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Joseph Ralph Burton and the "Ill-Fated" Senate Seat of Kansas

by R. Alton Lee

When Alfred W. Benson replaced Joseph R. Burton in the United States Senate in 1906, a writer for the *Topeka State Journal* asked whether Benson could "escape the mysterious fatality of the 'Lane succession'" that had seemingly taken Burton down before the end of his first term. The incoming senator replied, "'I don't believe in magic.' . . . But he laughed nervously and refused to discuss the subject further"—and with good reason, perhaps.[1] Benson's immediate predecessor, J. R. Burton, seemed to have much going for him when he first moved into his Senate office early in 1901; but within five years he had fallen hopelessly out of favor with a popular Republican administration and resigned from office, the first U.S. senator to do so after having been tried and convicted of a criminal offense in the federal courts.

Historians, of course, cannot lay the blame for Burton's demise on "fate" or "magic," even though the facts seem almost implausible: James H. Lane, the man who started the ignoble line, committed suicide after five years in office; Alexander Caldwell resigned in disgrace after only two years in the position; at least four other Kansas senators in this line of succes-

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The author would like to thank Virgil W. Dean, Melissa Tubbs Loya, and the journal's anonymous readers for their work on this essay. This version is far better than the one originally submitted.

1. Harold B. Gregory, "An Unusually Ill Fated Line of Senatorial Succession," *Topeka State Journal*, September 22, 1906; see also "The New Senator From Kansas," *The Outlook 83* (June 23, 1906): 393–94.

sion left office suffering from scandal or ill-health; and the only man to serve more than a single, six-year term, Preston B. Plumb, "dropped dead in the streets of Washington during the second year of his third term."[2] If it was not fate that afflicted the seat, then what? The fascinating story of the rise and early twentieth-century fall of the tenth man in the "Lane succession"—a man who blamed his ill-fortune on one of America's most popular presidents, Theodore Roosevelt, and who did all he could to discredit Roosevelt's administration in the years to follow—is a story worthy of serious consideration in the twenty-first century.

Joseph Ralph Burton, who would finally fulfill a lifelong dream and take a seat in the U.S. Senate on March 4, 1901, was born on the family homestead near Mitchell, Indiana, on November 16, 1852. As a farm boy he worked nine months of the year and attended a country school the other three. He was a bright young fellow who, after receiving an elementary education in the public school, pursued additional academic study at the Mitchell Seminary, an institution founded by his father and other community leaders. Subsequently, Burton spent three years at Indiana's Franklin College, where he took special training in oratory under the tutelage of the college president, and attended DePauw University, supporting himself by teaching elocution. He read law in Indianapolis, passed the bar, and opened a law practice at Princeton, Indiana, in 1875. Always interested in politics, Burton eagerly took to the stump for the Republican National Committee in 1876 and made sixty-three speeches for the party and its presidential candidate, James G. Blaine of Maine. Two years later Burton traveled to Kansas, liked what he saw, and relocated in Abilene that same year.[3]

Although Burton's first loves were politics and speech making, he apparently had some success as a criminal lawyer, and he established a law practice with J. H. Mahan soon after settling in Abilene. The partnership failed, according to Kansas City journalist Cecil Howes, after the two attorneys "engaged in a violent quarrel in a courtroom and Burton threw an ink bottle at his partner, but missed." Nonetheless Burton grew in popularity and stature in his adopted town and state. The Reverend Oliver M. Keve, who as a boy growing up in Abilene knew Burton, described him as "an immaculate dresser. He carried a cane and comported himself with genuine dignity. It was said that he aspired to the presidency." Howes asserted that "if Kansas ever had a professional politician it was J. Ralph Burton. . . . From the day he established a law partnership at Abilene he was in politics up to his neck."[4] Burton's first success in this realm came in 1882 when he won election to the state legislature from Dickinson County and then won reelection in 1884 and served as speaker pro tem during the subsequent 1885 session. Although unsuccessful in a bid for his district's congressional nomination in 1886, he easily won a third term in the state legislature two years later.[5]

The rise of the People's Party in the early 1890s impeded Burton's climb to power, but it was only a temporary setback. Chosen by his Republican colleagues to face Populist Senator William A. Peffer in a series of joint October debates in 1891, Burton performed quite well, attracted national attention, and his stature in the GOP increased. After the debates he was "overwhelmed with invitations to speak throughout the state, being recognized as Kansas' best orator."[6] According to historian Robert S. La Forte, Burton "was an extremely handsome man, with a finely chiseled nose, deep-set eyes, and a bushy moustache; only extra large ears marred his otherwise classic visage. He spoke eloquently, with the trained voice of an actor, had an excellent command of the language, and could memorize lengthy speeches after one or two readings." In 1897, as Populist fortunes waned, the *Topeka Democrat* praised the "Abilene Orator" as "a statesman, a philosopher, a close student of the forms of government. He is a richly endowed leader that the people of Kansas may well be proud of."[7]

2. Gregory, "An Unusually Ill Fated Line of Senatorial Succession," *Topeka State Journal*, September 22, 1906. The first two in this line of succession, plus Preston Plumb, are perhaps the most notable; see, among many others, Nicole Etcheson, "James H. Lane: Radical Conservative, Conservative Radical," in *John Brown to Bob Dole: Movers and Shakers in Kansas History*, ed. Virgil W. Dean (Lawrence: University Press of Kansas, 2006), 33–45; Richard W. Robbins, "The Life of Sen. Edmund G. Ross of Kansas," *Kansas Historical Quarterly* 33 (Spring 1967): 90–116.

3. Frank W. Blackmar, *Kansas: A Cyclopedia of State History* (Chicago: Standard Publishing, 1912), 1:259–60, 3:819–21; William E. Connelley, A *Standard History of Kansas and Kansans* (Chicago: Lewis Publishing Company, 1918), 3:1334–35; "Joseph R. Burton," Biographical Directory of the United States Congress, online at http://bioguide.congress.gov/biosearch/biosearch.asp; "Winning Ticket," *Topeka Daily Capital*, October 29, 1892, in Republican Party Clippings, 1889–1893, vol. 4, 225–26, Library and Archives Division, Kansas Historical Society, Topeka (hereafter cited as "Republican Party Clippings").

4. Cecil Howes, "White's Book and a Pastor's Letter Recall Senator Burton of Kansas," *Kansas City Times*, May 2, 1946, in Political Clippings, vol. 4, Library and Archives Division, Kansas Historical Society, Topeka (hereafter cited as "Political Clippings"); Howes actually claimed that Burton "did not practice his profession, but rather practiced politics."

5. Howes, "White's Book and a Pastor's Letter Recall Senator Burton of Kansas," 4:299; D. W. Wilder, *The Annals of Kansas, 1541–1885* (Topeka: Kansas Publishing House, 1886), 1124; Connelley, *A Standard History of Kansas and Kansans*, 3:1334.

6. "Winning Ticket," Republican Party Clippings, 4:226, 227; Blackmar, *Kansas: A Cyclopedia of State History*, 3:820.

7. Robert Sherman La Forte, *Leaders of Reform: Progressive Republicans in Kansas, 1900–1916* (Lawrence: University Press of Kansas, 1974), 18; the *Democrat*, quoted in "Hon. J. R. Burton," *Topeka Daily Capital*, October 17, 1897.

Theodore Roosevelt (left) was only forty-three years old when he assumed the presidency upon the death of William McKinley on September 14, 1901. A few days later, the new president was photographed in Buffalo, New York, conferring with McKinley confidant Senator Mark Hanna of Ohio. During his first few months in office, Roosevelt deferred to Senator Burton on several federal appointments, but their relationship quickly soured, especially after the spring of 1902 when Burton opposed the administration's Cuban reciprocity bill. In his later years, former Senator Burton blamed much of his ill fortune on Roosevelt, one of America's most popular and charismatic presidents, and unsuccessfully sought to discredit Roosevelt's administration. Photograph courtesy of the Library of Congress, Prints & Photographs Division, Washington, D.C.

Burton's gift for oratory was widely recognized from his earliest years in elective office, but it seems to have led to few tangible legislative victories. During his first successful campaign in the fall of 1882, one central Kansas editor labeled Burton the "best orator in Kansas to-day. He is energetic, temperate in his habits and earnest in his advocacy of the people." Several other newspapers endorsed his first foray into electoral politics. The *Salina Herald* predicted that he would become "one of the most influential members of the next legislature." The *Clay Center Dispatch* opined he was "a 'natural born' orator" and, with proper agrarian support, could "become a 'tower of strength' for this section of the state." The *Topeka Daily Capital* considered him "a remarkably fluent and graceful public speaker" and predicted he would develop into an "influential and useful" member of the lower house. The *Topeka Commonwealth* believed Burton was already "one of the brightest men among the bar of the State" and that if elected he would "faithfully represent the best interests of his county and State."[8]

Burton proved his legislative mettle as he worked on the primary issue in the 1883 session: the regulation of railroads. Burton, in cooperation with Christian B. Hoffman of Enterprise, a major figure in the state's milling and wheat marketing industries and soon to become a well-known Kansas Socialist, fought to regulate freight rates and establish a railroad commission. During the debates legislators "recognized Burton's speaking ability," and when he was reelected in 1884 it was by a substantial majority of 379 votes. He lost his race for speaker that year but often presided over sessions as speaker pro tem with "dignity and ability." This legislature achieved nothing significant

8. These newspaper comments were quoted in the *Abilene Gazette*, November 3, 1882; on the quotation from the *Clay Center Dispatch*, see also Corabelle Tolin, "The Political Career of J. R. Burton" (master's thesis, University of Kansas, 1940), 1; Wilder, *The Annals of Kansas*, 1008.

