is especially empowered by the President, are authorised and required, at the expense of the United States, to institute prosecutions against all persons violating any of the provisions of chapter 3 of Title 18, or of sections 246, 428, 443 to 445 of said Title 18, or of section 51 of this title, and to cause such persons to be arrested, and imprisoned or bailed, for trial before the court of the United States or the territorial court having cognizance of the offense. (R.S. section 1982).

U.S.C.A., tit. 8, chap.3, section 50, is entitled: "Commissioners: appointment of persons to execute warrant." (R.S. sections 1983,1984).

U.S.C.A., tit.8, chap.3, section 51 is entitled: "Marshal; to obey precepts; refusing to receive or execute process."(R.S. sections 1985, 5517).

U.S.C.A., tit.8, chap.3, section 52, is entitled: "Fees; certain officers" (R.S. section 1986; Feb. 26, 1919, c.49, section 1, 40 Stat. 1182; Feb.II,1921, c.46, 41 Stat.1099.)¹

U.S.C.A. title 18 is entitled: "CRIMINAL CODE AND CRIMINAL PROCEDURE": Chapter 3 thereof is entitled: "OFFENSES AGAINST ELECTIVE FRANCHISE AND CIVIL

RIGHTS OF CITIZENS": Section 51 thereof (Criminal Code, Section 19), enacts:

"Conspiracy to injure persons in exercise of civil rights

"If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same, or if two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured, they shall be fined not more than \$5,000 and imprisoned not more than ten years, and shall, moreover, be thereafter ineligible to any office, or place of honor, profit, or trust created by the Constitution or laws of the United States. (R.S. section 5508; Mar. 4, 1909, c.321, section 19, 35 Stat. 1092.)"

U.S.C.A., tit.28 is entitled: "JUDICIAL CODE AND JUDICIARY":

Chapter 2 thereof is entitled: "DISTRICT COURTS; JURISDICTION": Section 41 thereof (Judicial Code, section 24, amended), enacts,

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as follows:

"Original jurisdiction.

"The district courts shall have original jurisdiction as follows: "(1) ...where the matter in controversy exceeds, exclusive of interest and costs, the sum of \$3,000, and (a)arises under the Constitution or laws of the United States..... (R.S. sections 563, 629; Mar. 3, 1875, c.137, section 1, 18Stat.470; Mar. 3, 1887, c.373, section 1, 24 Stat.552; Aug. 15, 1888, c.866, section 1, 25 Stat.433; Mar. 3m 1911, c. 231, section 24, 36 Stat. 1091.)"

"(2) Crimes and offenses. Second. Of all crimes and offenses cognizable under the authority of the United States. (R.S. section 563, pars.1,2,section 629, pars.19, 20; Mar. 3, 1875, c.137, section 1, 18 Stat. 470; Mar. 3, 1887, c. 373, section 1, 24 Stat.552; Aug. 13,188,c.866; section 1, 25 Stat,433; Mar. 3, 1911, c.231, section 24, par.2, 36 Stat. 1091.)"

"(11) Suits for injuries on account of acts done under laws of United States. Eleventh. Of all suits brought by any person to recover damages for any injury to his person or property on account of any act done by him, under any law of the United States, for the protection or collection of any of the revenues thereof, or to enforce the right of citizens of the United States to vote in the several States. (R.S. section 629,par.12; Mar.5,1911,c.231,section 24, par.11, 36 Stat.1092.)"

"(12) Suits concerning civil rights. Twelfth. Of all suits authorized by law to be brought by any person for the recovery of damages on account of any injury to his person or property, or the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 47 of Title 8. (R.S. section 563, par.11, section 629, par.17; Mar.3,1911, c.231, section 24, par.12, 36

Stat.1092.)"

"(13) Suits against persons having knowledge of conspiracy. Thirteenth. Of all suits authorized by law to be brought against any person who, having knowledge that any of the wrongs mentioned in section 47 of Title 8, are about to be done, and, having power to prevent or aid in preventing the same, neglects or refuses so to do, to recover damages for any such wrongful act. (R.S.section 629, par. 18; Mar.3,1911, c.231, section 24,par.13, 36 Stat.1092.)

