After Walter R. Stubbs left the governor's mansion in 1912, William Allen White remarked that he thought Stubbs had been the best governor in Kansas history. Stubbs had secured important reforms and had furthered the cause of honest government. He had been successful, White concluded, despite a stubborn, impolitic nature and an attitude that undoubtedly marked him as a crank.¹

Although Stubbs's personality was a hindrance to him as a reform governor, equally burdensome was the opposition of many of the most adroit legislators in both political parties. He was never able to master the intricacies of the legislative process, but he salvaged much of his program by taking advantage of the popularity of reform. In this way he forced reluctant legislators to support his goals. The governor's choice of men to manage the administration's programs in both the 1909 and 1911 state legislatures was poor, and only by his dynamic personal intervention midway through each session was Stubbs able to save what better floor leaders should have accomplished.

His legislative managers were inexperienced, while his opposition came from older Democratic and Republican leaders who were wise in the ways of parliamentary rules. Characteristically, he lost some of the "old guard" support because he would not play the game of provincial politics. He vetoed unimportant but expensive local bills. He shunned legislators
socially, when invitations to the governor's mansion might have won additional votes for issues that he was vitally interested in. Although on a few occasions he acted as a hardened dispenser of patronage, he usually refused to make purely political appointments. He was incapable of the comradery that was typical of politics even in this era of reform. But Stubbs's apparent weaknesses were actually his greatest strengths. Because he was unorthodox, because he refused to yield to temptations that normally govern political relationships, he earned the respect of reputable men and of Kansas voters. "He is awfully square and fine and true," White wrote in 1911, "but he is not a friendly man. I have come to admire him deeply. . . . [He] is a man who is essentially strong and brave and wise, if not always just and sympathetic."

During the 1908 campaign Stubbs had paid little attention to various Republican primary contests for the state legislature. He had entered none of the local fights on the side of progressive candidates, as White had wanted him to do, and after his nomination and election he had come to Topeka without any detailed plans for organizing the reform forces in the 1909 legislative session. The success of the reform campaign of 1908, he assumed, would help his program through the legislature, since he proposed to ask for little more at the session than Republicans had promised in their state platform. He indicated that the speakership of the Kansas house should be given to his close supporter, Representative Jonathan N. Dolley, who had been chosen as Republican state chairman. When Dolley's election as Speaker was easily secured at the Republican caucus in January, Stubbs apparently felt that little more needed to be done to prepare for the session.

The governor's first concern upon taking office was to arrange for appointees to fill positions vacated as a result of the change of administrations. In jobs closely associated with the governor's office, Stubbs placed his personal friends; but in positions where ability was most important, he allowed competent officials to remain, or he engaged men who were qualified by experience and training to fill them. His attitude regarding patronage was one of his biggest problems, and certainly one that contributed to some of his legislative woes.

He tried to keep men who smoked or drank off the state payroll; and as a governor dedicated to economy, he cut agency staffs as much as possible. He believed that many people were employed by the state simply to satisfy political needs. Once in office, he eliminated sinecures that might have been used to achieve his legislative ends. To one of the many supplicants who had worked loyally for his election, he wrote:
"There has been a large reduction in the number of employees in some of the departments and will be less patronage under this administration than . . . under the former one. But, this is simply carrying out the policy which was outlined publicly before my nomination and election." His determination to adhere to campaign promises did not satisfy the needs of county leaders, and many local politicians complained bitterly about his parsimonious distribution of state offices and funds related to them. Of course, Stubbs made exceptions in the use of the appointive power. The case of Thomas ("Bent") Murdock serves as a notable example of Stubbs’s yielding to the spoils system. Murdock had been a leader of the Republican “railroad ring” in the late nineteenth century, but after 1906 he had become a prime mover of reform. In 1908 he had supported Stubbs, and after the election he had appeared in Topeka, looking for a job. He reportedly asked to be named to the proposed public-utilities commission, an appointment that his past experience made impossible. To avoid the distasteful task confronting him, the governor asked Senator Joseph L. Bristow to recommend Murdock to President William Howard Taft for the position of commissioner of the Missouri Valley pension agency in Topeka. But Bristow, at odds with Senator Charles Curtis regarding federal appointments in Kansas, could not help. Pressured by Murdock’s long-time friend William Allen White, Stubbs settled the matter by naming “Bent” fish and game commissioner, a position that Murdock seemed qualified to fill. Justifying the appointment and excusing the governor for making it, White wrote: "It does not require executive or administrative ability. Murdock will have direct charge of no funds and will be responsible for no policy, and he could do the work admirably without the slightest danger of error.” Presumably, anyone could, but State Treasurer James Nation later complained about Murdock’s performance. Although appointments such as Murdock’s could not improve the quality of executive government in the state, Kansas laws were administered better under Stubbs than ever before. In some ways the governor alone was responsible for this improvement, but in others he was helped by highly competent, energetic men who had been elected to minor state offices. For example, a dispute in 1911 between Stubbs and John R. Dawson, the attorney general, concerning the proper enforcement of prohibition obscured the fact that both men did outstanding work in enforcing antiliquor laws in areas that were notorious for their violations of them. The 1909 session of the legislature passed a “bone-dry” liquor
law, forbidding the sale of intoxicating beverages anywhere in Kansas, including drugstores, which had previously been exempt. At the 1911 session the governor was given the power both to remove county officials who failed to enforce state laws and to call special elections in order to replace them.

Armed with these enactments, Stubbs moved into Kansas City and Wichita and into Crawford and Cherokee counties, the heartlands of moonshining and bootlegging. In the southeastern section—soon to become known as the Little Balkans because of its turbulent immigrant population—Kansans operated illegal distilleries twenty-four hours a day in abandoned coal mines, and liquor was dispensed freely from taverns. A shocked temperance officer, J. K. Codding, describing what confronted him when he crusaded in one of the towns in that area in 1905, wrote to a friend:

The conditions there beggar description. Twenty-two saloons, one saloon for every 131 inhabitants, and one saloon for every 34 miners. Little boys in knee pants buy and drink liquor over the bar, playing cards in the saloons until away into the night; a thirteen year old girl as bar tender; mothers setting their babies down on the floor and rushing across with a pail and getting beer. All being poisoned and degraded by the liquor traffic. The first thing you ought to do, before you attempt to make a speech or send a dollar to the Hindu missions, is to go to Frontenac . . . and spend a night, and you will be so filled with the necessity of the right kind of work in Kansas, that you will not have any peace of mind, until you can do something to help these men in their immoralities.  