The youthful, energetic Roosevelt was a favorite with Americans of all ages and genders, as this photograph of a 1903 Salina audience seems to illustrate. At the time of this presidential tour, Roosevelt was at the height of his popularity and J. R. Burton was still a senator in good standing; but the schism between the Kansas senator and the president was already quite wide. Nevertheless, Burton, who moved from Abilene to Salina in 1910, introduced the president to an estimated crowd of over 8,000 gathered before a specially erected stand at the Union Pacific depot on May 2, 1903. Photograph courtesy of the Library of Congress, Prints & Photographs Division, Washington, D.C.

because the Prohibition issue was splitting the Republican Party. Burton opposed this "reform" and his stance "got him in bad with his party." His standing was further diminished when a story circulated that he, with some other lawmakers, had rented a house on Topeka Avenue where he "install[ed] women as hostesses to help entertain" visiting colleagues. Whether true or not, the "rumor" affected his reputation.[9]

Returning to the state legislature for the 1889 session, after defeating an opponent backed by a coalition of Democrats, Union Laborites, and Prohibitionists, Burton got high marks from many with his bill to control trusts. He admitted that the ideas behind his measure were not original and that he had copied much of it from Senator John Sherman's then current proposal in the U.S. Senate to curb illegal business combinations that soon became the Sherman Antitrust Act. Burton had adapted his law, however, to meet the needs of his Kansas constituents, as it would prohibit cattle and grain men from "enter[ing] into any combination to say what they shall pay for cattle or grain." Interestingly, his measure became Kansas law a year before Sherman's national act was passed. But during that same term Burton added no luster to his reputation when he led the fight to allow insurance companies to appeal decisions of the state superintendent of insurance to the courts. Within a year it had been revealed that Burton had been attorney for the Topeka Insurance Company after Superintendent Web Wilder placed it in receivership. Burton insisted that he became the company's counsel after the 1889 session adjourned, but this episode cast a longer shadow on his integrity.[10]

Nevertheless, Burton remained popular with many and again sought a seat in the U.S. House of Representatives in 1892. The People's Party was reaching its high tide that year, however, and a Populist-Democratic coalition defeated Burton and many others Republican candidates, capturing five of eight Kansas congressional seats.[11] Burton tried for a U.S. Senate seat in 1894–1895 but was defeated by Lucien Baker, a candidate from Cyrus "Cy" Leland's Republican faction. Burton claimed majority support in the party caucus, but by the time the members met to cast their ballots in late January 1895 opposition to Burton's candidacy had intensified. When he failed to capture majority support after numerous ballots, Burton told his legislative supporters to switch to Baker. Thus, in defeat Burton actually enhanced his reputation, leading one observer to write a couple of years later that "he has matured and developed greatly during the past eight or ten years. He is now more than an orator. He has developed the skill and sagacity of a successful political general."[12]

Burton had also taken advantage of his appointment by Governor Lyman Humphrey (1889–1893) to head the Kansas delegation to the World's Fair in Chicago in 1893.

9. Tolin, "J. R. Burton," 2–4; Patricia Michaelis, "C. B. Hoffman: Kansas Socialist," *Kansas Historical Quarterly* 41 (Summer 1975): 172; Howes, "White's Book and a Pastor's Letter Recall Senator Burton of Kansas," 4:299; Connelley, *A Standard History of Kansas and Kansans* 3:1334; Wilder, *The Annals of Kansas*, 1111.

10. Tolin, "J. R. Burton," 5–6; *Topeka Daily Capital*, February 7, 1889.

11. Burton was narrowly defeated by incumbent Populist Congressman John Davis, Junction City; see "Essays on Kansans in Congress," http://www.kshs.org/research/topics/politics/essay_congress.htm; Secretary of State, *Eighth Biennial Report, 1891–92* (Topeka, Kans.: State Printer, 1892), 114 (the tally was 20,162 for Davis, 18,842 for Burton).

12. Tolin, "J. R. Burton," 9–10; "Winning Ticket," Republican Party Clippings, 4:225–27; for more on Cyrus Leland, chair of the Republican State Central Committee and one-time political "boss" of the Kansas Republican Party, see La Forte, *Leaders of Reform*, 13–20; Walter T. K. Nugent, "How Populists Lost in 1894," *Kansas Historical Quarterly* 31 (Autumn 1965): 245–55; Bliss Isely, "The Big Boss and the Boss Busters," *The Kansas Teacher* 66 (February 1958): 20–22, 47; Robert S. La Forte, "The Making of a Rural Boss: Cy Leland, Jr. and the Doniphan County Railroad Bond Default," *Heritage of the Great Plains* 17 (Summer 1984): 17–29.

As Burton wrote prior to the fair, "hundreds of thousands" would visit the exhibition and view whatever Kansas products were on display. "There are thousands of young men who will visit the fair from Ohio, Indiana, Kentucky, Michigan, Illinois and other states who are ready to go almost direct from the great exhibition in quest of land for a home." He believed the Sunflower State was "the most inviting field for the young farmer of the Mississippi Valley to come to." Visiting the fair, he asserted, would be "like a voyage over the whole earth," and Kansas, Burton hoped, would be "a bright particular star."[13]

Overall, then, the 1890s were good to Burton. By 1896 he had gained the necessary Republican support for a second run at a U.S. Senate seat. He easily defeated former Senator John J. Ingalls in the Republican caucus, but when the full legislature voted on January 26, 1897, he again was defeated by the Democratic-Populist fusion—William A. Harris, a Linwood Democrat, captured the honor.[14] Burton reasserted his influence at the Republican state convention in 1898, serving as its permanent chairman, but Leland retained his dominance over the party statewide. Burton's influence was on the rise, however, and by 1900 he was the acknowledged leader of the so-called "boss busters" faction, which united in opposition to "boss" Leland and dominated that year's party convention. With some skillful "conciliatory maneuvers," Burton held the party together and controlled the Republican delegation to the national convention that year. His ally, David W. Mulvane, was elected national committeeman, and most importantly, in January 1901 the Republican legislature elected Burton to the U.S. Senate.[15]

As it turned out, the campaign for the senate seat proved anticlimactic. The decision was actually made in party caucus before the assembled legislators cast their official vote on January 22. Senator Baker, who barely edged out Burton six years before, was up for reelection, but Burton was ready to challenge the incumbent. The Topeka *Mail & Breeze* took a poll of legislators in late November 1900 that showed thirty-two votes for Burton, twenty-five for Baker, sixteen uncommitted, and thirty-nine "unaccounted for." Baker made his own count and withdrew from the race two weeks before the vote, saying "after mature investigation I am satisfied I cannot be elected." One story made the rounds that Baker's "indecision and weakness" in the lead-up to the election could be attributed to the fact that his wife was lying in a Philadelphia hospital "at the point of death." Baker's statement caused the Republican caucus to call a meeting two weeks early so that they could elect Burton. The candidate announced he would "serve the interests of the state and help keep Kansas where it now is—in the Republican column to stay."[16]

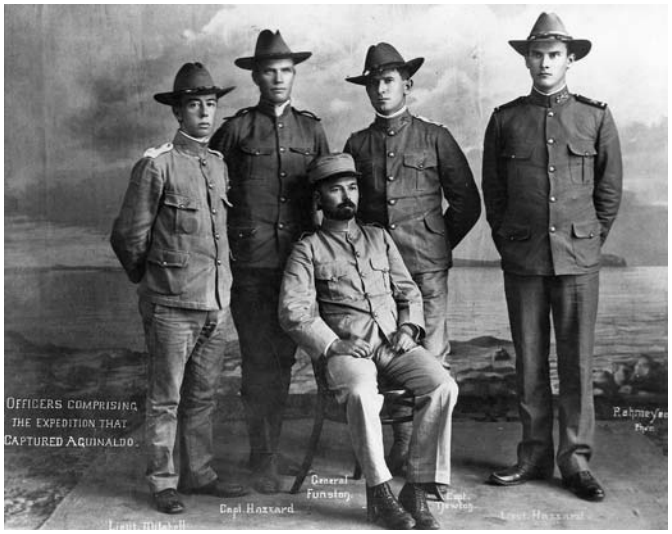
Described by one prominent historian as "a real exemplar of the political boss," Cyrus "Cy" Leland, Jr., was born on June 15, 1841, in Sauk County, Wisconsin. He moved to Kansas with his parents in 1858 and served as a lieutenant with Company F of the Tenth Kansas Infantry during the Civil War. After the war, Leland succeeded in business and politics while living in Troy, held several federal appointments, and was the late-nineteenth-century "boss" of the Kansas Republican Party. In large part because Leland thwarted his senatorial ambitions, Burton joined a Republican "insurgency," and by 1900 he was the acknowledged leader of the so-called "boss busters" faction, which united in opposition to "boss" Leland and dominated that year's party convention. In January 1901 the Republican legislature elected Burton to the U.S. Senate.

13. J. R. Burton, "Kansas at the World's Fair," *The Agora: A Quarterly* 1 (January 1892): 145–48.

14. Blackmar, *Kansas: A Cyclopedia of State History*, 3:821; Kirke Mechem, ed., *The Annals of Kansas, 1886–1925* (Topeka: Kansas State Historical Society, 1954), 1:227.

15. La Forte, *Leaders of Reform*, 19–20; Blackmar, *Kansas: A Cyclopedia of State History*, 3:821; Mechem, *Annals of Kansas*, 1:333.

16. *Topeka Daily Capital*, January 5, 1901; *Mail & Breeze* referenced in *Topeka Daily Capital*, November 25, 1900, in Collected Biography, Clippings, vol. 2, 122, Kansas Historical Society, Topeka; "An Ill Fated Line of Senatorial Succession," *Topeka State Journal*, September 20, 1906. The story on Baker's wife is from the *Topeka State Journal*, January 5, 1901.



First as colonel of the "Fighting" Twentieth Kansas Volunteers and then as an officer in the regular army, Frederick Funston received much praise, military promotion, and the Congressional Medal of Honor, but his detractors then and since, like critics of the war and concomitant occupation, were numerous. When in February 1902 a South Carolina senator denigrated General Funston during debates over American policy in subduing Filipino General Emilio Aguinaldo and the Philippine insurrection, Burton came to the general's defense. He called the Democrat's unfounded accusation that Funston tortured Filipinos in his quest for information about the insurrectionist leader "a vicious lie." Funston, seated here as the leader of the party that successfully captured Aguinaldo in March 1901, was supposed to have used "the water cure" (or "water boarding," as it is infamously known in the present century) on 160 insurgents, all but 26 of whom died.