"(14)Suits to redress deprivation of civil rights. Fourteenth. Of all suits at law or in equity authorised by law to be brought by any person to redress the deprivation, under color of any law, ordinance, regulation, custom, or usage, of any State, of any right, privilege, or immunity, secured by the Constitution of the United States, or of any right secured by any law of the United States providing for equal rights of citizens of the United States, or of all persons within the jurisdiction of the United States, (R.S. section 563, par.12,section 629,par.16; Mar.3,1911,c.231, par.14, 36 Stat.1092.)"

U.S. Con., Amendment XVII, enacts, in part, thusly: "The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years;..The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures..."

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Mr. Justice Holmes delivered the court's opinion, in 1927, in NIXON vs. HERNDON, 47 S.Ct.446, 71 L.Ed.759, 273 U.S.536, at 539:

"This is an action against the Judges of Election for refusing to permit the plaintiff to vote at a primary election in Texas. It lays the damages at five thousand dollars. The petition alleges that the plaintiff is a negro, a citizen of the United States and of Texas and a resident of El Paso, and in every way qualified to vote, as set forth in detail, except that the statute to be mentioned interferes with his right; that on July 26, 1924, a primary election was held at El Paso for the nomination of candidates for a senator and representative in Congress and State and other offices, upon the Democratic ticket; that "(Page 540) "the plaintiff, being a member of the Democratic party, sought to vote but was denied the right by defendants; that the denial was based upon a statute of Texas enacted in May, 1923...and that this statute is contrary to the Fourteenth and Fifteenth Amendments to the Constitution of the United States. The defendants moved to dismiss upon the ground that the subject-matter of the suit was political and not within the jurisdiction of the Court and that no violation of the Amendments was shown. The suit was dismissed and a writ of error was taken directly to this Court....

"The objection that the subject-matter of the suit is political is little more than a play upon words. Of course the petition concerns political action but it alleges and seeks to recover for private damages. That private damage may be caused by such political

action and may be recovered for in a suit at law hardly has been doubted for over two hundred years, since *Ashby v. White*, 2 Ld. Raym.938, 3 Ld. Raym. 320, and has been recognised by this Court....If the defendants' conduct was a wrong to the plaintiff the same reason that allow a recover for denying the plaintiff a vote at a final election allow it for denying a vote at the primary election that may determine the final result... the statute..."(Page 541) "it seems to us hard to imagine a more direct and obvious infringement of the Fourteenth. That Amendment, while it applies to all, was passed, as we know, with a special intent to protect the blacks from discrimination against them."

The aforesaid *Nixon vs. Herndon* case was cited thusly, on April 25th, 1938, in the opinion of Mr. Justice Stone, for the court, in the case of *UNITED STATES vs. CAROLINE PRODUCTS COMPANY*, 58 S.Ct. 778, ay 780:

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"The question for discussion is whether the "Filled Milk Act" of Congress of March 4, 1923, c.262, 42 Stat.1486, 21 U.S.C. sections 61-63, 21 U.S.C.A. sections 61-63, which prohibits the shipment in interstate commerce of skimmed milk compounded with any fat or oil other than milk fat, so as to resemble milk or cream, transcends the power of Congress to regulate interstate commerce or infringes the Fifth Amendment. "(Page 783): "We may assume for present purposes that no pronouncement of a Legislature can forestall attack upon the constitutionality of the prohibition which it enacts by applying opprobrious epithets to the prohibited act, and that a statute would deny due process which precluded the disproof in judicial proceedings of all facts which would show or tend to show that a statute depriving the suitor of life, liberty, or property had a rational basis.

"But such we think is not the purpose or construction of the statutory characterization of filled milk as injurious to health and as a fraud upon the public. There is no need to consider it here as more than a declaration of the legislative findings to support and justify the action taken as a constitutional exertion of the legislative power, aiding informed Judicial review, as do the reports of legislative committees, by revealing the rationale of the legislation. Even in the absence of such aids, the existence of facts supporting the legislative Judgment is to be presumed, for regulatory legislation affecting ordinary commercial transactions is not to be pronounced unconstitutional unless in the light of the facts made known or generally assumed it is of such a character as to preclude the assumption that it rests upon some rational basis within the knowledge and experience of the legislators.⁴