Understandably, Stubbs would say that he intended to go after law-breakers in Crawford County “roughshod.” “I trust,” he added, “we shall be able to accomplish some good there.” At first he brought the Crawford County sheriff to Topeka to warn him that he would be removed if he continued to be dilatory in his enforcement of the prohibition law; then he told representatives from the area that the state militia would be sent to both counties if the liquor laws were not properly enforced. He used a $10,000 contingency fund, $6,000 higher than that of his predecessor, to send special investigators to the southeastern part of the state and prosecute violators of the law.  

The illegal open saloon gradually disappeared from the area, although clandestine sales of “deep-shaft” whiskies continued. Stubbs’s effectiveness was underscored in a number of ways, but the most dramatic was in threats sent to him by one tavern owner who promised to assassinate
him if ever he ventured into the mining district. The governor announced, with some justification, in 1912 that the state had been cleared of liquor-law violators, albeit a few distilleries remained in operation, and a few drinking parlors sold whiskey on the sly.10

Stubbs had not carried the southeastern corner of Kansas in the 1908 election because of his prohibitionist sentiments, but an antiunion, antilabor reputation had hurt him there also. As governor, he had a number of opportunities to correct this impression, and he proved that he was neither antiunion nor antilabor. He helped to secure laws that were favorable to laborers, and he enforced legislation that was designed to improve working conditions in the coal fields. He was one of a very few Kansas chief executives who heeded complaints from miners that safety regulations were not being properly enforced. Working with Erasmus Haworth, a professor at the University of Kansas, he ordered investigations into mining operations, and he directed the attorney general to use the courts to make mine operators meet the comprehensive safety standards that had been provided in the 1890s by Kansas legislatures.11

His most impressive actions, however, were taken during a labor walkout in May 1910. In the past, the Southwestern Interstate Coal Operators Association had greeted strikes by Kansas miners with appeals to the state for protection from riotous, unruly unionists. In 1910 the same pattern was used after a general shutdown resulted from contract failures in the coal fields. After he had received a number of pleas for state troops, the governor dispatched an assistant attorney general to southeastern Kansas to check on conditions there and to make recommendations with regard to future state action. The investigation resulted in a report that denied that there was violence and concluded that a low standard of living among the workers was the cause for labor troubles.12

When the operators’ association wrote Stubbs again, the governor delivered a stinging reply. “I regret,” he retorted, “the tone of your letter. It has given me the impression that your association is not as keenly alive to the importance of conciliation and arbitration . . . as it is to the use of the state’s military force in the coercion of your employees.” He added that the state would not send troops to force men to accept wages that were “unreasonably low and entirely insufficient to maintain themselves and their families.” If conditions did not improve in the area, he threatened to use troops in the way that Roosevelt had planned to do in Pennsylvania during 1902.13

Stubbs was also responsible for labor laws that in his day were considered radical social legislation. He supported an employers’ liability
law and a workmen's compensation act. Both measures had been endorsed by the 1910 Republican platform and included in the governor's message to the legislature in 1911. Passage of them would have been easy had not the liability law angered the railroads and the compensation act frightened small businessmen and Kansas farmers.

In hearings before the senate, three railroads sent their chief attorneys to protest the liability law on the grounds that it was a punitive measure that would provide unnecessary protection for workingmen. The two features that the railroads disliked were the regularization of legal procedures in order to stop the railroads from shifting court jurisdictions and the elimination of contributory negligence as a defense. The bill did provide for comparative negligence, which allowed juries to reduce payments for damages according to how much the employee had contributed to his own injury. In this form the bill passed.\textsuperscript{14}

The workmen's compensation act proved to be a more difficult proposition to carry. Two key groups of supporters of the progressive Republicans—small-town merchants and big farmers—opposed the idea of state compensation for injuries, at least in the form that the bill initially took. To make the legislation acceptable to the powerful mercantile and farm groups, Stubbs reluctantly had to amend it so that firms with fewer than fifteen employees would be exempt from its provisions and so that employees and employers could decide if they wished to be included in the compensation program. Labor-union officials, who supported the bill at first, denounced it in this form, noting that farm leaders were once again displaying a total disregard for the masses and were supporting the vested interests. Nonetheless, the bill, as amended, passed.\textsuperscript{15}

Among the many complaints voiced against Stubbs during his political career was the claim that he created major issues out of minor problems. To a degree this charge was correct. Stubbs did, for example, magnify the importance of liquor-law violations at an exclusive Topeka men's club in 1909, when he threatened to use the state militia to close it if the club's officers did not stop their "boozing".\textsuperscript{16} In some instances, however, his spectacular activities were aggravated by real problems and real malpractices that justified vigorous reactions. In some respects Stubbs's friends were more interested in crying wolf than he was. Two cases can be cited to illustrate this fact.

Under George Gould's presidency the Missouri Pacific had become what Santa Fe spokesman Charles Gleed believed to be the worst-managed railroad in the country. Much of its rolling stock was old and inferior, while some depots, freight houses, and road beds were decrepit
and dangerous. In late 1909, service along the central branch of the Missouri Pacific became so poor that Franklin S. Adams, Mayor of Water­ville, Kansas, appealed to Stubbs to do something about the line. Adams was joined by other civic leaders in the area, and together they formed the Railroad Improvement Agitation Association. By consistently pushing their case, they forced Stubbs to act in November. After sending a well­publicized telegram to Gould, threatening state action if the railroad was not improved, Stubbs began a series of talks with the vice-president of the company, C. S. Clarke.