"A mad scramble" ensued to get on the Burton bandwagon. The delegates from Lyon and Osage counties—the same ones who spearheaded the fight against Burton in 1894 and supported Baker—led the rush. The state's leading newspaper, the *Topeka Daily Capital*, believed this should be "considered a decisive defeat for Cyrus Leland," as was the election of Burton supporter David Mulvane to the post of national Republican committeeman. Although Leland had "nothing to say" about his loss, Governor William Stanley believed Kansas "always does the right thing." Newspaper publisher and emerging party leader Henry J. Allen congratulated Baker on his decision, which Allen believed marked "the high point of service and loyalty." Some two weeks later the senate voted thirty to three and the lower house voted seventy-nine to forty-three to ratify the Republican Party caucus's decision to send Burton to Washington to fill the "ill-fated" senate seat.[17]

Signs of continued misfortune for the "Lane succession" were evident immediately. Even as the new senator commenced his journey to the nation's capital in early 1901, he was served papers in Kansas City, Missouri, in a lawsuit filed by the Merrimac River Savings Bank of Manchester, New Hampshire. The suit, which involved $26,717.50, claimed Burton "borrowed the money while he was engaged in some land speculations in Colorado." Whatever the merits, this was, as it turned out, only a harbinger of things to come for the ambitious man from Abilene.[18]

Nevertheless, when Burton arrived in Washington, D.C., on March 2, "about 250 residents and visiting Kansans" gave him a rousing reception. One representative introduced him to the group as "the worthy successor" of Kansas senators Plumb and Ingalls, and it was announced that the first meeting of the Kansas congressional delegation would be held the following Tuesday when "the matter of Kansas appointments will be discussed, and a plan of action decided upon." The capital was swarming with those eager to fill the positions that would be open at the beginning of the new term of Congress.[19]

Although a freshman senator, Burton felt no qualms about challenging more venerable colleagues. When in February 1902 Benjamin "Pitchfork Ben" Tillman of South Carolina, a holdover demagogue from Populist days, denigrated Kansas favorite son and hero General Frederick Funston during debates over American policy in subduing Filipino General Emilio Aguinaldo and the Philippine insurrection, Burton fired back. Democratic Senator Tillman charged that Funston tortured a number of rebels in his pursuit of information about Aguinaldo, the insurrectionist leader. He was supposed to have used "the water cure" (or "water boarding," as it is infamously known in the present century) on 160 Filipinos, all but 26 of whom died. Burton indignantly challenged this accusation, calling it "a vicious lie," and demanded that Tillman either retract his charges or release the name of the accuser he quoted. Tillman, of course, did neither. At their 1902 convention, Republicans of Comanche County commended Burton for this "masterful defense of our General Funstan [*sic*], when he was maligned in the Senate Chamber. We recognize in him an orator who has

17. *New York Times*, January 23, 1901; La Forte, *Leaders of Reform*, 16–21.

18. Howes, "White's Book and a Pastor's Letter Recall Senator Burton of Kansas," Political Clippings, 4:299.

19. *Topeka Daily Capital*, March 3, 1901. The representative mentioned was Congressman James M. Miller, a Council Grove Republican, who was in the second of his six terms in the U.S. House of Representatives. Congressman Justin D. Bowersock of Lawrence was also present, as were A. W. "Farmer" Smith and David W. Mulvane, among many others.

Following the Spanish-American War, which freed Cuba from Spanish rule and brought it into America's sphere of influence, the United States assumed responsibility for protecting the new island nation's "independence," and Congress debated a proposal to provide favorable trade relations—reciprocity in this instance meant a free American market for Cuba's cane sugar. President Roosevelt pressed Congress to enact the program, but he met considerable resistance from U.S. sugar growers, as this January 29, 1902, Puck cartoon illustrates. Later that year, Burton delivered an impassioned speech in which he agreed that it was America's "duty to extend a helping hand" to Cuba but insisted, "beet sugar must not be asked to bear the burden." Although opponents of the administration's Cuban reciprocity bill eventually lost the fight, according to Burton, "President Roosevelt never forgave" him. Cartoon courtesy of the Library of Congress, Prints & Photographs Division, Washington, D.C.

no superior in the United States Senate, and in every way qualified to represent the great state of Kansas."[20]

In the early days of his term this evaluation seemed to have merit, as Senator Burton and Congressman Charles Curtis controlled Kansas patronage. But Burton's committee assignments were unimpressive, and even more importantly, in the spring of 1902 he made what proved to be a politically fatal mistake when he opposed the administration's Cuban reciprocity bill.[21] Following the Spanish-American War, which freed Cuba from Spanish rule, the United States assumed responsibility for protecting the new island nation's independence, and Congress debated a proposal to provide favorable trade relations—reciprocity in this instance meant a free American market for Cuba's cane sugar. President Roosevelt pressed Congress to enact the program, but he met considerable resistance from beet sugar interests in the United States.

The House version of the bill, which Burton supported, reduced the tariff rate on Cuban sugar but also "contained a provision, repealing what was known as the differential duty on refined sugar." The Senate bill was, according to Burton, "an administration measure" that simply reduced tariff rates by 20 percent. Its "real purpose . . . was to make a gift of millions dollars to the American Sugar Refining Company," which dominated the Sugar Trust, not to help the Cubans. In Burton's opinion, expressed at the time and a few years later in his book, *My Case and the Political Community of Interests* (1908), this would have "retard[ed] the development of the beet sugar industry." This interne-

20. 57th Cong., 1st sess., *Congressional Record* 35 (February 22, 1902): pt. 3:2083; "We, the Republicans of Comanche county, Kansas," [1902], in Incoming Correspondence, folder 4, box 6, Chester I. Long Papers, Collection No. 42, Library and Archives Division, Kansas Historical Society, Topeka (hereafter cited as "Long Papers"). David J. Silbey, *A War of Frontier and Empire: The Philippine-American War, 1899–1902* (New York: Hill and Wang, 2007), 174, noted, "how forceful this [Funston's] encouragement was remains ambiguous." Although the Kansas general received much praise, military promotion, and the Congressional Medal of Honor, his detractors then and since, like critics of the war itself, were numerous. See, for example, Barry Hankins, "Manifest Destiny in the Midwest: Selected Kansans and the Philippine Question," *Kansas History: A Journal of the Central Plains* 8 (Spring 1985): 54–66.

21. For committee assignments, see 57th Cong., 2nd sess., *Congressional Record*, *Index* 35 (1903), 36–37.

A U.S. representative and senator prior to becoming in 1929 the first person of American Indian descent to serve as vice president of the United States, Charles Curtis, pictured (right) during an official trip to the Philippines in 1905, was born near Topeka on January 25, 1860. He was first elected to the U.S. Congress in 1892 and served almost continuously in the House (1893–1907) and Senate (1907–1913, 1915–1928) for the next thirty-six years. One of Burton's most consistent political allies, Curtis held the "ill-fated" Senate seat for a full, six-year term starting in 1907. The Herbert Hoover-Charles Curtis ticket was unsuccessful in its bid for reelection in 1932, of course, and Curtis resumed the practice of law, this time in Washington, D.C., where he died on February 8, 1936.

cine battle was no minor incident; it garnered widespread attention in the national press.[22]

At home, too, the media was interested in the story. When Senator Burton returned to Kansas for the Republican state convention in Wichita in 1902, reporters asked him about being at loggerheads with the president over the reciprocity bill. He responded that no Republican was opposed to reciprocal relations with Cuba if it did not injure any "home industry." In a rousing and well-received convention speech, the senator from Abilene called protectionism a "cardinal principle of the Republican party" and insisted that "reciprocity is the handmaid of protection." It was America's "duty to extend a helping hand" to Cuba, but "beet sugar must not be asked to bear the burden."[23] Three weeks later powerful Senate leaders, including Henry Cabot Lodge, Mark Hanna, and Nelson Aldrich, pressed the president's program before the Republican caucus and Burton was one of only two speakers opposed, because he believed the policy would hurt the infant beet sugar industry, a promising enterprise in western Kansas and throughout much of the West. He made "a brief but impassioned and eloquent speech" that caught the attention of the president and drew down his wrath on the head of the rebellious senator. Heretofore, Roosevelt had "honored Burton's wishes on patronage," along with that of Congressman Curtis, but this now ended. The *Topeka Daily Capital*, a staunch Burton supporter, headlined his speech as "unfortunate" because the president announced his refusal to appoint Burton's current list of nominees to office in Kansas.[24]

"The Republican members of the Kansas delegation in the House," the *Daily Capital* observed, "are not talking but every one of them is distressed. They feel that the junior Senator has made a mistake which may bring serious results with their wants with the President." At least with regard to the pending appointment of a postmaster at Emporia, the correspondent believed that Roosevelt would appoint a man endorsed by William Allen White instead of the Burton camp's pick. The president thought quite highly of the Emporia editor, who was also a friend and supporter of Cy Leland, the recently dethroned Kansas "boss," and thus the issue became a point of contention in state Republican politics.[25] At the state convention Burton and his allies lost more ground when Leland's picks for governor, Willis J. Bailey, and for U.S. senator, Congressman Chester I. Long (R. Medicine Lodge), won endorsement.[26]

The return of Leland and "Bossism," after only a brief hiatus, was tied to his position as the Missouri Valley pension agent, a post to which President McKinley had appointed him. After McKinley was assassinated in September 1901, Leland pulled all the strings he could find to persuade the newly sworn-in Roosevelt to reappoint him, and Burton

22. J. R. Burton, *My Case and the Political Community of Interests* (Abilene: Burton Publishing, 1908), i; Henry P. Willis, "Reciprocity With Cuba," cited in Tolin, "J. R. Burton," 36; *New York Times*, June 15, 1902; November 20, 1903. Burton and the bill's other opponents forced a delay, but the president got his legislation the following year. Nevertheless, according to Burton (*My Case*, i), "President Roosevelt never forgave" him.

23. *Topeka Daily Capital*, May 29, 1902; Thomas A. Bailey, *A Diplomatic History of the American People*, 6th ed. (New York: Appleton-Century-Crofts, Inc., 1958), 499–501.

24. *Topeka Daily Capital*, June 21, 22, 1902; *New York Times*, June 15, 1902; John Morton Blum, *The Republican Roosevelt* (Cambridge, Mass.: Harvard University Press, 1954), 41.

25. *Topeka Daily Capital*, June 22, 1902.