"4..It is unnecessary to consider now whether legislation which restricts those political processes which can ordinarily be expected to bring about repeal of undesirable legislation, is to be subjected to more exacting judicial scrutiny under the general prohibitions of the Four- "(Page 784): "teenth Amendment than are most other types of legislation. On restrictions upon the right to vote, see *Nixon v, Herndon*, 273 U.S.536, 47 S.Ct.446, 71 L. Ed. 759; *Nixon v. Condon*, 286 U.S.73, 52 S.Ct.484, 76 L.Ed.984, 88 A.L.R.458;

"Nor need we enquire whether similar considerations enter into the review of statutes directed at particular...racial minorities. *Nixon v. Herndon*, supra; *Nixon v. Condon*, supra: whether prejudice against discreet and insular minorities may be a special condition, which tends seriously to curtail the operation of those political minorities, and which may call for a correspondingly more searching Judicial inquiry. Compare *McCulloch v. Maryland*, 4 Wheat. 316, 428, 4 L.Ed.579: *South Carolina State Highway Department v. Barnwell Brothers*, 303 U.S.____,58 S.Ct.510, 82 L.Ed. ____ decided February 14, 1938, note 2, and cases cited."

GROVEY vs. TOWNSEND(1935)58 S.Ct.622, 295 U.S. 45,at 46:

"The petitioner, by complaint filed in the justice court of Harris county, Tex., alleged that although he is a citizen of the United States and of the state and county, and a member of and believer in the tenets of the Democratic Party, the respondent, the county clerk, a state officer, having as such only public functions to perform, refused him a ballot for the Democratic Party primary election, because he is of the negro race. He demanded ten dollars damages.."

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(Page 47): "The complaint charges that respondent acted without legal excuse and his wrongful and unlawful acts constituted a violation of the Fourteenth and Fifteenth Amendments of the Federal Constitution.

"A demurrer, assigning as reasons that the complaint was insufficient in law and stated no cause of action, was sustained; and a motion for a new trial, reasserting violation of the federal rights mentioned in the complaint, was overruled. We granted certiorari, 294 U.S.699...because of the importance of the federal question presented, which has not been determined by this court. Rule 258, subd. 5(a),28 U.S.C.A. section 354. Our jurisdiction is clear, as the justice court is the highest state court in which a decision may be had.....and the validity of the Constitution and statutes of the state was drawn in question on the ground of their; being repugnant to the Constitution of the United States. U.S.C.tit.28,section 344(b), 28 U.S.C.A. section 344(b)."(Page 48): "The charge is that respondent, a state officer, in refusing to furnish petitioner a ballot, obeyed the law of Texas, and the consequent denial of petitioner's right to vote in the primary election because of his race and color was state action forbidden by the Federal Constitution; and it is claimed that former decisions require us so to hold. The cited cases are, however, not in point. In *Nixon v. Herndon*, 273 U.S.536, 47 S.Ct.446, 71 L.Ed.759, a statute which enacted that "in no event shall a negro be eligible to participate in a Democratic party primary election held in the State of Texas", was pronounced offensive to the Fourteenth Amendment, In *Nixon v. Condon*, 286 U.S.73, 52 S.Ct.484, 485, 76 L.Ed.984, 88 A.L.R.458, a statute was drawn in question which provided that "every political party in this State through its State Executive Committee shall have the

power to prescribe the qualifications of its own members and shall in its own way determine who shall be qualified to vote or otherwise participate in such political party." We held this was a delegation of state power to the state executive committee and made its determination conclusive irrespective of any expression of the party's will by its convention, and therefore the committee's action barring negroes from the party primaries was state action prohibited by the Fourteenth Amendment. Here the qualifications of citizens to participate in party counsels and to vote at party primaries have been declared by the representatives of the party convention assembled, and this action upon its face is not state action. The question whether under the Constitution and laws of Texas such a delcaration as to party membership amounts to state action was expressly reserved in *Nixon v. Condon*, supra, pages 84, 85, of 286 U.S., 52 S.Ct. 484. Petitioner insists that for various reasons the resolution of the state convention limiting membership in the Democratic Party in Texas to white voters does not relieve the exclusion of negroes from participating in Democratic primary elections of its true nature as the act of the state."