The governor’s position was that if the road were not improved with “reasonable speed,” it was “the duty of the state to ask for a receiver of the property and improve the road-beds, the depots, the equipment and the service on its own account.” The Missouri Pacific needed no further prodding. It began a costly reconstruction program along the line, which quieted most of the agitation in that locality. The publicity that was given to Stubbs in the affair snowballed, and a large number of letters requesting improved facilities all over Kansas were sent to his office. Had he wished, he could have started a popular campaign against all the railroads to improve their equipment, but he chose to do otherwise. Since he was uncertain of the charges, he asked the board of railroad commissioners to investigate complaints before he acted. Consequently, he never developed a crusade for railroad improvement.17

The other example of Stubbs’s moderating the demands of his friends in order to avoid a potentially spectacular campaign resulted from the alleged existence of a creamery trust in Kansas in late 1911. Antitrust views were almost universally popular in the state, and in this instance William Allen White desired that antitrust action be taken. White had been given a list of complaints from western Kansas farmers who claimed that a dairy trust was operating in that part of the state. Elmer Peterson, editor of the Cimmaron Jacksonian, a Republican reform journal, had collected the charges, which in essence alleged that an agreement existed among big dairies so that low prices could be paid for milk purchased from farmers and high prices could be extracted from retailers and consumers. The evidence presented by Peterson was largely hearsay, but White and he were absolutely certain of its validity. To meet their demands the governor dispatched an investigator to western Kansas to check the charges.

In February 1912, T. B. Armstrong toured the area and reported that the trouble stemmed from a “personal affair” in Cimmaron, but that agreements might possibly exist in nearby Dodge City. He discounted any
widespread collusion. Other inquiries also revealed that Peterson and White were wrong about a conspiracy. Had he been so inclined, Stubbs could have ballooned Peterson’s charges into a major reform activity. He chose to heed the state dairy commissioner, who maintained that nothing should be done since the charges seemed baseless. The entire agitation collapsed when the governor did not intervene.\textsuperscript{18}

Stubbs was not averse to creating or taking part in highly publicized events that cast him in a favorable light. At times his self-aggrandizement was helped by opponents who mistakenly gave him opportunities to champion popular causes. The railroads, for example, decided to raise rates throughout the West on the eve of congressional consideration of what became the Mann-Elkins Act in 1910. Stubbs, an advocate of lower freight rates, was among the first to protest the increase, and despite President Taft’s success in delaying the hikes, Stubbs used the controversy to his political advantage.

He decided to hold a regional protest meeting in Topeka, inviting dignitaries from surrounding states, and he arranged to make the keynote address to the assembly. On 22 September 1910 he opened the conference by delivering a long, emotional plea for railroad honesty. He claimed that railroads had upped their profits hundreds of millions of dollars in the past twenty years through increased tariffs and that they could actually reduce freight charges at this time. He said that the argument of railroad officials that increased operating expenses necessitated higher rates was disproven by statistics. “The general policy of railroads,” he told his predominantly rural audience, “is to favor large centers and build up great cities at the expense of the rural communities . . . [which] is little less than a crime against civilization.” Such a program robbed hundreds of thousands of children of their natural right to wholesome surroundings, sunshine, pure air, and healthy social conditions. “The true policy,” he concluded, “should be to so regulate transportation rates that the rural districts will be developed and the population normally distributed. The government, and not the railroads, should determine absolute policies of this character.”\textsuperscript{19}

In addition to providing Stubbs with an excellent opportunity to champion popular ideas, the rate conference fashioned a series of nine resolutions, which it presented to the Interstate Commerce Commission and President Taft. The resolutions were signed by a member of the Texas Railroad Commission, William D. Williams, who doubled as chairman of the Traffic Federation of the Middle West. The resolutions, however, were the work of Stubbs. Following the rate convention, the
governor received added publicity in connection with the proposed freight increases by appearing before I.C.C. hearings in Chicago, where for one day he explained why freight rates should be lowered.20

His crowning achievement in the affair came after the conference and the Chicago meeting. Angered by Stubbs's exertions, the railroads denounced his arguments for lower rates in friendly newspapers and in a well-publicized exchange of letters between E. P. Ripley, president of the Santa Fe, and Stubbs. They tried to show that the governor was unfair, incorrect, and guilty of damaging the best interests of Kansas. As usual, they misconstrued the attitude of the Kansas public by failing to realize that Stubbs's position in favor of lower rates was inherently popular.21

The anti-Stubbs campaign began on October 1, when a long rebuttal of statements that he had made at the Topeka rate conference appeared in an open letter from Ripley to the governor. In reply Stubbs wrote that at last the gumshoes were off, and the railroads had met him in the open. The exchanges between Stubbs and Ripley continued until the first week in December. At first the letters were tedious discussions of the proper way to assign railroad rates, but towards the end they became spiced with personal accusations. The railroad position as presented by Ripley was threefold. He argued that the basis used for setting freight rates should be the value of the services rendered, rather than the value of the property owned by the railroads. He stated that increased rates were necessary in order to pay higher wages and maintain adequate pension funds for employees. His final point was that Kansas, past and present, profited immensely from the railroads in the state.

Stubbs dismissed Ripley's first argument as a railroad way of saying that they should charge all that the traffic would bear. The governor noted that the Supreme Court had held that public-service corporations should have their rates based on “a fair return upon a fair valuation of property,” and railroads were public-service corporations. Ripley answered: “We are a private corporation with private capital at risk—the Government guarantees us nothing and we therefore have a right to demand fair play.” Stubbs evaded Ripley's second point entirely, although he did imply that railroads failed to pay their employees as much as they deserved.

The governor completely denied the third point. Listing rates that discriminated against Kansas towns in favor of Kansas City, Missouri, he argued that railroad extortion had caused people, wealth, and industry to avoid Kansas. He concluded, “If the balance sheet could be struck,
The Santa Fe would owe the people of Kansas one hundred dollars for each dollar the Santa Fe has given to the people.”

The discussion closed on a sensational note. Ripley claimed at one point that the Santa Fe was not overcapitalized, that investors in the railroad received small returns on their investments, and that Stubbs, if he wished, could check the books of the Santa Fe to verify this. The governor lost no time in sending his chief accountant to the Santa Fe offices in Topeka. At first his emissary was allowed free rein, but he was asked to leave when he supposedly overstepped Ripley’s invitation. Taunted by Stubbs because of the dismissal, Ripley stated that the figures that Stubbs needed were not in Topeka but at the Chicago office and that the governor’s employee “was endeavoring to build a statement which would lead to conclusions as full of errors as . . . those usually given public expression.” “Your situation,” Stubbs telegraphed in his final message, “is more ridiculous than ever.” Why, he asked, was Ripley afraid to allow the public to know the facts about properties owned by the Santa Fe? Obviously, because Ripley knew that the Santa Fe was overcapitalized.