26. La Forte, *Leaders of Reform*, 23–25; Homer E. Socolofsky, *Kansas Governors* (Lawrence: University Press of Kansas, 1990), 133–35.

My Recollections

by Cyrus Leland of Troy

Although never elected to high state or national office, for many years Cyrus "Cy" Leland, Jr. (1841–1917), was considered the "boss" of the Kansas Republican Party. He wielded considerable political power within the state around the turn of the twentieth century and was the main target of the "insurgency" or boss-buster movement within the Republican ranks during the early part of the Progressive Era. The historian Walter T. K. Nugent called Leland "a real exemplar of the political boss" and "perhaps the most powerful individual in Kansas politics until insurgency and the direct primary sapped his power permanently."[1]

Bossism was not, however, always synonymous with graft or "old guard" conservatism during this period of transition in American politics and governance. Or, at least one might argue with regard to Cy Leland of Troy, the stereotype is not a perfect fit.[2] *Individuals seldom if ever are so one-dimensional. On January 26, 1913, Leland launched a series of articles—"recollections"—for the* Kansas City Star, *which began with a brief outline of his fifty-year political career. Leland wrote that he "was in politics up to my ears" but "there never has been a breath of scandal against my name. . . . I never made a cent in politics, although I have grown wealthy in my business." A new, better day of politics had dawned, according to Leland: "Theodore Roosevelt started the Progressive movement; he is the greatest living American." The old Republican Party was "dead," in Leland's estimation. "The strong men, the old fellows, have gone out of politics; they have retired. The young, strong men have gone over to the Progressive party. The Republican party cannot get away from the last thirty years; those years hang like a millstone round its neck; those years of giving to the factories and the corporations all they wanted in the way of tariffs. The downfall of the Republican party has been due to men who were too fat to think. It has gone the way of all flesh."*[3]

The series was self-serving, of course, but the recollections offer an interesting perspective that might surprise some students of Kansas history, and the following excerpt from the February 23 installment seems especially pertinent here.

If there had been a Progressive party in 1903 I would have joined it. For in that year I learned much of the utter selfishness of ambitious men in politics. I have never been ambitious for public office myself; it made not the slightest difference to me when I was not reappointed pension agent at Topeka by President Roosevelt.[4] But I learned in that year that there were those who put selfish ambition above principle, that there were men in the councils of the party, who subordinated the best interests of a great state to the lust for [power].

It happened in this way: A few days after Chester I. Long was elected United States senator in 1903 I was asked to call at the office of Mort Albaugh, who then was bank commissioner of Kansas. I went to his office, and there I found the newly elected senator, Long, Willis J. Bailey, then governor, and Mort Albaugh. . . . I took a seat and I looked at them and for a moment nobody said anything.

I asked: "Did somebody send for me?"

"Yes," said Long, in his dignified, judicial tone. "We wanted to talk over with you something we have been discussing here before you came in, and I want to tell you what we ought to do to enable us to hold the state politically without any question. In order to do this we ought to take into our ranks Charlie Curtis or [J. R.] Burton."

"Well," I replied, "that is a cheeky thing, to say the least. I came to the legislature to beat Curtis, more than anything else, and to help elect you. You got what you wanted. You are a senator and Governor Bailey has got what he was after, and the idea of you gentlemen talking Charlie Curtis or Burton to me is, to say the least, something of a surprise to me. I never would agree to any such thing under any circumstances. All you and Governor Bailey have got to do to hold the influence you now have in the state is to do right. That will make you strong and will make the party strong, and you won't need any of the help of either Burton or Charlie Curtis."

None of the other gentlemen said a word in reply to this and I walked out shortly thereafter. It reminded me of the

1. Walter T. K. Nugent, "How Populists Lost in 1894," *Kansas Historical Quarterly* 31 (Autumn 1965): 245.

2. Robert S. LaForte, "The Making of a Rural Boss: Cy Leland, Jr. and the Doniphan County Railroad Bond Default," *Heritage of the Great Plains* 17 (Summer 1984): 25.

3. Cyrus Leland, "My Recollections," *Kansas City Star*, January 26, 1913, 131, in Bio-Scrap-Book, L, vol. 10, Library and Archives Division, Kansas Historical Society, Topeka. Leland admitted to being disappointed when Roosevelt did not reappoint him as pension agent in 1901, "but the fact that I was turned down has never changed my deep and lasting admiration and friendship for Theodore Roosevelt" (131). The final "My Recollections" appeared on March 23, 1913.

4. Extant correspondence, some of which is cited in "Joseph Ralph Buron and the 'Ill-Fated' Senate Seat of Kansas," seems to belie this particular assertion.

fight Dan Anthony [of Leavenworth] made for years against Charles Curtis in the First [Congressional] District, when Curtis was congressman. For years there was nothing too strong or bitter for Anthony and his newspaper to say about Curtis. Young Dan made frequent trips to Washington for the express purpose of "getting things" on Curtis to use in the campaign of the Anthony family against the congressman. And he found out many things. They accused him of every crime in the calendar and resorted to vituperation of the limit of their vocabulary to show that Curtis was a disgrace to Kansas. Then, when Young Dan saw a chance to go to Congress he deserted his principles to be tied up with the "Injun" tighter than two in a bed, and was his ally ever after.

Wasn't that an awful proposition to make to me, after we had been fighting Curtis to the limit, and just after beating the "Injun." And Burton, without any principle, notorious to the last degree, they wanted me to tie up with politicians of that stripe, so they could "hold the state politically."[5]

5. Cyrus Leland, "My Recollections," *Kansas City Star*, February 23, 1913. Although Curtis's American Indian heritage was often portrayed in a positive light, here Leland attempted to turn it against Curtis by calling him the "Injun," an offensive, derogatory epithet, of course (even in the early-twentieth century), which conjured racially charged, negative stereotypes—not an uncommon practice among Curtis's detractors.

did likewise to prevent it and secure the post for his man, Wilder S. Metcalf of Lawrence.[27] Ultimately, Burton won that round, but the intraparty struggle produced an extensive correspondence between Leland and Joseph L. Bristow of Salina, who served as fourth assistant postmaster general, doing yeoman work for McKinley in investigating corruption in the vast and murky politics of the nation's post offices. As he uncovered instances of graft and corruption, he became notoriously unpopular among the nation's local politicians, but he had the ear of the president and became a powerful influence on Kansas patronage.[28] Both before and after the McKinley assassination Leland wrote to Bristow, asking about the president's attitude toward him and his position, and Burton's opposition tactics. In March 1901 Leland's sources indicated that if McKinley did not plan on reappointing Leland, Burton would support A. W. Smith as his replacement.[29]

In mid-May, Leland "confidentially" assured Bristow that he did "not fear Senator Burton's opposition." The senator had told "several parties within the last two or three weeks" that if the president wished to retain Leland as pension agent "that would be satisfactory to him." Obviously, this was not entirely true; Burton desired Leland's removal, and Leland knew that Burton was at best "an uncertain quantity." Burton was a realist, however, who recognized that the timing was not right for an open fight with Leland. As long as McKinley was in the presidency and Leland had his backing, the senator avoided an open challenge; but Burton could and did confuse and delay the process.[30]

Leland failed to secure reappointment during the summer months, and his prospects became even more problematic when Theodore Roosevelt moved into the White House in mid-September 1901. Leland was now forced to cultivate the support of a new president. He organized his many supporters who brought appropriate pressure to bear on the president for the next three months.[31] For example, Charles S. Jobes, a Kansas City banker and close confidant of Kansas congressman Chester Long, promised he would have his brother wire the White House, wrote Leland, "as to my honesty and character, or anything I wished." And Marcus A. Low, the general attorney for the Chicago, Rock Island and Pacific Railway Company at Topeka, told Leland "voluntarily" that he would inform Roosevelt that Le-

27. La Forte, *Leaders of Reform*, 21. McKinley was shot by an assassin on September 6, 1901, and died on September 14.

28. A. Bower Sageser, "The Postal Career of Sen. Joseph L. Bristow," *Kansas Historical Quarterly* 34 (Spring 1968): 8; see also A. Bower Sageser, *Joseph L. Bristow: Kansas Progressive* (Lawrence: University Press of Kansas, 1968), 27–52.

29. Cyrus Leland, Jr., to Joseph Little Bristow, March 22, 1901, Correspondence and Papers, folder 10, box 12, Joseph L. Bristow Papers, Collection No. 6, Library and Archives Division, Kansas Historical Society, Topeka (hereafter cited as "Bristow Papers"). Abram Wentworth "Farmer" Smith of McPherson County was a former legislator, speaker of the Kansas House of Representatives, and candidate for governor, who would be appointed pension agent by President William Howard Taft, Theodore Roosevelt's successor. Smith served from 1911 to1913 when the Topeka pension office was closed. See Mechem, *The Annals of Kansas*, 2:230; "Official Roster of Kansas, 1854–1925," *Kansas Historical Collections*, 1923–1925 (1925): 664, 721.

30. Leland to Bristow, May 14, 1901, Official Letters to Bristow, folder 1, box 135, Bristow Papers. See also, in same location, Leland to Bristow, April 20, June 28, July 8, August 17, 1901.

