

A HISTORY OF THE ESTABLISHMENT OF THE KANSAS
STATE GOVERNMENT.

by

Gustave Raymond Gaeddert

A.B., Bethel College, Newton, Kansas, 1921

A.M., University of Kansas, Lawrence, Kansas, 1926

Submitted to the Department of History
and the Faculty of the Graduate School
of the University of Kansas in partial
fulfillment of the requirements for the
degree of Doctor of Philosophy.

Approved by

James C. Malin
Instructor in charge.

Frank E. Melvin

Nathan Sandelius

W. W. Davis
Chairman of Department.

ACKNOWLEDGMENT

This work would not be complete without grateful acknowledgment to Dr. James C. Malin who has carefully supervised it. His constructive suggestions as to organization, content, and presentation are greatly appreciated.

The writer is also indebted to the other members of the Advisory Committee, Dr. Frank E. Melvin and Dr. W. E. Sandelius, for their encouragement, and to Mr. W. Rolland Maddox for his suggestions as to recent trends in State Government.

The writer also wishes to thank the entire staff of the Kansas State Historical Library for their courtesies.

For encouragement and help in securing the original data and in many other ways, the writer is especially indebted to his wife, Sarah Lohrentz Gaeddert. To her this work is gratefully and affectionately dedicated.

A HISTORY OF THE ESTABLISHMENT OF THE KANSAS STATE GOVERNMENT

SECTION ONE: THE IMMEDIATE BACKGROUND OF THE ADMISSION

CHAPTER I. THE SETTING IN 1860	Page
Physical basis of the Territory -----	1
Settlement of the Territory -----	4
Agricultural and industrial developments -----	6
Economic problems -----	10
Social problems -----	22
Cultural conditions -----	30
Religious conditions -----	35
 CHAPTER II. POLITICAL CONDITIONS IN 1860	
Political parties and factions -----	40
Organization of the Republican party -----	
Early attempt at organization -----	46
Ossawatimie Convention -----	51
Territorial elections of 1859-1860 -----	
Territorial elections, party alignment --	55
Presidential Convention, Kansas delegates	59
 CHAPTER III. THE KANSAS ANOMALIES, 1860	
Slavery question -----	63
Jayhawking -----	67
The Famine -----	87

SECTION TWO: SETTING UP THE KANSAS GOVERNMENT, 1859-61

CHAPTER IV. FRAMING THE WYANDOTTE CONSTITUTION, 1859	
Its antecedents -----	109
Steps leading to the Convention Act -----	114
Legislative history of the Act -----	115
Question of its legality -----	122
The Act before the people -----	124
Election of delegates -----	125
Wyandotte Constitutional Convention, July 5-29	
Personnel -----	127
Organization -----	131
Important problems:	
Credentials -----	136
Election returns and veto -----	142
Apportionment -----	148
Suffrage and election -----	152
Territorial claims -----	159
Negro question -----	162
Boundary question -----	168
Location of Capitol -----	172

	Page
Signing the Constitution -----	177
Valuation and sources of the Constitution --	180
 CHAPTER V. RATIFICATION OF THE CONSTITUTION AND ELECTION OF STATE OFFICERS, 1859	
Ratification, Oct.4, 1859	
Attitude of parties -----	192
The Campaign -----	197
Vote of the people -----	201
Election of State Officers, Dec.1, 1859	
Nomination conventions -----	203
Election campaign -----	210
How financed -----	216
Election returns -----	217
 CHAPTER VI. THE ADMISSION OF KANSAS, JAN. 29, 1861	
The Constitution before Congress -----	219
During the First Session, 1859-60 -----	220
During the Second Session, 1860-61 -----	226
Effect of withdrawal of Southern Senators	233
The Admission Bill -----	236
 SECTION THREE: THE ADMINISTRATION OF GOV. ROBINSON	
 CHAPTER VII. SETTING THE GOVERNMENT IN MOTION	
Gov. Robinson's preliminary movements -----	241
His proclamation -----	241
His ambitions -----	242
His policy -----	243
Question of patronage -----	244
Legislature at work -----	249
Organization -----	250
Governor's message -----	251
Election of Senators -----	252
Candidates and their ethics -----	252
Election in the Senate -----	262
Joint convention -----	265
Two hour ballot -----	268
Newspaper comment on election ---	270
Location of State Institutions	
Penitentiary -----	272
State Capitol	
Intense rivalry -----	276
Election results -----	278
Influence of money -----	279
State University	
Robinson vetoes 1st Manhattan bill -----	283
Lane defeats 2nd Manhattan bill	284
E.Russell decided for Lawrence	286
Agricultural College -----	287
Normal School -----	287
Other State Institutions -----	288