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(Page 49): "First. An argument pressed upon us in *Nixon v. Condon*, supra, which we found it unnecessary to consider, is again presented. It is that the primary election was held under statutory compulsion; is wholly statutory in origin and incidents; those charged with its management have been deprived by statute and judicial decision of all power to establish qualifications for participation therein inconsistent with those laid down by the laws of the state, save only that the managers of such elections have been given the power to deny negroes the vote. It is further urged that while the election is designated that of the Democratic Party, the statutes not only require this method of selecting party nominees, but define the powers and duties of the party's representatives and of those who are to conduct the election so completely, and make them so thoroughly officers of the state, that any action taken by them in connection with the qualifications of members of the party is in fact state action and not party action. In support of this view petitioner refers to title 50 of the Revised Civil Statutes of Texas of 1925 (*Vernon's Annotated Revised Civil and Criminal Statutes*, vol.9,p.3, et seq.Id.,January 1935 Cumulative Supplement,pp.117,118.), which by article 3101 requires that any party whose members cast more than 100,000 ballots at the previous primary election shall nominate candidates through primaries, and fixes the date at which they are to be held; by article 2939 requires primary election officials to be qualofied voters; by article 2955 declares the same qualifications for voting in such an election as in the general elections; by article 2956, as amended (*Vernon's Ann.Civ.St.art.2956*), permits absentee voting as in a general election; by article 2978 requires that only an official ballot shall be used, as in a general election; by articles 2980, 2981 specified the form of the ballot and how it shall be marked, as other sections do for general elections; by article 2984 fixes the number of ballots to be provided as

another article does" (Page 50): "for general elections; by articles 2986, 2987, and 29990 permits the use of voting booths, guard rails, and ballot boxes which by other statutes are provided for general elections; by articles 2998 and 3104 requires the officials of primary elections to take the same oath as officials at the general elections; by article 3002 defines the powers of Judges at primary elections; by articles 3003-3025 provides elaborately for the purity of the ballot box; by article 3028 commands that the sealed ballot boxes be delivered to the county clerk after the election, as is provided by another article for the general election; and by article 3041 confers Jurisdiction of election contests upon district courts, as id done by another article with respect to general elections. A perusal of these provisions so it is said will convince that the state has prescribed and regulated party primaries as fully as general elections, and has made those who manage the primaries state officers subject to state direction and control,

"While it is true that Texas has by its laws elaborately provided for the expression of party preference as to nominees, has required that preference to be expressed in a certain form of voting, and has attempted in minute detail to protect the suffrage of the members of the organization against fraud, it is equally true that the primary is a party primary; the expenses of it are not borne by the state, but by members of the party seeking nomination (article 3108, as amended by Acts 1931, c.105, section 2 (Vernon's Ann.Civ.St. art.3108).) and article 3116, as amended by Acts 1927,c.54,section I (Vernon's Ann.Civ.St.art.3116); the ballots are furnished not by the state, but by the agencies of the party (Rev.St.arts.3109,3119); the voters are counted and the returns made by instrumentalities created by the party (articles 3123-3125, 3127, as amended (Vernon's Ann.Civ.St.arts.3123-3125,3127)); and the state recognises the state convention as the organ of the

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(Page 50 continued): "party for the declaration of principles and the formation of policies (articles 3136, 3139, as amended (Vernon's Ann.Civ.St.arts.3136, 3139))."(Page 52): "The legislative assembly of the state, so far as we are advised, has never attempted to prescribe or to limit the membership of a"(Page 53): "political party, and it is now settled that it has no power so to do. The state, as its highest tribunal holds, though it has guaranteed the liberty to organise political parties, may legislate for their governance when formed, and for the method whereby they may nominate candidates, but must do so with full recognition of the right of the party to exist, to define its membership, and to adopt such policies as to it shall seem rise. In the light of the principles so announced, we are unable to characterize the managers of the primary election as state officers in such sense that any action taken by them in obedience to the mandate of the state convention respecting eligibility to participate in the organization's deliberations, is state action, ...

"Third. An alternative contention of petitioner is that the state Democratic Convention which adopted the resolution here involved was a mere creature of the state and could

not lawfully do what the Federal Convention prohibits to its creator.." (Page 54): "..We are not prepared to hold that in Texas the state convention of a party has become a mere instrumentality or agency for expressing the voice of will of the state.."(Page 55): "We find no ground for holding that the respondent has in obedience to the mandate of the law of Texas discriminated against the petitioner or denied him any right guaranteed by the Fourteenth and Fifteenth Amendments.

"Judgment affirmed."