31. Leland to Bristow, September 20, 27, 29, October 11, 1901, Official Letters to Bristow, folder 1, box 135, Bristow Papers; William Allen White, *The Autobiography of William Allen White*, 2nd, rev. and abrid. ed., ed. Sally Foreman Griffith (Lawrence: University Press of Kansas, 1990), 177.

land "ought to be reappointed, and that he would stop the fight that Burton was making on me."[32]

Although Leland was also told that "Burton was down in the mouth, and had no standing with the President," it soon became all too clear this intelligence was faulty and that Leland was losing the reappointment struggle. President Roosevelt was considering Metcalf as an alternative to Leland, reported the *Topeka Daily Capital* on December 6, in part because the Kansas delegation remained split and because of some persistent allegations that Leland had "violated civil service laws in the administration of his office."[33] Clearly, Leland was frustrated, but he and some of his supporters remained positive about his prospects. In the end, they had to make the best of their defeat; the "boss" wrote Bristow on December 19 that he had just received word of Metcalf's appointment and "was not much surprised." Marcus Low, who had asked Burton to intervene with the president on Leland's behalf, wrote Congressman Long that he was "very sorry that Senator Burton has not taken a broader and a kindlier view of this matter." Low believed "it would have been better for him, and for all concerned, in the long run."[34]

Low's assessment was indeed apropos—perhaps more so to Burton than to Leland. State party chief Morton Albaugh wrote that Low, who believed Burton had intentionally deceived him on more than one occasion, was "very indignant over the matter." Low thought he had been "worse treated and more humiliated than Mr. Leland had been" and believed Burton's actions in this matter "had been absolutely dishonorable."[35] This was bad news for Burton. The major railroads dominated the Republican Party in Kansas at this time and the results of this episode were that, in addition to irritating Roosevelt, Burton had deeply insulted Low and thus for a time lost the political support of an important railroad.[36]

One of Cy Leland's protégés was Willis J. Bailey, seated here on the boss's left. He benefited from the resurgence of the Leland faction at the 1902 state convention and was nominated and elected governor of Kansas, serving a single term from 1903 to 1905. But the always factious Kansas Republican Party became even more so in the wake of Burton's indictment and Governor Bailey's February 1904 decision not to seek a second term nomination. An Atchison Democrat noted that Burton's indictment had a "disturbing" effect on Kansas politics and he believed the movement to dump Bailey was started by Burton loyalists and continued by others who boomed Edward W. Hoch for governor. Also pictured (seated, Leland's right) is District Court Judge William I. Stuart of Troy, Doniphan County.

Within the first few months of the new administration, the senator's relationship with the president began to sour. At one time Burton had been Roosevelt's confidant, who reportedly helped convince him to accept the fortuitous vice-presidential nomination in 1900, and Roosevelt insisted during the Leland affair in December 1901 that he remained "on the best of terms with Senator Burton." But the president was agitated and embarrassed by the dispute over Leland.[37] Then, in May 1902 from the Republican state convention in Wichita, Burton sent the president a telegram reporting that he and Congressman Long had endorsed a man for a "high government post" who had failed to deliver "some votes as Burton had ex-

32. Leland to Long, December 1, 1901, General Correspondence, folder 6, box 3; E. F. Ware to Long, December 16, 1901, General Correspondence, folder 7, box 3, Long Papers; Leland to Bristow, November 11, December 1, 1901, Official Letters to Bristow, folder 1, box 135, Bristow Papers. Curiously, perhaps, Eugene Ware was appointed U.S. pension commissioner in 1902, a post he held for three years. Blackmar, *Kansas: A Cyclopedia of State History*, 2:886; Charles Sumner Gleed et al., "Eugene Fitch Ware," *Kansas Historical Collections, 1913–1914* (1914): 18–71.

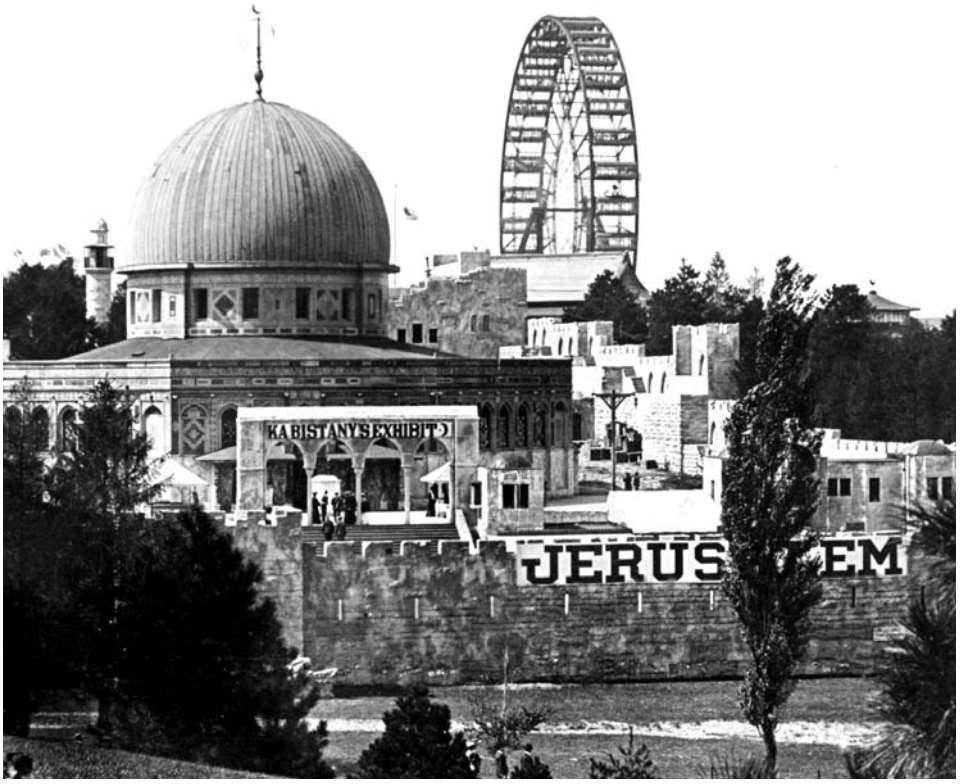
33. *Topeka Daily Capital*, December 6, 1901. Leland repeatedly and vehemently denied all charges of wrongdoing. See, for example, Leland to Bristow, October 21, 25, December 6, 11, 1901, Official Letters to Bristow, folder 1, box 135, Bristow Papers.

34. Leland to Long, December 12, 14, 1901, General Correspondence, folder 6, box 3; Low to Long and Leland to Long, December 19, 1901, General Correspondence, folder 7, box 3, Long Papers; Leland to Bristow, December 19, 1901, Official Letters to Bristow, folder 1, box 135, Bristow Papers.

35. Albaugh to Long and Leland to Long, December 23, 1901, General Correspondence, folder 7, box 3; Leland to Long, January 6, 1902, General Correspondence, folder 1, box 4, Long Papers.

36. Republican Party politics in Kansas was fickle, however, and internal party alliances were ever in a state of flux; within two years Low and Burton were together again promoting the fortunes of the Kansas Republican League in opposition to the Leland-Long-Albaugh faction, which supported Bailey. According to La Forte, the Burtonites, who included Low and Mulvane, worked with independent reformers such as Walter R. Stubbs to oust Governor Bailey and nominate Edward W. Hoch for governor in 1904. Not surprisingly, after Burton's indictment the more radical reformist wing led by Stubbs and Hoch distanced itself from the Burtonites and captured control of the league. La Forte, *Leaders of Reform*, 37–40; *Topeka Daily Capitol*, January 24, 1904.

37. *Topeka Daily Capital*, December 6, 1901.



Burton played a lead role for Kansas during the World's Columbian Exposition, or 1893 World's Fair, at Chicago. A decade later, his involvement with the proposed "Jerusalem Exhibit" at the St. Louis World's Fair exacerbated, according to Burton, the rift between the senator and the president. At Burton's behest, Roosevelt wrote a letter "commending the proposed exhibit," and the senator forwarded it to the president of the Jerusalem Company; when it showed up in company advertisements and a magazine queried the president about his endorsement, Roosevelt became "wildly indignant" and Burton bore the brunt of the president's rage. Photograph of the replica—complete with a reproduction of the Dome of the Rock and city wall—courtesy of the Library of Congress, Prints & Photographs Division, Washington, D.C.

pected." Therefore, Burton and Long wished to withdraw their support for the nomination. When Long subsequently asked Roosevelt about his failure to make that nomination, the president informed Long that another candidate had been selected because Long and Burton had withdrawn their support. Long denied his change of heart, so he and Roosevelt confronted Burton about the telegram. Burton admitted he had not been authorized to speak for Long, and from that point on Burton was "*personna non grata* at the White House."[38]

Thus, the rift between Burton and Roosevelt, which first emerged with the Leland affair, was exacerbated by Burton's state convention comments on the Cuban reciprocity bill and perhaps made irreparable by the subsequent misrepresentation, but there were other issues of contention between the Kansas senator and the president. From the hindsight of later life Burton saw his disagreement with the president over the reciprocity bill as one of three separate incidents in which he evoked Roosevelt's wrath. At the same time that Burton made his disagreement on the Cuban question known, he also voiced a difference of opinion with the president on a matter of "historical" interpretation of the role played by Admiral Winfield Scott Schley in the Battle of Santiago Bay in the Spanish-American War. The president endorsed the report of a court of inquiry and penned

38. Howes, "White's Book and a Pastor's Letter Recall Senator Burton of Kansas," 4:299. There was at least one area of domestic policy in which Burton might have endeared himself to the conservation-minded president—flood control. The Missouri River flooded in the spring of 1903 and caused much devastation downstream in Kansas. In response Burton wrote a significant and prophetic essay asserting that, as the country denuded its forests, "the destruction [from flooding] increases"—the 1903 flood destroyed about $40 million in property and took almost one hundred lives. The nation had adopted the concept of impounding water in reservoirs as a means of flood control on the lower Mississippi and now was the time, Burton insisted, to make a similar effort on the Missouri. Burton suggested going even further than mere impoundment of the water, however; it should be used for irrigation, and for this purpose, he argued, a "comprehensive system of canals and reservoirs" should be constructed. This would make "millions of acres of land now uncultivated" productive and would be "a task worthy of the most earnest endeavor of our Government." Even with his efforts in this area, however, Burton's relationship with Roosevelt continued to deteriorate. J. R. Burton, "Flood Prevention and Irrigation: Twin Ideas," *North American Review* 177 (October 1903): 529, 532.

his own "long, wordy finding," wrote Burton, denouncing the admiral for acting indecisively, while Burton believed Schley deserved credit for the naval victory. Burton was not an authority on this question and was only expressing his personal opinion; but he observed, "Mr. Roosevelt cannot, and will not, brook any opposition."[39]

The third "matter that excited his [Roosevelt's] wrath," wrote Burton in *My Case*, involved an exhibit—"The Jerusalem Exhibit"—at the 1903 World's Fair in St. Louis. At Burton's behest, Roosevelt wrote a letter "commending the proposed exhibit," which "intended to be a replica of the city of Jerusalem" at the time of Christ and was enthusiastically endorsed by fair officials. Burton, a member of the fair commission back in 1893, forwarded Roosevelt's letter to the president of the Jerusalem Company, who immediately caused the letter to be published throughout the country. Six months later, when it showed up in company advertisements and "a magazine down East" queried the president about his endorsement, he became "wildly indignant" and Burton "was to bear the brunt of his folly to those who looked upon his act as foolish." Although the senator tried "to mollify the President," Burton's political enemies lost no opportunity to encourage Roosevelt's growing animosity toward the Kansas senator and exploit that weakness back home.[40]

In Burton's opinion antagonizing the president's distrust was not difficult. Roosevelt held, in the senator's estimation, an almost paranoid fear of the influential Republican senator from Ohio, Mark Hanna. The president believed Senator Hanna, who had been McKinley's number one champion but was never a fan of the "Rough Rider" in the White House, would try to steal the Republican presidential nomination from him in 1904. So, the president tried to manipulate party organizations in Republican states prior to the national convention to assure victory.[41] If Burton's interpretation of the president's conduct was correct, Roosevelt need not have worried; as it turned out Hanna died in February, prior to the convention, and Kansas was one of many states that backed Roosevelt all the way through the November election.