	Page
Establishment of the Judicial Department	
State Courts -----	290
Civil and Criminal Codes -----	291
Codification of Laws -----	293
Organization of State Courts -----	294
Establishment of Executive Department:	
Powers and duties of State Officers-----	295
Impotence of the Governor -----	296
Organization of County and township Govt. -----	298
Financial legislation -----	299
 CHAPTER VIII. POLITICAL AND MILITARY CONFLICTS: AN ATTEMPT TO OUST GOVERNOR ROBINSON	
Robinson v. Lane feud -----	307
Political struggle for supremacy:	
Election of Congressman, June 11, 1861 --	308
November election, 1861: Lane v. Robinson Occasion -----	309
History of the movement -----	310
Nominating conventions -----	313
Campaign and election -----	315
Case before the Supreme Court -----	319
Military struggle for supremacy:	
Civil War problems:	
Statement of problems -----	322
Attempts to cope with:	
Internal problems	
Impotence of the State -----	324
Jayhawking, Kansas-Missouri raids -----	326
Secessionists -----	331
External problems	
Threat of war with Missouri ---	332
Lane's Osceola Raid, Sept. 23, 1861 -----	335
Failure to restore order -----	337
Lane-Robinson conflict shifted to Military:	
Origin and development -----	340
Height of conflict, Oct. 8, 1861-Feb., 1862	
Lane-Stanton controversy July 12, 1861 to Jan. 15, 1862 -----	348
Robinson-Lane tangles -----	351
Lane's Southern Expedition foiled-----	353
Anti-Climax:	
Removal of Sturgis -----	358
Military appointments, conflict --	359
Federal draft applied to Kansas --	360
Colored regiments recruited -----	363
Indian and Civil War -----	366
Economic motives -----	367

	Page
CHAPTER IX. LANE-ROBINSON CRISES: IMPEACHMENT	
OF THE STATE OFFICERS, 1862.	
Preliminary steps	
Bond Acts -----	371
Negotiation of bonds, history of:	
Fruitless attempts -----	374
State officers engage R. S. Stevens-	381
Stevens sells bonds at 85 cents -	387
Stevens buys bonds from State	
at 60 cents -----	389
Who had defrauded the State? -----	396
Investigation by the House Committee	
Origin of Movement, Jan. 30, 1862 -----	400
Preliminary investigations -----	402
Report of Committee -----	405
House votes to impeach State Officers -	407
Impeachment of State Officers, Feb. 20-Je. 16	
Legislature prepares for trial	
Impeachment Court bill -----	408
Stevens' plan of settlement -----	409
House presents the charges -----	411
House votes to accept the articles -	414
Senate packs the court -----	416
University bill -----	422
Senate Elections -----	423
The trial, June 2-16	
Organization -----	424
Charges of irregularity -----	425
Charges of bribery -----	430
Conviction of Secretary of State	
and Auditor of State -----	436
Acquittal of Gov. Robinson -----	437
Significance of the affair -----	438
Case before the State Supreme Court -----	445
What happened to the Stevens contract -----	447