BLACKMAN et al vs. STONE et al. (District Court,S.D.Illinois,S.D. 1936) 17 Fed. Supp. 102, at 106:

"A more recent decision of the United States Supreme Court is that of Nixon v.Herndon,273 U.S.536, 47 S.Ct. 446, 71 L.Ed.759. In that case a negro was denied by Texas statute the right to vote in the Democratic primary. The court held that he was entitled to maintain an action at law to recover damages because he was by reason of the statute denied a right which was expressly given to him by the Fourteenth and Fifteenth Amendments."

State laws are held to govern federal cases on certain points relating to elections* O'SULLIVAN v. Felix (C.C.A. 5,La., 1912) 194 F.88, 114 C.C.A.166; (1914) 233 U.S.318, 34 S.Ct.596, 58 L.Ed.980.

STATE ex rel DUNN vs. COBURN (in Banc,1914)264 Mo.177: cf. dissenting opinion by Brown,J., at page 202:

"The expense of holding our general primary election is borne by the several counties of the State, or, more accurately speaking, by the taxpayers thereof, and that section of our statute which requires aspirants for office to pay money to the treasurer or a political party in order to become eligible as candidate at"(Page 203): "primary election is not only unconstitutional, but, in fact, is a monstrous fraud upon all persons running for office, as well as the State itself Just think of the State by solemn law requiring the involuntary payment of a fund for political purposes—a fraud which may, perchance be used in corrupting the electorate, and thereby defeating the will of the people.!"

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Cf. the concurring opinion of Brown, J., in STATE ex rel vs. SEIBEL (1914) 262 Mo. 227:

"Sections 5860 and 5870 of our primary election law require candidates for public office to pay sums of money into the treasury of the political party on whose ticket they wish to be nominated before their names can appear upon the ballots of that party. To my mind such laws are against sound public policy." (Page 227): "Just think of the great State of Missouri requiring the payment of sums of money (vast in the aggregate) to the treasurers of political parties to be used in promoting the election of persons who

happen to be nominated, and, perchance, to be used in corrupting the electorate into voting for candidates who may or may not be worthy of the offices to which they aspire. Such a law is enough to make every honest man in our State hide his face with shame.

"The primary election law we now have is obviously intended to help the party which is temporarily in the ascendency." (Page 228) : "...it hurts minority everywhere, because it discourages persons from becoming candidates upon the ticket of a minority party, however much their views may be in accord with its principles, and to that extent at least it impedes the "free and open" elections which are contemplated in our Constitution. Under the guise of law it takes money from candidates all over the State, which, if collected at all, should be paid into the public treasuries of the several counties and cities, thereby relieving taxpayers who have quite enough burdens to bear without carrying the expense of primary elections.. I hold those provisions of our primary election law upon which respondent relies are invalid.."

Cf.R.S.Mo.1929: sections 10,266, 10,402, 10433, defining what expenses are paid at public expense.

UNITED STATES vs. ACZEL (District Court, D. Indiana, 1915) 219 F. 917, was affirmed (by C.C.A. in 1916) in 232 F. 652: cf. 219 F.917 at 932:

"The right to vote for a member of Congress being a right secured by the Constitution and laws of the United States, it is perfectly plain that the right to vote for a United States Senator, since the adoption of the seventeenth amendment to the United States Constitution and the passage by Congress of the act of June 4, 1914, is also a right secured by the Constitution and laws of the United States. If the right to vote for a Representative in Congress or a Senator of the United States is a right secured by the Constitution and laws of the United States, then it appears that the right and privilege to serve as a member of an election board where such Representative or Senator is to be elected is likewise a right or privilege secured by the Constitution and laws of the United States." (Page 933) "Thus the law of Congress expressly provides that there shall be election inspectors, judges, and poll clerks at the election where a Senator is to be elected, as provided by the election laws of the state of Indiana, and the right of the duly selected and properly qualified persons under the law of Indiana to act as such election officers at an election where a United States Senator is to be elected, is a right secured by the Constitution and laws of the United States."

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The primary laws of Missouri as affecting general elections, and their interpretations thereof, are cited in this brief, in THE STATE ex rel O'MALLEY vs. LESUER, Secretary of State, 103 Mo.253 (brief), (pages 30 and 31 of this brief), and STATE ex rel GUION vs. MILES, 210 Mo. 127 (page 31 of this brief), and THE STATE ex STADE vs. TAYLOR, 220 Mo.618 (page 31 of this brief).