Although the Sunflower State was united in its support for the Republican president, it appeared perilously divided between the Burton and Leland factions. After the 1902 election, the Leland camp controlled the statehouse of course, and they elected Chester Long to Kansas's other U.S. Senate seat. By this time Leland, Bailey, and Long had the support of Kansas railroads, and this became important in June 1903 when the president elevated federal district Judge William C. Hook to the U.S. Circuit Court for the Eighth District. Senator Long initially backed William A. Johnston, chief justice of the Kansas Supreme Court, as Hook's replacement, but Roosevelt had promised Burton during the summer of 1902 that he would make no appointments in Kansas without his approval. Burton at first had no candidate, but his friend and ally David Mulvane, who had supplanted Leland as national committeeman, favored Charles Blood Smith for the judicial appointment. Leland, Albaugh, and Bailey, now joined by Long, decided to back Justice John C. Pollock of the Kansas Supreme Court. By this time Long was in Roosevelt's good graces, and during a visit to the president's home at Oyster Bay, New York, in the summer of 1903, Roosevelt promised Long that he would make no appointment in Kansas without the junior senator's approval. "The so-called Eastern influence, meaning powerful figures in the railroad world," explained Judge George Templar, "were divided between Charles Blood Smith and Pollock." In November 1903, while the Kansas delegation was trying to decide whom to back, Roosevelt finally named Pollock because he had been endorsed by Leland, Long, and the railroads and because by this time the president heartily disliked Burton.[42]

Within weeks, Burton's problems with the administration took an even more serious turn. The Kansas senator was stunned when on January 23, 1904, a federal grand jury at St. Louis returned an indictment charging him with accepting payment for service rendered to the Rialto Grain and Securities Company of St. Louis from November 1902 through March 1903. At the turn of the twentieth century unscrupulous enterprises often used the postal services to promote their "get rich quick" schemes, and the Rialto Company was a typical practitioner of such gimmicks that soon ran afoul of the postal service. When its president, Major Hugh C. Dennis, was indicted for securities fraud, the company contacted Burton, whom it previously

39. Burton, *My Case*, ii; George P. Baker, ed., *The Forms of Public Address* (New York: Henry Holt and Company, 1904), 50–65. Roosevelt's analysis of the case, based on a careful reading of the record and personal investigation, actually appears quite measured and balanced.

40. Burton, *My Case*, ii; Tolin, "J. R. Burton," 42.

41. Burton, *My Case*, ii.

42. George Templar, "The Federal Judiciary of Kansas," *Kansas Historical Quarterly* 37 (Spring 1971): 8; Robert H. Kaul, "The Kansas Judicial System," in *Requisite Learning and Good Moral Character: A History of the Kansas Bench and Bar*, ed. Robert W. Richmond (Topeka: Kansas Bar Association, 1982), 66–67; "Official Roster of Kansas, 1854–1925," 665, 711–12. Not surprisingly, this personal animosity between Roosevelt and Burton negatively impacted other of the senator's political friends: see, for example, R. Alton Lee, "William Ross Bigham: Entrepreneur, Diplomat, and Traveler," *Heritage of the Great Plains* 41 (Winter 2009): 44–46.

Born in Perry County, Pennsylvania, on October 12, 1860, Chester I. Long, a Medicine Lodge attorney and politico, won respect and influence with many of his fellow Republicans by holding his own in debates with Populist rival Jeremiah "Sockless Jerry" Simpson. Depicted here during one such debate in 1892, Long lost this contest to the incumbent but took the rematch two years later. He lost yet another rematch in 1896 but was victorious in the congressional elections of 1898, 1900, and 1902 and was Leland's and ultimately the state legislature's 1903 choice for the U.S. Senate, where he served a single term (1903–1909). In 1908 Long lost his bid for renomination to Joseph R. Bristow, the candidate of the progressive wing of the Republican Party, but eventually returned to Washington, D.C., where he served as president of the American Bar Association (1925–1926) and died on July 1, 1934.

had retained as counsel at a rate of $500 monthly for five months. Burton escorted Dennis to the office of postmaster general and asked its general counsel, William Cochrane, if Dennis was also under indictment by the Post Office and received a negative reply. A little over a year later, using an obscure Civil War statute, Attorney General Philander Knox charged that Burton violated the law prohibiting national senators, representatives, and administrators from receiving compensation for services rendered in cases where the United States had a "pecuniary" interest. This 1864 law was intended to prevent officials from representing persons with money claims against the government or appearing before courts martial to defend military officers. The criminal charges against Burton carried penalties of up to $10,000 and imprisonment for as much as two years on each count, and he would not be allowed to hold "an office of trust, honor, or emolument under the Government" thereafter.[43]

Burton and his supporters questioned who was really behind this attack. Cochrane and postal inspector Robert M. Fulton helped in the subsequent investigation, and they were said to be pro-Leland, anti-Burton men. Some of Burton's friends accused Joseph L. Bristow of initiating the proceeding for political reasons, and others suspected William Allen White, a former Leland man who was now part of the combination to elect a real reformer, Edward Hoch, as governor in 1904. Regardless, when a U.S. district attorney "raided the Rialto Company office in search of evidence in connection with another case," explained La Forte, he "discovered letters that incriminated Burton in a conspiracy with the firm concerning the post-office investigation."[44]

David Mulvane made a special trip to Washington to investigate the crisis. He reported to Burton's friends that neither Roosevelt nor Bristow "actively participated in the Burton investigations but that neither turned a hand to help the Kansas senator" in his predicament. Both, explained journalist Cecil Howes, "watched postal inspectors do their stuff with great glee. Either one could have stopped the prosecution but neither had the desire to do so."[45] A story in the *New York Times* argued that the origins of the Roosevelt-Burton rift, and perhaps the postal investigation, stemmed from Burton's repeated request that Roosevelt remove Bristow from office, a drive that began when McKinley was assassinated. The president responded that he would remove Bristow only for "cause." When Burton realized he "could not have everything his own way about appointments," reported the *Times* correspondent on January 25, 1904, he joined a "Senate cabal which sought to embarrass the Administration." The cabal's initial effort was to oppose Cuban reciprocity. Roosevelt invited Burton to the White House for discussions and the senator repeatedly assured the chief executive of his loyalty, four or five times, the newspaper stated. After making these protestations of support, Burton delivered a "bitter" speech to the Republican caucus opposing reciprocity and from then on he "was a discredited man at the White House." The subsequent "Jerusalem affair," greatly enhanced the president's distrust of the senator, and perhaps destroyed any chance of reconciliation. But the extent to which any of this, or his "long standing feud" with fellow Kansan and Fourth As-

43. *Topeka Daily Capital*, January 24, 1904; see also *New York Times*, January 24, 25, 1904.
44. La Forte, *Leaders of Reform*, 39; Tolin, "J. R. Burton," 55–57.
45. Howes, "White's Book and a Pastor's Letter Recall Senator Burton of Kansas," 4:300.

sistant Postmaster General Bristow, affected Burton's legal problems in January 1904 remains mere speculation.[46]

Burton waived his senatorial immunity from arrest and immediately went to St. Louis and gave bond for his court appearance, confident of acquittal. The senator continued to insist he had done nothing wrong: he had told the company he could not act for them in any capacity before the postal department and, therefore, his name should appear on the company's literature only as a "general counsel." Burton would repeat this during his trial. According to a government witness, Burton claimed he needed some extra income because "he had lost $70,000 recently, for which he was not legally responsible, but which he wished to repay, and that his [Rialto] fees would revert to that use." Burton insisted he had consulted several colleagues who assured him that many senators and representatives sought to supplement their income in this fashion, and it was not illegal.[47]

As Burton awaited trial during the late winter of 1904, he had to watch his always factious Kansas Republican Party become even more so. Throughout the month of February, in the wake of Governor Bailey's decision not to seek nomination for a second term, Senator Long was inundated with letters from his friends in Kansas bemoaning the machinations of the Hoch "movement." Atchison's Bailie P. Waggener, a Democratic state legislator and general attorney for the Missouri Pacific Railroad, noted that Burton's indictment had a "disturbing" effect on Kansas politics, "and has created a lack of confidence that may be far-reaching. Governor Bailey," Waggener continued, "feels most keenly the assault that has been made upon him, which has been most beastly and brutal." Waggener was "satisfied that the fight originally started as a movement of Burton's, but as soon as Burton was discredited by the indictment," Bailey's enemies found "new motives" to continue their attack.[48]

Cy Leland, always searching for political advantages, wrote Senator Chester Long on March 28, the very day the jury brought in its verdict in the Burton trial. Leland had spoken to "some lawyers" who informed him that in "their opinion" when the jury in cases similar to Burton's "had found the party guilty, regardless of any sentence by the Court, that the office held by the convicted party was vacant." He suggested that Long would not want to raise this issue publicly himself, but "some Senator could be induced to bring the matter before the Senate . . . [which could] at once declare the seat of Senator Burton vacant." Burton, he added, "has disgraced the state every day that he has been United States Senator, and I cannot but believe that the U.S. Senate will be glad and feel relieved to have Mr. Burton out of the Senate." Certainly, from Leland's perspective, it would be a welcome relief to Kansans and the Kansas Republican Party.[49]

Arguably, Burton's disgrace was complete when the U.S. District Court jury returned a verdict that found him guilty on five counts "of having accepted compensation to protect the interests of the Rialto Grain and Securities Company of St. Louis before the Post Office Department."[50] Burton refused to concede his guilt or to resign his Senate seat. Instead, he continued to protest his innocence and appealed the verdict to the U.S. Supreme Court where the law and the charges against him received a bewildering array of interpretations. Before the high court and, during the years of his political exile, in self-serving and self-published books and articles, most notably *My Case*, Burton defended himself in the court of public opinion. He argued that the law he was accused of violating did not apply to his case; in addition, half the charges were for conspiring to violate the statute and half for actual commission of the acts, which, he insisted, constituted double jeopardy. The differences in interpreting the law and its applicability to his case hinged on Burton receiving his retainer checks in Washington and depositing them in his bank in the nation's capital, and yet the indictment came from St. Louis where the Rialto Company was located and where no violations of the law took place.