**SECTION FOUR: ACCOMPLISHMENTS OF THE FIRST STATE
ADMINISTRATION, JAN. 29, 1861-1863**

CHAPTER X. THE ELECTION OF THOMAS CARNEY.	
Nomination Conventions of 1862.	
Republican Convention, Sept. 17 -----	450
Union Convention at Lawrence -----	454
Democratic Convention at Topeka -----	455
Campaign of 1862 -----	456
Election returns -----	458
Watson v. Cobb case -----	459
Points of special interest in Gov. Carney's Administration	
Governor's Message -----	461
Debt & bond questions -----	464

	Page
Internal improvements -----	468
State patronage -----	471
Quantrell's Raid -----	472
Carney's election to U.S. Senate -----	480
 CHAPTER XI. WHAT WAS ACCOMPLISHED.	
Field of Religion -----	484
Field of Culture -----	485
Social Field -----	492
Economic Field -----	501
Political Field -----	522
Evaluation -----	532
 BIBLIOGRAPHY -----	 534
 APPENDICES -----	 544

CHAPTER I

The Setting in 1860

The physical basis of a territory will be reflected in the plant and animal life which inhabits it. Kansas is no exception. It is located within the bounds of the Prairie and the Plains Region. The extreme northeastern section of the State represents the western extremity of the Eastern Timber Belt. Proceeding west and southwestward there is a gradual but unmistakable change in the physical landscape and in the plant and animal life. Near the 98 meridian the Prairie country merges gradually into the rising Plains.

The Prairie differs from the Plains in topography, humidity, and vegetation; however, both were built up originally by the process of aggradation.¹ The topography of the Prairie has been disturbed by the forces of nature, which have left it a rolling land slightly affected by erosion. It has a relatively humid climate, although its average rainfall from east to west will vary from 40 to 25 inches.² Its plant life is, therefore, more varied and vigorous, leaving its meandering streams and many of the hills and ridges in the eastern counties speckled with small islands of timber. The river valleys

-
1. Webb, Walter Prescott, The Great Plains. He discusses the subject under consideration in detail. pp. 3-33.
 2. Clark, Carroll D., People of Kansas. (1936). On p. 37 Fig. 10 he gives the average rainfall and normal distribution.

have sufficient moisture for intensive farming. The soil moisture is from two to four feet. It produces the tall blue-stem bunch grass, but changes gradually into short buffalo grass as we approach the plains. The blue grass has been successfully replaced by winter wheat. On the otherhand, the Plain exhibits a level surface of great extent, is unforested, produces the grama and buffalo grass, and its subhumid climate favors extensive rather than intensive farming.

The seasonable distribution of rainfall, evaporation, and wind are of vital importance in an agricultural state. The rainfall usually approaches its maximum in the months of April, May, and June, and reverts to a minimum in November and December. There are exceptions also to this rule. The months of July and August are often hot and dry, but in a wet season they may bring excessive moisture. Occasionally the winter months will also bring considerable precipitation in the form of sleet and snow. The evaporation during the summer, April to September inclusive, is reported as only about half as rapid in the Prairie region as on the southwestern Plains. Closely related to evaporation is the wind. In summer the hot winds come mostly during July and August, but they also occur before June and reach into September. Their velocity will vary from a gentle breeze to a gale. Although the velocity of the wind reaches its maximum on the plains, especially in the southwestern part of the

state,¹ the economic disaster occasioned thereby even in the eastern part of the State often runs into millions of dollars.

The animal life is significant because like the plant life it exhibits characteristics which suggest a peculiar adaptation to their environment. The characteristics most common among them were their dependence on grass for food, their speed, and their ability to live without much water. To the early settlers they were important because they supplied them with many of the necessities of life. In 1859 the American bison was still roaming over the Kansas Plains in large herds.² The deer, wolf, and coyote were feeding on the prairies, the antelope was seen cavorting over the plains, while the jack rabbit would jump up most anywhere. The prairie dogs were there in large numbers feeding on the blade and roots. The beavers too were plenty along the streams and the rattle and other snakes took their toll. The eastern rivers abounded with fish and the newspapers with fish stories.³

The surface soil is of residual and fluvial origin; generally speaking, the eastern uplands are residual. The rock formations which crop out occasionally in

