Hon. Geo. Douglas
Topeka, Kansas,

~~Hon. Geo. Dear~~ Dear Sir:

I believe we once
sustained the relation of teacher and pupil and
if there be any need for apology, this may
serve as excuse for a suggestion. I desire
if I am mistaken in this hypothesis I can excuse my
interest in the question of National citi-
to make, which is sufficiently cable known to
~~to the people~~ I would serve as the Populists
avouch my bona fides.

under Lewelling's head intended to initiate
a state of anarchy, with what purpose
I do not clearly see unless it be intend-
ed as one of them has recently stated,
to "wipe out every mortgage in the
State, if not by law, then by force."

As the only way to wipe out a mort-
gage "by force" would be a destruction
of records, and as this has often been
hinted at in the speeches and publications,
I fear the notion has taken root and
they think that with the Governor to
stand between them and the law
they can prevent any legal resistance
or punishment.

It is true, the Sheriffs of some
counties may take a stand similar to
that of the one at Topeka and the
State courts might order the forma-
tion of a posse in any county

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to keep the peace, which would be wholly beyond the Governors control, they being ex officio peace officers in their own districts, whom the Executive may aid but cannot control or restrict, unless indeed you have some peculiar and special statutes.

But what I wished to call attention to is another phase of the question that may arise

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to which I have been com-
pelled to give special attention.

The idea seems to prevail that
if the Governor should refuse, in
case of public disorder, to call
upon the President for aid to re-
press it, there is no way by which
any distinct and official resist-
ance to the ~~unlawful~~ power
he might encourage or per-
mit, of a general or national
character could be obtained.

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Of course, the demoralization he is striving to effect attaches to all State authorities and a State posse would probably be viewed by the Populists opposed to them, as one merely resisting or opposing another. It may become desirable therefore to secure national authority for the force it may be necessary to use to quell the unlawful violence the Governor seems

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determined to prounce.

Under the Constitution previous to the XIXth Amendment this could not be done without the Governors call, unless the legislature was in session, which seems to be a doubtful question in Kansas. By that amendment, however, the relation of National citizenship was established and made paramount to State citizenship. Before that, national

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citizenship was dependent wholly on State citizenship. With the paramount and direct relation the duty of the general government to protect the lives of its citizens accrues wherever and so far, as the machinery of government exists capable of doing such work. The Supreme Court decided in the case of the killing of Justice Field's assailant, that the Courts had a right to protect their officers, because there was held to be is

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"a peace of the United States."
If this is so, the Judges of the
Federal Courts are peace officers
of peculiar dignity and in
case a Governor should refuse
to preserve the peace and strife
was imminent, I think a Fed-
eral Judge would be justified
in directing the Marshal to
summon a force to prevent
the killing of citizens of the
United States. Then the power

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of the United States would be used, not to "put down insurrection" for there would be none, but to keep the peace and protect citizens of the United States against the lawless and atrocious or vicious State Executive might be inclined to permit.

~~I think Judge Chase~~ A Judge and a Marshal of some "rank" could "make their Jacks" by such a course, as it would be

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a new exercise of implied power for the very highest purpose of law, the repression of violence. The whole country would approve and it would be a step forward in the illustration of constitutional power which may be of immense importance when Church ists obtain the control of State governments, as they are liable to do at any time.

I sincerely trust there may be no occasion to resort to any

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such devices in Kansas, but I must say things have an ugly look and the utterances of the Populists from Governor down remind one both in tone and character of times of strife. As I look to this very principle as the safeguard of the future of the country, I thought it might be well to so state suggest it, if the occasion should come for its use, you may turn it in mind.

*

I make this suggestion, because it is a course not likely to occur even to the best trained legal mind unless attention has been especially turned in this direction. ~~In the Pittsburg riot the~~ ~~Florida~~ My own first attention was directed towards this evident power of the Federal judiciary to restrain violence even where it is permitted and encouraged by the State executive.

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and state courts are powerless
or inert, in 1877 when Hayes
abandoned the legal government
of South Carolina to forcible over-
throw by ~~a foot~~ Wade Hampton's
Division of the Confederate Army.
Through a citizen of another state I was employed of crim-
inal for the Governor and state authorities
In examining the matter, I found
in that case,
the indications of a recognition of
this power of the courts much
stronger than I had entertained.
There are several instances in
which the Marshall has been
directed to ~~force~~ organize a force
on the mere pretense of an

apprehension of some overt act against the sovereignty of the United States, as affording the interference with the minds or affording resistance to some officer also. Now, that the ~~citizen is made under the constitution~~ a direct relation of citizenship is established without the intervention of the State, I think there is no doubt, that a United States Judge to whom a petition should be presented, setting forth two facts: (1) That parties were organizing to

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commit depredations upon and ~~on~~ the lives and property of citizens of the United States within his district and

(2) That the State authorities were inadequate to keep the peace, indifferent thereto, or —

(3) — were in collusion with such violations or intended violations of the rights of citizens of the United States, would be compelled to order a posse and if the posse

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was resisted the President could support it with the army.

I think the Populists intend to make some sort of violent demonstration under cover of the Governor's countenance trusting to the supposed inability of the General Government to interfere without his solicitation. It cannot in-

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interfere in his behalf, that is to prevent rebellion against State authority, except at his solicitation. But it can properly interfere in the very case intended to prevent the power of the State, or mobs protected by State authority or executive apathy from taking the lives of its citizens — citizens of the United States.

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Congratulating you upon the honors you have received and the courage and moderation displayed in a position of great difficulty, I remain,

Sincerely yours

Thos. A. Bourgé