Burton also used the court of public opinion to question Roosevelt's influence over the judiciary. In his 1908 polemic, Burton accused President Roosevelt of unethically influencing the U.S. Supreme Court in his quest for total control of national politics and government. Specifically, Burton pointed to the creation of two new federal

46. *New York Times*, January 25, March 29, 1904; *Topeka Daily Capital*, January 24, 1904. Graft and corruption connected to U.S. post offices and patronage was an all too common occurrence, and Burton's was by no means the only indictment sought and handed down during the first decade of the twentieth century. In fact, "widespread fraud" in 1903 threatened to undercut the president, who was "particularly vulnerable because of his self-assumed position of being the nation's number one expounder of morality." George E. Mowry, *The Era of Theodore Roosevelt* (New York: Harper and Brothers, 1958), 171.

47. *New York Times*, March 24, 25, 1904; *Topeka Daily Capital*, January 24, 1904.

48. B. P. Waggener to Long, February 9, 1904, General Correspondence, folder 8, box 11, Long Papers; See also Daniel R. Anthony, Jr., to Long, February 4, 1904; C. S. Jobes to Long and William P. Hackney to Long, February 5, 1904, General Correspondence, folder 8, box 11, Long Papers; La Forte, *Leaders of Reform*, 40–44; Connelley, *A Standard History of Kansas and Kansans*, 3:1376–77.

49. Leland to Long, March 28, 1904, General Correspondence, folder 10, box 11, Long Papers.

50. *New York Times*, March 29, 1904.

judgeships in Illinois during the winter of 1904–1905, and the president's reported interest in appointing James Harlan, son of Justice John Marshall Harlan, to one of those positions. Justice Harlan "was industriously pressing the President" to appoint Harlan's "poor, unfortunate, inexperienced, incompetent son" at the very time the justice was writing an opinion against Burton. As it turned out, Justice Harlan's opinion was for the minority, which upheld the lower court and the initial conviction, but James Harlan did not get the appointment.

In their rulings on Burton's case the justices were split: Justices Harlan, Henry Brown, Oliver Wendell Holmes, Jr., Joseph McKenna, and William Day voted against Burton on several counts, and Justices David J. Brewer, Edward White, Rufus Peckham, and Chief Justice Melville Fuller offered various opinions that in general supported him. The votes on several counts showed divisions of five to four, four to five, and in one instance three to five, with one dissent. John Marshall Harlan wrote the opinion for the occasional majority. In his separate opinion, Justice Brewer, a Kansas jurist elevated to the high court in 1890, wrote "qui haeret in litera haeret in cortice," "he who considers merely the letter of an instrument goes but skin deep into its meaning."[51] Despite his insistence that President Roosevelt was in control and conspiring against him at every opportunity, Burton was temporarily vindicated as the majority reversed the lower court's decision and remanded the case for retrial.[52]

By 1905 the demands for Burton's resignation from the Senate were mounting and even his supporters were concerned that only one senator had represented Kansas for months. Burton remained adamant, insisting that to resign would be to admit guilt. "You may say for me to my constituents in Kansas, my friends everywhere, and the people of the country generally," Burton was quoted as saying in the *New York Times* on January 17, "that I shall not resign my seat in the Senate. I shall not be called a quitter under fire." Even the *Topeka State Journal*, which had maligned Burton in the past, supported the senator's contention that the district judge had erred in his handling of the jury; but the capital city newspaper also reported that Burton was prepared to resign if the legislature could be "fixed" to elect Charles Curtis as his replacement. Burton could then say, theoretically, "Fellow citizens, I am exonerated. I stand before you as pure as snow. Yet I realize that my value as senator from Kansas has been impaired, and I therefore tender my resignation because I believe it to be for the best interests of the state." Curtis, in turn, wanted the seat and sought the support of Senator Long and his friends in the state legislature. If this combination failed, the newspaper believed, Governor Edward Hoch would appoint house speaker Walter Stubbs, a commanding force in the legislature.[53]

Despite this speculation, Burton held fast and continued to insist that resignation would be tantamount to admission of guilt. Few, except Leland, seemed to want Burton punished beyond loss of his Senate seat. Leland, by then a state legislator, introduced a resolution calling for the senior senator's resignation and promised the judiciary committee on which he served, "some new and startling information" regarding Burton's activities. The house, however, referred the resolution to the committee on state affairs, where it died. Even though there was an inference that if he resigned there would be no second trial, Burton refused and instructed his friends not to request a pardon. He was reindicted in April and finally, after a couple more procedural mishaps, brought to trial for the second time in St. Louis in November 1905.[54]

In the meantime, rumors circulated that Burton had accepted fees in 1901 from the Chickasaw Indians to represent them before the Department of Interior. Further investigation revealed that he had asked the department to approve his contract with the tribe but Secretary Ethan Hitchcock declined "on the ground that the Chickasaws did not need an attorney." Burton nevertheless proceeded to collect "large fees" from the tribe by persuading its "head men" he was "looking after their interests." Burton denied the charges, insisting the payments he had received in October 1901 were made for services rendered to the governor of Oklahoma in regard to Indian tribes prior to his being elected to the Senate. One charge led to another. Next it was reported that after he entered the Senate, Burton successfully represented a Texas cattleman who claimed that he had lost eight hundred animals when the U.S. Army and the Comanches fought on his land. Though the rancher won his suit and a judgment of $25,000, several of his neighbors insisted the largest herd the rancher ever owned was eighty head of cattle and they were grazing some two hundred miles away at the time of the fight. The government was reportedly investigating both cases.[55]

51. Burton, *My Case*, 208–13; *Burton v. United States*, 196 U.S. 283 (1905), online at http://supreme.justia.com/us/196/283/index.html; *New York Times*, January 17, 1905.

52. Burton, *My Case*, 213–14; *Burton v. United States*, 196 U.S. 283 (1905); J. R. Burton, *The Character of Theodore Roosevelt* (Salina: *Salina Daily Union*, July 10, 1913); *New York Times*, January 17, 1905. Justice Peckham wrote the opinion for the majority, which held "that the judgment must be reversed and the cause remanded to the district court of Missouri, with directions to grant a new trial" (196 U.S. 308).

53. *Topeka State Journal*, January 6, 1905; *New York Times*, January 17, 1905.

54. *Topeka State Journal*, January 16, 17, 1905; *New York Times*, April 14, September 13, November 21, 1905; *Emporia Gazette*, October 18, 1905; Tolin, "J. R. Burton," 96; Burton, *My Case*, 218–19.

55. *New York Times*, August 24, 25, 1905.

Burton immediately appealed his second conviction, which came on November 26, 1905, and pending final dispensation, he asked Republican Senator Eugene Hale of Maine, chairman of the Committee on Committees, not to assign him to any committee work. Maverick Democratic Senator Joseph Bailey of Texas considered this request an outrage. In his opinion, a senator owed it to his state to represent its people and if he was unable to perform his duties, he should resign from the body. Kansas should not be deprived of one of its two senatorial representatives. In turn, some Republican senators rushed to Burton's defense. Colorado Senator Henry Teller reminded his colleagues that the Supreme Court was almost evenly divided in its decision, that the dissenting justices had held that the statute did not cover the charges made against Burton, and, therefore, that he had been unjustly convicted. Senator Henry Cabot Lodge of Massachusetts believed the Committee on Committees acted properly in not assigning Burton committee work under the circumstances. Wisconsin Senator John Spooner expressed the opinion that the Kansas senator had "acted with great propriety" in requesting no assignments. Following these exchanges, the Senate approved the recommended list of committee assignments, sans Burton.[56]

The U.S. Supreme Court announced its final decision in the Burton case on May 21, 1906, with Justice Harlan delivering the opinion for the majority. This time the court voted six to three to sustain Burton's conviction on six counts of receiving illicit funds in the Rialto Grain and Securities case because the agreement that violated the law had been consummated in St. Louis. The constitutional requirement held that a crime be tried in the state and district where it was committed, the majority declared, "not necessarily in the state or district where the party committing it happened to be at the time." Actually the charge was that Burton had conspired and reached an agreement with the company's attorney during a train trip from St. Louis to Chicago. When the counsel returned to St. Louis, the company agreed to the terms, and the lawyer then notified Burton of the acceptance. This time Chief Justice Fuller changed his mind and joined the majority. Justice Brewer dissented, along with White and Peckham.[57]

Burton thus became the first U.S. senator in history to be convicted of a criminal offense while in office. He continued to insist on his innocence, however, and used the example of Senator Jeter Connally Pritchard's experience as a justification. The senator from North Carolina was involved in an identical episode and asked the Department of Justice for an opinion on the legality of his actions. The department advised him he would violate no law if he accepted such a fee for his services. Of course as Burton saw it, Pritchard had supported the president on the Cuban reciprocity issue, was in his good graces, and was favored by the president with two successive judicial appointments after he left the Senate in 1903. Burton, on the other hand, was not so fortunate. To his downcast friends he said, "cheer up, boys, this is not a funeral," and he continued to maintain that President Roosevelt had "persecuted," not prosecuted, him unfairly. Facing ouster by the U.S. Senate, Burton resigned his seat on June 4, 1906, and in October 1906 he started serving a six-month sentence at the county jail in Ironton, Missouri.[58]

In spite of it all, Burton was warmly received back in Abilene after his early release in March 1907 and he soon entered the newspaper business. Burton purchased the Central Kansas Publishing Company and launched the relatively short-lived *Home-Rule* in May 1907, his once promising political career ended and his reputation permanently damaged. He spent a good deal of time seeking vindication and attacking his perceived arch nemesis, Theodore Roosevelt, in print and on the stump. To help in this endeavor, Burton bought and began editing in September 1907 the *Salina Daily Union*, an "Independent Democratic" newspaper with a respectable circulation. Ironically, Joseph L. Bristow, the former fourth assistant postmaster general, who had led the postal investigations for the Roosevelt administration, published its chief competitor, the *Salina Evening Journal*. Bristow served a single term of

56. *New York Times*, December 19, 1905; also *New York Times*, November 27, 1905; Burton, *My Case*, 232–34.