-
1. Webb, Walter Prescott, The Great Plains. pp. 20 & 23. The author has produced weather maps showing evaporation and wind velocities.
 2. Lawrence Republican Aug. 25, 1859. It reported that the plains were literally filled with buffalo.
 3. Topeka Tribune, June 23, 1859, mentions two catfish caught in the Kaw river weighing 160 and 110 pounds each.

this part of the State consist mainly of shale, limestone, and sandstone and were originally deposited in sea water.¹ The lead, salt, iron, gypsum, coal and oil found in Kansas belong to the marine formations. The rock formations tilt slightly northwestward; whereas the surface soil has a general eastward slope. The result is that the increased humidity of the east together with the adverse slope of the surface and subsoil have produced a problem in soil erosion in Eastern Kansas unknown in the western part of the State.

In 1860 the settlement of Kansas was still limited to the Prairie region. Washington, Clay, Dickinson, Marion, Otoe, and Hunter counties formed the western frontier line.² The settler's problems of physical adaptation were, therefore, confined to those peculiar to the Prairie. Although the Kansas-Nebraska Act and the Emigrant Aid Societies had stimulated an abnormal immigration movement into the Kansas Territory; yet by 1854 the pioneer had already reached the western extremities of the Timber Belt and was slowly penetrating the sparsely forested prairie region. It has been pointed out, therefore, that Kansas would have been among the states logically next in order of settlement even though

1. Throckmorton, R. I. and Wood, P. O., Soil Survey of Cherokee County Kansas. pp. 14-16, 42.

2. Clark, People of Kansas. Fig. 2, p. 33. Saline, Ottawa, Shirley, and Republic were already organized by 1860.

the artificial stimulus to immigration had not come.¹

The immigrants who settled these prairies comprised a motly group. They have been divided into three classes, those from the North who came for economic reasons and to make Kansas free, those from the South to make it slave, and the adventurers who came from both sections and included an undesirable class of persons who always drift to new countries.² Among them were broken-down politicians, restless, lawless men, gamblers, and fugitives from justice. There was also a fourth class present, viz., the speculator in land and city lots.

A brief statement revealing the origin and increase in population may help to clarify a point or two. A population record for 1855, which tells where the Kansans were born, gives the immigrants from the southern States a slight lead over the North, but this report may not be complete.³ By 1860, however, the North had definitely triumphed, leading the South better than two to one. In numbers 55,095 immigrants had come from the North and 27,379 from the South.⁴ The question of slavery in Kansas had therefore been settled. The notion that Kansas was populated mainly by new England has been

1. Malin, J.C., "The Proslavery Background of the Kansas Struggle." Miss. Valley Hist. Rev., X, 285-305

2. Hodder, F.H., The Govt. of the People of the State of Kansas. pp. 10-11.

3. Wilder, D.W., "Where Kansans were Born." Trans. K.S.H.S. IX, 508

4. Ibid. p. 507.

successfully disproven and needs no further consideration.¹ It is sufficient to point out that in 1860 Ohio lead all other States with 11,617; whereas, Massachusetts, the leading New England State, ranked twelfth contributing only 1,282 immigrants to the Kansas population.² The per cent of increase in population from 1855 to 1860 represented in figures the population had increased from 8,461 in 1855 to 107,206 in 1860.³ By 1860 Kansas was also approaching a balance in the distribution of male and female population. In 1855 the male population made up 60.13 per cent of the total but in 1860 only 55.20 per cent.

In 1860 the Kansas farmer was still in the pioneering stage. It was the farmer's first venture into a region where the two essentials for a successful settlement, free water and timber, were found in diminishing quantities. The proslavery leaders had been quick to realize the importance of the timber in the Kansas struggle and had laid claim to the most strategic lands.⁴ There were a number of factors that had delayed the agricultural development of the Territory among which the

1. Clark, People of Kans. p. 19.

2. Wilder, Trans. K.S.H.S. IX, 507.

3. Computed from U.S. Census Report of 1860

4. Malin, "Kansas Struggle." Miss. Val. Hist. Rev. X, 294-295.

following should here be mentioned; The Civil War struggles, the failure to understand the functional values of the grasslands combined with an exaggerated value placed on the timber lands, and the slow and painful method of determining upon the suitable crop production by trial and error.