Ripley’s unwillingness to let the governor inspect the records of the Santa Fe was actually a godsend for Stubbs. From 1908 onward he had been advocating a public-utilities law that would make it possible for the state to examine railroad accounts as a means of evaluating their properties. When Ripley forced Stubbs’s accountant to leave the railroad’s offices, the public became convinced that things were surely amiss in the railroad’s records, and they demanded that previously reluctant legislators support the governor’s public-utilities bill. Although controversy over the public-utilities measure consumed much of the effort of the 1909 session, a number of other laws were enacted. At first Stubbs was reluctant to enter into an open fight for the utilities bill. He had endorsed it in his message to the legislature on 12 January 1909, but had not engaged in a serious effort until a combination of Democrats, anti-Stubbsian Republicans, and representatives of corporations demonstrated that more than a general endorsement was needed to secure passage of the bill. In February, Stubbs began to ask local politicians by letter to force legislators to pass the bill. He circulated a form letter from a progressive member of the Kansas Railroad Commission who favored the bill, and he induced the reform press to encourage the legislature to pass it.

On February 25 he appeared before the two houses to deliver a special message on behalf of the bill. He discussed its provisions, its purposes,
and the opposition to it. For years, he stated, one vast overshadowing problem had confronted the people—the proper regulation and control of public-service corporations. Recently, such state leaders as Charles Evans Hughes of New York, Robert La Follette of Wisconsin, and Joseph W. Folk of Missouri had developed "scientific, legal, business-like" ways to supervise these bodies. In 1908 Kansas Republicans had specifically promised to enact laws for the purpose of governing public-service businesses by indicating that these corporations should have limits placed on their issues of stocks and bonds and by asking for the physical evaluation of railroad property. The utilities bill was designed to do this.

"Under present conditions," Stubbs said, "the state through its legislature or Board of Railroad Commissioners makes orders, and the railroad companies go into federal court under a pretense of confiscation of property and secure exemption from . . . those orders." The state could not disprove their claims, and "state officers . . . [had] been humiliated and made to appear ridiculous for lack of information and evidence." No one, he concluded, should be fooled by the opposition's argument that local governments would lose control of local utilities because of the law. Many communities had never governed them anyway. Small local utilities were not the targets of regulation; rather the big corporations were the institutions that Kansas needed to control. The governor finished his address by noting that the regulation of banking by the state had helped Kansas banks and that, in the same manner, regulation by the state would help public utilities.25

His speech added a few supporters and reinvigorated old champions such as the reform press, Senator Bristow, and, after the speech, the famous Topeka clergyman the Reverend Charles Monroe Sheldon. Moved by Stubbs's message, Sheldon wrote that he wished to congratulate the governor for acting as a servant of the people in advocating the public-utilities law. "I for one," he noted, "want to go on record as opposed to any method in our political life which favors falsehood or greed by any person or corporation."26 But the governor's appeal was to little avail. The bill was defeated in late February, and a measure written by Billy Morgan, which would have allowed local councils to regulate public-service corporations, was substituted. The administration, with Democratic help, defeated Morgan's version.27

Opposition to the public-utilities bill came from a number of sources. Democrats and anti-Stubbs factionalists opposed it in order to embarrass the governor, while certain economic interests feared that it would hurt them financially. Although railroad leaders were not its most effective
opponents, they were against the bill, since it threatened to limit their profits to a fixed percentage of their Kansas holdings. Investors in electric railways, gas and light enterprises, and telephone companies were the chief enemies of the measure, since they considered the law to be an invasion of property rights and a menace to economic freedom.

The reform press claimed that Stubbs was not interested in regulating these utilities and that the argument about local utilities was a straw man created by the corporate opponents of the bill. This was untrue. Although Stubbs claimed publicly that he was not interested in local utilities, he wanted to regulate them, as well as the statewide enterprises. In letters to the opponents of the bill who objected only to the inclusion of small businesses, he said that railroads and insurance companies were not suffering from state regulation, and neither would small utilities.

Aware of the sentiments of small businessmen, corporation attorney J. Willis Gleed organized an effective publicity campaign against the bill. He presented the measure as one that would allow the state to fix rates, permit competitors to use the equipment of local utilities, require elaborate reports, hear complaints against the services of small businesses, and engage in many drastic and costly enterprises that would negate the traditional meaning of private ownership of property. Gleed pointed out that in Wisconsin in one year its commission had cost $65,000, and work had just begun. "The people [of Kansas] are getting better service now," he concluded, "than they pay for."

The Topeka State Journal, which had favored the bill, felt that the most effective arguments that had been used to defeat it were the claims that the state would have complete control over small local utilities and that the bill would halt the construction of interurban rail lines in Kansas. These arguments convinced Henry J. Allen that the bill was unwise; nevertheless, he promised Senator Bristow and White that he would work for its passage. "At the present moment," Allen wrote, "we are trying in Wichita . . . to interest capital in a system of suburban railways. A law, stating to these men, that they could not make . . . over ten per cent, would not . . . make it easier to secure this great public convenience."

A whisper campaign in Topeka during the session stated that Stubbs's only interest in the bill was to make the commission appointive, which would have given him more political patronage. Some Republicans pointed out that the bill had been defeated because the platform of 1908 had not specifically committed the party to such a law. The astute Topeka correspondent Jay House decided that the bill had failed to pass
because of inept administrative handlers. "High-mindedness and independence," he said, "are all right on the stump but are not of much value in legislative halls when trying to enact legislation." He later concluded: "The opposition was cunningly and boldly led and the Lord was on the side of the heaviest battalions." In a sense the fate of the public-utilities bill symbolized Stubbs's lack of success in the 1909 session. Most of the laws that he requested were either amended to diminish their effectiveness, or, like the public-utilities bill, failed to pass.