57. *Burton v. United States*, 202 U.S. 344 (1906), online at http://supreme.justia.com/us/202/344/case.html; *New York Times*, May 22, 1906. The quotation from Justice Harlan's majority opinion is at 202 U.S. 387. Brewer was noted for his insistence on judicial restraint while on the bench in Kansas and on the Supreme Court. In the Burton case, he stated that the first conviction was reversed because the charges did not demonstrate violation of the law, since the federal government had no "pecuniary interest." The fact that it was charged with supervision of its officials, he argued, did not, in itself, create such an interest. Brewer wrote that it was "clear to my mind that the construction now given [in the majority opinion] writes into the statute an offense which Congress never placed there." *Burton v. United States*, 202 U.S. 400; see also, Michael J. Brodhead, *David J. Brewer: The Life of a Supreme Court Justice, 1837–1910* (Carbondale: Southern Illinois University Press, 1994), 166.

58. Tolin, "J. R. Burton," 103; *New York Times*, May 22, 1906; Burton, *The Character of Theodore Roosevelt*, 10–12; *Topeka Daily Capital*, June 4, 1906; *Roanoke Times*, September 16, 1906, in Collected Biographical Clippings, vol. 2, Library and Archives Division, Kansas Historical Society, Topeka. Pritchard was appointed justice of the Supreme Court of the District of Columbia in 1903, and judge of the United States Circuit Court of Appeals for the Fourth Judicial Circuit in 1904, a position he held until his death on April 10, 1921. *Biographical Directory of the United States Congress, 1774–Present*, http://bioguide.congress.gov/scripts/biodisplay.pl?index=P000545.

A Republican from Ottawa, Franklin County, Alfred W. Benson served the people of the area as county attorney, mayor, state senator, and state representative before being appointed at age sixty-two to the U.S. Senate. He served in this position for only the seven months remaining in the discredited and convicted J. R. Burton's term. When a writer for the Topeka State Journal asked Benson whether or not he could "escape the mysterious fatality of the 'Lane succession'" that had seemingly taken Burton down before the end of his first term, the incoming senator replied, "'I don't believe in magic.' . . . But he laughed nervously and refused to discuss the subject further." Benson was appointed associate justice of the state supreme court in August 1907 and elected to that position in 1908. He died in Topeka, January 1, 1916.

his own in the U.S. Senate (1909–1915) and was, perhaps, second only to Roosevelt on Burton's list of enemies. The Burtons moved to Salina in 1910 and spent the remainder of that decade in the publishing business there.[59]

Burton envisioned an opportunity for a political comeback of sorts on the state level in the early 1920s, with his interesting but ill-conceived flirtation with the Nonpartisan League (NPL). The prodigy of Arthur C. Townley, a North Dakotan who founded the left-leaning organization in 1915, the NPL pursued socialist goals of government ownership of industries and utilities. It enjoyed considerable success in North Dakota and spread rapidly over the northern Great Plains, before arriving in Kansas at the end of World War I. Its "populist" appeal among farmers frightened the political establishment that was quick to stigmatize it as pro-German and unpatriotic. Prospects brightened a bit following the Armistice, and Townley visited Kansas to lend a hand. At this point Burton decided the movement offered him a golden political opportunity. When the NPL's effort to organize disgruntled McPherson County farmers met hostile, determined opposition, Burton denounced the anti-NPL "mob action" as "the blackest of all crimes on the calendar—the suppression of free speech by force."[60] In the sixty-nine-year-old former senator's opinion, Governor Henry J. Allen was slow to act in defense of the farmers, and Burton called Allen "a mob governor. Richard Hopkins," he proffered, "is a mob attorney general, and Judge D. A. Banta of Barton County is a mob judge."[61]

The *Topeka State Journal*, never a Burton fan, was convinced that the former senator was exploiting the incident, using it as a platform upon which to launch a gubernatorial campaign. Burton still had command of his "stinging sarcasm and much of his old fire as an orator," observed political correspondent A. L. "Dutch" Shultz on April 11, 1921, and was seeking to help the League highjack the Kansas Republican Party. The newspaper warned that NPL success in the GOP primary election could only benefit the Democratic Party. Burton did not run in 1922, but the *Journal*'s fears were realized, at least in part: W. Y. Morgan, the Republican standard bearer, lost the election to Democrat Jonathan M. Davis, running on a program of lower taxes and the support of labor.[62]

The limited success of the farm-labor movement in 1921 and 1922, as well as failing health, ended Burton's hopes of

59. *Topeka Daily Capital*, March 23, 1907; Sageser, *Joseph L. Bristow*, 65–110; Connelley, *A Standard History of Kansas and Kansans*, 3:1335; *Home-Rule* (Abilene), May 9, 1907–March 26, 1908; *Salina Daily Union*, September 17, 1907; *R. L. Polk & Co.'s Salina City Directory, 1909* (Salina, Kans.: R. L. Polk & Co., 1909), and subsequent directories; "The Expulsion Case of Joseph R. Burton of Kansas (1906)," in U.S. Senate Historical Office, *United States Senate Election, Expulsion and Censure Cases: 1793–1990* (Washington: Government Printing Office, 1995), 275–76, online at www.senate.gov/artandhistory/history/common/expulsion_cases/092JosephBurton_expulsion.htm. Burton began serializing his *My Case and the Political Community of Interests* in the first extant issue of his *Home-Rule*, May 16, 1907, and having crossed the political divide, he used the *Daily Union* to back William Jennings Bryan and the Democratic ticket in 1908. See, for example, *Salina Daily Union*, October 27, 1908.

60. Robert L. Morlan, *Prairie Fire: The NonPartisan League, 1915–1922* (St. Paul: Minnesota Historical Society Press, 1983), is the best account of this movement.

61. *Topeka State Journal*, January 7, March 26, 1921; Bruce L. Larson, "Kansas and the Non-Partisan League: The Response to the Affair at Great Bend, 1921," *Kansas Historical Quarterly* 34 (Spring 1968), is an excellent account of this episode.

62. A. L. Schultz, "Burton Bobs Up," *Topeka State Journal*, April 11, 1921; (Salina) *Kansas Leader*, April 21, 1921, a NPL newspaper, reprinted "Dutch" Schultz's column "purely for the amusement of its readers." See also chapter 5 in R. Alton Lee, *Farmers vs. Wage-Earners: Organized Labor in Kansas, 1860–1960* (Lincoln: University of Nebraska Press, 2005).

redeeming himself politically, but he and his wife, Carrie Mitchell Burton, remained popular figures in Abilene and Salina. They tended a large garden and gave the surplus to needy neighbors. Burton enjoyed riding his horses and Carrie seemed to be loved by everyone, even her husband's old enemies. She was described as "perhaps the better politician of the two." Burton's "arrogance, his unsavory business dealings, and a lack of confidence by many in his political and moral integrity" were always hindrances to his political progress. He passed from the Kansas political scene soon after that final foray with the NPL, moved to California for health reasons, and died in Los Angeles on February 27, 1923.[63]

No matter how the issue was interpreted or how outdated the statute, Burton violated a federal law and paid the price. This, along with some personal and political shortcomings, was more than enough to bring on his downfall. All things considered, one really does not need to fall back on the "ill-fated Senate seat" explanation to understand J. R. Burton's political demise. Of all who "tempted the hoodoo of the ill starred seat," reported the *Topeka State Journal*, Burton's experience was among the worst. "He brought disgrace upon himself and his state, as well as on the senate, by attempting to shield a St. Louis get-rich-quick concern from the wrath of the postal department. . . . Such is the record of disaster in the fatal Lane succession. It has struck heavily here, and lightly there, but it has always struck."[64] Unbeknownst to this Topeka journalist, however, the "jinx" ended with Burton: after Alfred Benson finished out Burton's unexpired term, then Congressman Charles Curtis, Burton's most consistent political ally, held the seat for a full, six-year term (1907–1913).[65] Although the Democratic candidate, William H. Thompson, defeated Curtis in the extraordinary 1912 election, six years later the indomitable Arthur Capper commenced a thirty-year run, and most recently Jim Lane's "ill-fated seat" has been occupied by Nancy Landon Kassebaum (1978–1997) and the incumbent Charles Patrick "Pat" Roberts. KH

63. Tolin, "J. R. Burton," 108–9; *Topeka State Journal*, February 28, 1923; *Topeka Daily Capital*, February 28, 1923.

64. Gregory, "An Ill Fated Line of Senatorial Succession," *Topeka State Journal*, September 22, 1906.

65. Kansas Republicans were again badly divided in 1912, with a large segment bolting from the regular national party in favor of Roosevelt's third party presidential effort. This gave Democratic candidates an unusual advantage statewide, which they used to elect a governor and a U.S. senator among others. Roosevelt ran ahead of the Republican nominee, President William Howard Taft, but Woodrow Wilson captured a plurality of the popular vote in Kansas. Two years later, however, Curtis defeated the old Burton faction's rival, Senator Joseph Bristow, for the party's nomination to the other senate seat. He went on to defeat easily his Democratic opponent and resume his interrupted senatorial career, which ended only with his election as vice president in 1928. For more on Charles Curtis, see William E. Unrau, *Mixed-Bloods and Tribal Dissolution: Charles Curtis and the Quest for Indian Identity* (Lawrence: University Press of Kansas, 1989).