The Board of Election Commissioners of Kansas City, Missouri, in its SYNOPSIS OF THE ELECTION LAWS, issued to every judge and clerk of election, at the Primary Election, August 2nd, 1938, at page 11 therein, stated (in bold-faced type):

"In this election. Federal candidates are chosen. False Certifications or other fraud is a violation of Federal Law."

Missouri statutes are inadequate protections against frauds. One such statute orders destruction of election ballots within one year after an election, A statute was enacted extending such time. The Supreme Court of Missouri, on May 21st, 1938, in Banc, in STATE ex rel MILLER, Circuit Attorney vs. O'MALLEY, Circuit Judge, 117 S.W.(2d) 319, at 325, ruled:

"We think the parts of section 10619 authorising the use of the ballots as evidence in grand jury investigations of election frauds are clearly unconstitutional.."

The majority of the Judges on that Bench today, were elevated thereto with the support of that faction of the Democratic Party which opposed the aforesaid nomination of said James M. Douglas to that Bench. The Board of Election Commissioners of Kansas City should recommend to the governor of the State of Missouri, that the election laws of Missouri be amended so that the penalties assessed for such crimes shall be greatly increased over the present penalties, and that full and adequate punishments be assessed against every offender, no matter how high a position of honor and trust such official may hold.

This Board should investigate the matters herein,

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and condemn the aforesaid allegedly unconstitutional decision in STATE ex rel MILLER vs. O'MALLEY, 117 S.W. (2d)319, and the Board should recommend that the governor recommend to the legislature of Missouri and to the citizens of Missouri, that election ballots shall not be destroyed within one year after an election, because changes in administrations generally take place in longer than such & year, and such changes in administration, as a rule, are the surest insulator against the shielding of crimes against the election laws. It may well be that the matters of which this complainant now complains, will not be cured within one year from the Primary Election, but there will surely come time when the electors will learn the true tragic facts complained against herein.

Those who attacked complainant, probably never read a single opinion that either Judge Douglas or Judge Billings ever wrote in their entire judicial careers, and hence were completely ignorant as to the respective qualifications of the contending candidates. Such blind partisan and factional loyalty, is a tribute to sheer ignorance and undermining of democratic processes, as was said in the 18th century, by Edmund Burke:

"Authoritative instructions, mandates blindly and implicitly issued, which the member

is bound blindly and implicitly to obey, to vote and to argue for, though contrary to the clearest convictions of his judgment and conscience—these are things utterly unknown to the laws of this land, and which arise from a fundamental mistake of the whole order and tenor of our constitution."

Common and judicial knowledge is such, that everyone knows that while there may be laws against election law violations, in Jackson County, those laws don't count, when prosecutions are contemplated against the faction of the Democratic Party now in issue, on the theory that "The King can do no wrong.", and that "Might makes right." The complaint asks for special investigators, prosecutors and judges. When will complainant receive what thus is his right? In the meanwhile.

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this complainant, and complainant's wife, daughter and son, fear to go to the polls again in Kansas City, Jackson County, State of Missouri, the United States of America, in the coming General Election to be held in November, 1938, or in any other election, for fear of their lives and limbs. Complainant's attorney herein subjects himself to certain risks and subtle punishments by the criminals now in issue, and by their allies, for the services of said attorney in drawing up the complaint and this brief. Complainant's attorney can produce proof before this Board, that many citizens have been subjected to terror and beatings and threats, so that any election held in the jurisdiction of this Board is not "free and open", and is not the kind of election guaranteed by the federal laws, to put it mildly, but is well within any definition blandly handed about certain governments in far-off lands and places. The differences in dictatorship are actually subtle differences which differ only in degree and manner, but amount denounced to the same iron-clad despotism, in the eloquent words of our DECLARATION OF INDEPENDENCE.

Complainant has the right to have the Board at least give him the names and addresses of each of the six accused would-be assassin criminals herein so that he may try to pursue his civil rights, regardless of how sterilised the various governmental prosecutions may be, because of the allies of these accused criminals.

Complainant asks the Board to grant the relief requested throughout the complaint, which is within the power of the Board.

If no relief is obtained under the facts hereof, martial law should be established until the Constitutions of the United States and of Missouri, are injected into the law administrative bodies in the jurisdiction of this Board.

Respectfully submitted,
September 17th, 1938
Samuel W. Liske, Esq.
Attorney for John S. Davis, complainant