Stubbs had greeted the 1909 session of the legislature with a message that was notable for its similarities to those being delivered by governors across the reform-minded Middle West. In addition to asking for a public-utilities commission, he sought consolidation of the state eleemosynary institutions under one board of management, and he requested home rule for Kansas cities. He noted that better roads were needed in the state in order to facilitate commerce, and he suggested that the 1908 decision of the Railroad Commission to limit passenger rates to two cents per mile be made part of the Kansas statutes. He told the legislators that the power of special interests in representative assemblies needed to be reduced by the passage of an antilobbying law, and he asked them to curb the same influences in elections by requiring candidates for state and national offices to file reports explaining their campaign expenditures. To satisfy a demand voiced after the passage of the State Tax Commission Law in 1907, the governor stressed the need for an amendment that would make tax commissioners and county assessors elective officials. He also reminded the session that the people of Kansas wanted to have a law enacted that would guarantee bank deposits. He closed by emphasizing the brevity of his program and by imploring the legislators to keep economy uppermost in their minds.

The legislature failed to pass four of Stubbs's suggestions—the public-utilities bill, the bill providing for the reorganization of state eleemosynary institutions, the proposal for an elective tax commission, and the bill to establish a two-cent passenger rate. It did pass an antilobbying measure, the Campaign Expenditures Law, the Rock and Dirt Roads Law, a law enabling cities to have a commission form of government, and the Bank Deposit Guaranty Law. By all standards this last piece of legislation was the most important measure enacted during the session. It withstood a difficult fight in the legislature, and then it faced two years of legal maneuvering in the federal courts by its opponents before the Supreme Court upheld its constitutionality.

The Bank Deposit Guaranty Law, which was passed in March of
1909, provided that incorporated banks that met surplus capital requirements could voluntarily insure specified types of deposits in a fund established and supervised by the office of the Kansas bank commissioner. The fund, which would protect all eligible deposits, was to be created by levying a rate of one-twentieth of 1 percent on the deposits of member banks until $500,000 was collected. Unlike the Oklahoma plan, which antedated it by two years, the Kansas program was voluntary.34

A generation that accepts the broad coverage of the Federal Deposit Insurance Corporation as normal can hardly appreciate the opposition that the state guaranty program raised. One banker denounced it as "impractical, unjust . . . populistic, socialistic and paternalistic and repugnant to the spirit of our institutions and to those qualities of individualism and of individual responsibility which our forefathers sought to preserve, encourage and establish through the Constitution."35 J. W. Berryman, a conservative banker-stockman-legislator from Ashland, considered it "a worse fallacy than the free silver craze." He said that if it were enacted, it would "crush all industry, paralyze all business and destroy [all] confidence, leaving the state and country more prostrate than war or pestilence."36

But behind the bluster of these attacks on the measure lay an economic reality which any generation can understand. One of the main features of Kansas banking in the early twentieth century was a vicious competition between banking concerns that were state-chartered and those that were nationally chartered. National banks, because of higher capital requirements, because of federal deposits, and because of limited national supervision, normally held the edge in the struggle for business. State bankers, hoping to improve public confidence in their enterprises, wanted the bank-deposit guaranty law as a prop that they could exploit in their struggle for customers. They said that the law would assure depositors that accounts in state banks were as secure as accounts in competing national banks. They knew that Attorney General Charles J. Bonaparte had ruled in 1908 that national banks could not participate in state guaranty plans. They were aware that President Taft did not support the idea of insurance for bank deposits, since he had campaigned against it and its national champion, William Jennings Bryan, in 1908. The state bankers felt that national banks would not be allowed to participate under the Kansas program during Taft's administration. This would enhance the position of their banks even more.37

National bankers were equally aware of these facts, and they interpreted them in much the same light. Consequently, they tried to block
passage of the bill; but when it became apparent that the measure would be enacted in some form, they tried to rewrite it so that the one class of customers that was apt to be influenced most by its provisions would not be covered. The depositor who received interest on his account would almost certainly place his funds in a guaranty bank. Not wanting to seem overly callous in their opposition, the national bankers, through the Kansas Banker's Association, attacked this provision by charging that it would make it possible for "incompetent, reckless and unsafe bankers . . . to exploit, buy . . . and demoralize banking business" in the state. They developed a letter-writing campaign in February, established a large lobby in Topeka, and packed the hearings on the bill with their friends. Through J. W. Berryman and the Wichita banker C. Q. Chandler they enlisted the support of the Long faction in the Kansas legislature. They were also able to secure the help of the most influential Democrat in Kansas, State Senator George Hodges of Olathe. Their effort was rewarded when a limitation was placed on the amount of interest that could be paid on savings accounts covered by the plan.38

Having been kept from taking part in the Kansas program by a decision in March of 1909 by Taft's attorney general, George Wickersham, the national banks organized the Bankers' Deposit Guaranty and Surety Company, which had a larger capital than the state fund. They did not limit the interest that could be paid on insured savings deposits, as did the state program. Thus, national banks were able to advertise that they would pay a rate of interest higher than the 3 percent allowed by state banks and would still provide the security of insured deposits.39

The creation of the privately owned guaranty company caused a sudden reversal of sentiment in many state bankers who had supported the state system. To keep this group active in the program, Governor Stubbs threatened to call a special session of the legislature in order to halt the private concern from insuring savings deposits that received more than 3 percent interest. A special session was averted when Kansas Attorney General Fred Jackson ruled that the superintendent of insurance could forbid the private guaranty company from insuring certain classes of interest-bearing savings deposits. Superintendent Charles W. Barnes used Jackson's ruling to refuse the Bankers' Deposit Guaranty and Surety Company a certificate of authority to do business in Kansas until it agreed not to insure savings deposits with interest over 3 percent. In December 1909 the Kansas Supreme Court held Jackson's opinion invalid and ordered Barnes to issue the certificate of authority.40

This victory did not satisfy the national bankers. They decided to
test the constitutionality of the state law. In March former Senator Long had written a leader of the Kansas Banker's Association that he would like to be employed to fight the guaranty plan in the federal courts, saying: "I am intensely interested personally in defeating the Kansas guaranty law, . . . and if I am employed I assure you that I have never had a case or subject to which I will give as close attention." After meetings in July, the association hired Long, as well as J. Willis Gleed, Balie P. Waggener, and John L. Webster, all of whom were highly competent corporation lawyers. These men initiated action in the U.S. Circuit Court, Kansas District.41

During late 1909 an old political henchman of Long's, Judge John Pollock, heard several cases involving the Kansas law and granted a temporary injunction against the state bank commissioner, Jonathan N. Dolley, while ruling the law unconstitutional. The state attorney general appealed the decision to the Eighth Circuit Court of Appeals at St. Louis, and in May 1910 Pollock's decision was reversed. Long next filed a writ of certiorari with the United States Supreme Court, which rejected it in October. The Supreme Court did, however, accept the Kansas case on an appeal from Pollock's initial decision. In January 1911 Justice Oliver Wendell Holmes, Jr., wrote the majority opinions upholding the constitutionality of the Kansas law, as well as that of somewhat similar enactments in Oklahoma and Nebraska. Although another case relating to the Kansas law was pending in the Supreme Court at the time, the opposition had been defeated, and the subsequent action proved meaningless.42

Stubbs had helped himself politically during the controversy by siding with state bankers. In 1909 the Kansas State Bankers Association had been formed to offset the Kansas Banker's Association, which was controlled by the national banks. During 1910 the new group worked for Stubbs's reelection, and it sponsored candidates for the legislature that were favorable to the governor. "Stubbs and Dolley," wrote C. C. K. Scoville, president of the association, "are with us heart and soul . . . and we ought to see they are upheld by sending men who are not enemies of the state banks of Kansas to the legislature."43

The 1909 legislature, which ended its session on March 13, passed 269 out of 1,800 bills introduced. But of the pledges in the 1908 Republican platform and of the requests made by Stubbs, only a few had been fulfilled. A Topeka reporter wrote that the session was "remarkable for the amount of work done as compared with actual results."44 The defeats suffered by the governor also caused a political enemy, Mort Albaugh, to gloat that the legislature had administered a thrashing to Stubbs,
which "if the leading papers were half way fair . . . would make him appear . . . as the most worsted governor . . . we have ever had."45

But Stubbs's opponents had unwittingly contributed to his political future. They had given him an issue to take before the voters in 1910. He could demand that a progressive legislature be sent to Topeka to work effectively toward reform goals in the next session. Stubbs's political future was also being helped by events transpiring outside of Kansas. President Taft's actions during his first few months in office indicated that 1910 would be a critical year in the future of progressive Republicanism in Kansas. He had been unable to satisfy middle western reform Republicans in his stand on the Payne-Aldrich tariff and the fight against "Cannonism." His attitude had created a deep split in the Kansas congressional delegation, and as a result, controversies that began in the national capital were transferred to Kansas, to be fought out in the 1910 primaries.

On 29 January 1910 conservatives had momentarily embarrassed Stubbs by refusing to commend his administration at the meeting of the Kansas Day Club in Topeka. But a few weeks later it became apparent to everyone except the most diehard opposition and the governor's worrying friends that Stubbs and his allies would win a smashing victory in the August primaries. Thus, when victory came, few were surprised. Progressive Republicans were nominated to nearly every spot on the party ticket, and the reformers controlled the party council, where they wrote a comprehensive, progressive platform. In November, although Republican percentages were lower than usual, the state returned a Republican House and reelected Stubbs.46

Once again the governor was able to go before the legislature to request the fulfillment of party pledges. In his message he reiterated the demand for a public-utilities measure, the consolidation of state eleemosynary institutions under one board, and the two-cent passenger-fare law. He asked for more money for rock and dirt roads and for aid to rural school districts. The Campaign Expenditures Law of 1909 did not satisfy him, and now he asked for an enactment that would require candidates to file statements of their political expenses, revealing the sources of the funds. He requested ratification of the federal income tax amendment that was circulating throughout the United States at that time.

The portions of the governor's speech that represented the popular aspects of progressivism in 1911 were those calling for the establishment of the initiative, referendum, and recall by constitutional amendment. Stubbs also asked for two other laws designed to advance democracy
in Kansas. He sought a presidential-preference primary and the direct election of senators under the Oregon plan. His address was shorter than the one of two years earlier. It lacked color and style, but it was clear and definite.47

As in the case of the 1909 session, by February the legislature of 1911 still had not acted on the governor’s proposals. On February 8 he delivered a special message to the assembly, repeating his requests and demanding action. He pointed out that every party platform in Kansas had pledged its legislators to those laws and that they were binding personal obligations on every member of that legislature.48

His troubles with reluctant legislators had begun weeks before the 1911 session commenced. Although a progressive-Republican house had been elected in November, the senate had not stood for reelection and thus was nearly the same body that had met in 1909. The governor and his supporters had traced many of their failures in the first legislature to the upper house and especially to the Senate Judiciary Committee, which was headed by Francis Price of Ashland. According to one account, 245 senate bills and 50 house bills had been pigeonholed by that committee after the conservative lieutenant governor, W. J. Fitzgerald, had referred them there in 1909. The lieutenant governor elected in November, however, was a progressive Republican, Richard J. Hopkins of Garden City, and progressives indicated that he would appoint liberals to the Judiciary Committee.

In 1909 the number of standpat Republicans in the senate had constituted a bare majority, but after the fall elections in 1910 three former progressive members had switched their allegiance. Emerson Carey of Reno County had succeeded in gaining favorable rates for salt shipments from Hutchinson and had decided that “the less legislation we have the better off we are,” while J. H. Stavely of Osage City and J. H. Stewart of Wichita had announced their opposition to the administration because of the proposals for the initiative, referendum, and recall. “I am not anxious,” Stewart said, “for legislative experiments.” In tallying their strength in the senate, conservatives estimated in late November 1910 that of forty members in the upper house, twenty-five were “standpat” against Stubbs’s program.49

The first test between the governor and his senatorial opposition came on 10 January 1911, when both houses of the legislature were organized. Lieutenant Governor Hopkins, true to his word, announced his decision to remove antiadministration leaders from the Judiciary Committee and other important committees. His statement sparked an uprising against
his power to appoint committee members. The conservatives, evoking memories of the recent cry against the dictatorial powers of Speaker Cannon in the national House of Representatives, justified an assault on Hopkins's power by announcing that they were going to do for the state what insurgents had done for the nation.50

Stubbs fought back in vain. He countered their argument by noting that the voters of Kansas had just recently elected the progressive Hopkins as lieutenant governor, and they wanted him to exercise the full power of that office so that reforms that had hitherto been denied could be passed. The senators, he added, had not gone before the public since 1908, and therefore they needed someone who had recently been a candidate for office as their leader. The governor had been spurred on by Senator Bristow, who provided the principal argument—that the defeat of Hopkins would violate the good faith of the people of Kansas, who had elected progressive Republicans to office because they had promised change.

The comparison between Cannon's powers and those of Hopkins, Bristow noted, was only superficial, and it was not hypocritical to oppose one and support the other. Men were elected time after time to Congress, and committees were permanent bodies that were controlled effectively by the Speaker. In Kansas, men were rarely elected more than twice, and no permanent combination could exist by virtue of this fact. Thus, the powers of the lieutenant governor were considerably less than those of the Speaker. “The Kansas legislature,” Bristow concluded, “responds to the state sentiment which prevails . . . at the time of elections.” This made the situation entirely different.51

The Kansas senate disagreed. By a vote of 21 to 18 it sheared away the lieutenant governor's appointive power and created a Committee on Committees to perform this function. Senator Price, the progressives' bête noire, remained chairman of the Judiciary Committee.52

A similar attempt to take the appointive power away from the Speaker of the Kansas house was made simultaneously by a combination of regular Republicans, Democrats, and disaffected progressives. House Speaker G. H. Buckman of Winfield was a standpat Republican who had been converted to progressivism. He was supported by the administration in the race for the speakership in 1911. This resulted in resentment among progressive-Republican friends of Representative Robert Stone of Topeka. Stone was also a candidate for the speakership, and because of his longer allegiance to reform, he seemed to have a better claim than Buckman had to Stubbs's support. Stone, however, was unpopular with the gov-
ernor, because he had failed to win the confirmation of the United States Senate when Stubbs secured a presidential appointment for him to the Department of Justice in 1910.

Stone had allegedly been involved in a swindle earlier in the century, and old evidence had been used against him during the fight for confirmation. According to Arthur Capper, publisher of the *Topeka Daily Capital*, Stone was an honest person who had been kept from the Justice Department position by the then National Committeeman David Mulvane, the Republican machine, and the Topeka booze crowd. Nonetheless, Stubbs self-righteously wrote Stone out of the progressive faction after he failed to get the confirmation. Having lost the speakership to Stubbs's candidate, Stone organized the movement to remove the appointive prerogative of Speaker Buckman. But the governor's hold over recently elected representatives was too powerful for Stone, and so the movement collapsed. Stone had to wait until later to get his revenge, when he engineered the defeat of the governor's legislation concerning the Board of Control, which would have provided for the consolidation of state eleemosynary and penal institutions, and other such bodies, under one authority.\(^{53}\)

The battle for Stubbs's program at the 1911 session was even more emotional than that in 1909. Two fistfights erupted on the floor of the legislature during the session. While debate over the Board of Control bill waxed hot, progressive Republican H. E. Ganse of Burlington attacked Democratic Senator George Hodges, who promptly knocked Ganse senseless. Later, Representative Stone was smashed in the eye by A. H. McCormick of Pittsburg after a heated argument. The senate, wrote one reporter, was now operating under the Queensberry Rules! "Not since the days of the legislative wars in the early nineties," he added, "has there been such clamorous demands for blood. . . . Topeka is like Paris in the time of the Fronde."\(^{54}\)

More excitement was added by the campaign for Stubbs's program in the reform press. William Allen White, a constant critic of the conservative senate, was forced to appear before it to give testimony on his charges that opponents of Stubbs were trading "pork-barrel legislation" for votes against administration bills. He was asked to sustain his charges, and when he could not, he was humiliated. To use the Kansas vernacular, he had "to crawfish out of what he had written." His performance reminded one reporter of White's earlier attempt to make a prepared speech before an assembly of school teachers. He "shed great globules of per-
spiration," the reporter wrote, "lost his place on the manuscript repeatedly and finally fell like a pound of overheated butter."55

A far more acrimonious exchange of this sort occurred as a result of published charges by Governor Stubbs's private secretary, David D. Leahy. Leahy, a former Democrat and Populist, was the exact opposite of White in give and take. He had been a member of the Wichita Eagle staff before joining Stubbs's administration and had had a colorful career in state politics. His flashy Anglophobic speeches had earned him the title of the Irish Prince, and he knew how to befuddle enemies. On February 12 "Prince Dave," visiting in Wichita, was asked to explain why Stubbs's program was faring so poorly. His answer was a reply that was normal for a man of his temperament. "The old regime of special interests," he said, "is making its last stand, and the remnant of their willing tools . . . is determined to defeat every demand of the people." Crookedness was rampant, and political pirates were more reckless than in the palmiest days of long ago. "Pork barreling" and "lying" were the major methods being used by the enemies of the governor to defeat him in the senate.56

A week later Leahy was called before the senate. Unable to prove his assertions, he, too, was forced to back down; but once free of the senate floor, he attacked again with full main. "No one," he wrote to a friend, "disproved my charges of lying, no one can deny porkbarreling, and so far as the accusation of political crookedness is concerned, I stand by it unwaveringly."57 He was answered in a speech by Senator Sim Brewster of Troy, who accused the Irish Prince of hypocrisy, demagoguery, and dishonesty. Leahy replied: "I should have written you earlier thanking you for your abuse of me . . . To be openly denounced by a Senator in the act of betraying his constituents . . . is a compliment that I did not expect."58

The clamor by reformers against the senate illustrated a significant fact regarding the 1911 session. As in 1909, important parts of Stubbs's program were failing. On February 23 the senate defeated the initiative, referendum, and recall amendment by a 24 to 15 vote. Stubbs had been reluctant to recommend the measure, feeling that the public was not prepared for so "radical" a step, but White and Bristow had convinced him that the device was necessary for the future of democracy.

His reticence had been caused by the position of many so-called moral reformers toward the law. Fearing that the initiative and referendum would be used to challenge Kansas liquor laws, prohibitionists demanded that initiative and referendum petitions be required to have the signa-
tures of a high percentage of registered voters in order to be validated. But after the figure was raised to 15 and then to 20 percent of the eligible electorate, the prohibitionists still opposed the bills. "The majority of the men and women of Kansas consider the prohibition question settled," wrote an official of the State Temperance Union, "and they WANT IT KEPT SETTLED." "Is it fair," asked the Union's superintendent, Frank M. Stahl, "that a few mining districts composed largely of foreigners, should have the power to force this, or any other question upon the state?"60

What was democracy coming to in Kansas? A conservative state representative from Greensburg, J. W. Davis, answered the question thus:

Like a fire bell in the night, this movement to change our Republican form of government should startle every patriotic man, for this dangerous and revolutionary doctrine would in the end lead to the destruction of all free government. . . . Our highly specialized form of representative government . . . would be set aside, and we should go back to the clumsy methods which prevailed in the infancy of all Republics.

If legislatures could be eliminated in their usefulness, he continued, so could executives and judiciaries, and thus "you are on the highway that leads to absolute anarchy."60 The presidential-preference primary and the direct election of senators in the form of the Oregon plan went the same way as the initiative, referendum, and recall. They were defeated late in the session by the senate.

The utilities bill that had failed in the previous legislature had been reintroduced in the house at the beginning of the session, but as was the case with the initiative and referendum, it had still not been acted upon by mid February. In order to overcome the opposition, Stubbs compromised his position on the law, allowing local utilities to be exempt from its provisions. He did not attempt to neutralize the opposition of the railroads or the Bell Telephone Company, which was engaged in unifying small communication networks in the state. Each of these interests had lobbyists who were active in the legislature, and their persistence occasioned two highly significant changes in the administration's bill before it passed on March 10. Simon Bear, lobbyist for the Bell Company, succeeded in keeping mutual telephone companies from being protected under the coverage of that law. The railroads scored an even more impressive victory by negating the meaningfulness of the term "reasonable rates" as it had been used since the time of the 1906 reform movement. The commission was allowed to determine rates, but it was not required to base them on the capitalization, the current property value, or the
original cost of the property of the companies. Moreover, the exact percentage of profit that the utilities were to make on the basis of any of these three figures was not specified. Thus the grounds for considerable agitation were effectively by-passed in the law.

But the passage of the utilities bill still should be considered a victory for the governor. In a watered-down fashion it realized his major legislative program, and it did include many of the features that he had wanted. The law differed from the old railroad-commission enactment in the following respects. Rather than being an elective commission, the new board was to be appointed by the governor. In addition to the power to regulate railroads, the commission was given power over private telephone and telegraph companies as well as corporations involved in the intrastate transmission of heat, light, water, and power. When determining property values and when setting rates, the commission could demand to see all accounts, books, and records kept by various corporations; and it could limit the issue of securities by the utilities. The most significant power given to the commission was the right to review any rate increases and to give widespread publicity to them. All utilities were required to file copies of existing rate schedules with the commission. Provisions of the law were to be effective immediately, but the members of the Board of Railroad Commissioners were allowed to continue as members of the Public Utilities Commission until their terms expired in January 1913. According to students of the commission, it performed creditably until 1919, when a revised program sponsored by Governor Henry J. Allen replaced it.61

The 1911 legislature was severely criticized by reformers during much of the session, but at its close, the administration-oriented Topeka Daily Capital lauded the lawmakers for having done a "good job" and for having enacted "rightly progressive" laws. Four of the governor's measures had not passed, but seven had. Moreover, a number of platform pledges that Stubbs had not mentioned in his message became law.62

In addition to the reforms already discussed, the 1909 and 1911 legislatures produced a series of laws affecting education, health, economic relationships, and the tax structure of the state. For instance, a schoolbook commission was created, the governing boards of the state university and the state colleges were reorganized, and vocational agricultural classes were started in rural elementary and secondary schools. In the realm of morality legislation, a law dealing with the sale of cigarettes was passed, banning the weed from Kansas, and the Kansas pure food and drug law was amended. The legislature was reapportioned, and the
state primary law was rewritten so that state legislators could pledge themselves to a specific senatorial candidate in general elections. A legislative reference library was created, the present Kansas State Historical Society Building was constructed, and a woman-suffrage amendment was to be submitted to the public in 1912. Two other laws that Stubbs and his contemporaries considered extremely important had also been passed—the so-called Blue-Sky Investment Law and the Inheritance Tax Law.63

The Inheritance Tax Law was first enacted in 1909, but at the governor's suggestion it was amended slightly in 1911. It resulted from recommendations made by the State Tax Commission, and it was favored by Stubbs as a means of raising revenue. He also advocated the provision that made it necessary for heirs of foreigners holding stock in Kansas railroads to pay assessments that were made when death necessitated the transfer of shares from one foreigner to another. He opposed the low exemption of $5,000 that the law granted to widows and orphans; he favored beginning the tax on such estates at $25,000.64

The "Blue Sky" Law resulted from the establishment of an unauthorized bureau within the office of Bank Commissioner Dolley to investigate and report on possibly fraudulent stock sales. Its success encouraged the creation of a permanent body that would collect data from companies selling securities in Kansas and then publish its findings. The most important feature of the law was a provision for high fines and jail sentences when securities were mislabeled or falsely advertised and when sales of stocks and bonds were inaccurately reported to the state. Its supporters claimed that many gullible Kansans were saved money by the bureau's actions, which kept them from buying "chunks" of the state's good "blue sky."65

Progressive legislation did not cease with the 1911 session, nor did honest government end when Stubbs left office. But by March of 1911 the center of progressive Republicanism in Kansas had shifted from the legislative halls of Topeka to Washington, D.C. There, the state's progressive Republicans had become involved in a continuous two-year struggle with the leadership of the national Republican party. By 1911 they had joined a movement to stop the renomination of President Taft and to replace him with a presidential nominee of their own persuasion. They had started down what they hoped would be the road to national dominance for men of their inclination. Unknowingly, they were nearing the plain of Armageddon—as Theodore Roosevelt was to describe the political arena in 1912. Once there, defeat, not victory, was to be their reward.