The size of the farms varied from less than ten to more than a thousand acres, with an average of 176 acres, of which forty acres were improved.¹ In the year 1859 this farm would have yielded 608 bu. of corn, 29 bu. of Irish potatoes, 19 bu. of wheat, 9 bu. of oats, 4 bu. of buckwheat, less than a bushel of sweet potatoes, peas and beans, barley, and rye; 108 lbs. of butter, 3 lbs. of cheese, 2 lbs. each of wool and tobacco, 8 gals. of sorghum molasses, 6 Ts. of hay and some honey and maple sugar. On this farm the farmer was feeding livestock valued at \$320 and had slaughtered stock worth \$55. This average farm, however, leaves the wrong impression; for, of the 10,108 farms reported 73 per cent contained only fifty acres or less, and less than forty acres of improved land. More than 73 per cent of the farmers, therefore, produced considerably less than what was attributed to the average farm. Moreover, the year of 1859 was re-

1. Statistics are based on U.S. Census of 1860. p. 54-7, 192, 200, 222.

ported as having yielded a bumper crop. In the normal year seventy-five per cent of the farmers would therefore, produce less than half the crop listed for the average farm. The Kansas farmer was still largely a livestock man; although he raised corn, in all probability he fed it to his livestock to save the cost of transportation. He had not yet discovered the "Turkey Wheat" that later made Kansas famous as a wheat growing State.

Manufacturing was still in its infancy, but already it provided one of the most profitable investments. Within the present limits of Kansas there were 199 industrial establishments, employing 736 workers.¹ The industries included 116 saw mills, 36 flour mills, 10 blacksmiths, and a number of shingle, brick, implement and machinery, shoe, tin, copper and sheet-iron, bread, and liquor establishments. The total investment was valued at \$617,070 and the annual production at \$2,227,948. Although interest rates were high, the net profits were large, varying from 2.5 per cent on shoes to 852 per cent on bricks. Every industry showed a profit of 36 per cent except the shoe factory.

By the close of the Territorial period there were nineteen cities with a population of over a thousand.

1. Ibid. p. 167. The mines of the West are not included.

Most of them were located either on the Missouri, the Kaw, the Marais Des Cygnes, or the Neosho rivers. Leavenworth led with a population of over seven thousand and was followed by Atchison, Wyandotte, Iowa Point, and Lawrence respectively.¹ Topeka, Manhattan, and Emporia had not yet reached the thousand mark. They were all agricultural centers.

The rivalry among the towns was very intense. Each had its own newspaper organ glorifying in exaggerated words its future possibilities. A number of them were bidding for one or more of the State institutions, hoping thereby to foster the development of the town and incidently raise the value of its lots. All expected the railroad to connect them with important markets in the near future. Thus faith played an important part in the development of the early Kansas towns, and many fell by the wayside in the bitter struggles. A number of them who had figured rather prominently in the Territorial period later lost their erstwhile importance. This was the history of Lecompton. From 1855 to 1859 it had been a busy town, crowded with home-seekers, speculators, contractors, and land warrant agents. The Territorial Land and Government Offices had been located there. Congress had appropriated \$50,000 for government buildings to be built there. Seven stages and express lines connected

1. Federal Census Report of 1860. Population. pp. 160-161

Lecompton with Kansas City, Leavenworth, Atchison, St. Joe, Topeka, and Fort Scott. Four hotels had been doing a thriving business. Then one day there came a change. Lecompton was of pro-slavery origin and when the Territorial control shifted to the Free-state men they transferred the government offices to the town of their choice, and Lecompton had seen its best days.

The economic problems of the Territory were closely related to the frontier and the prairie region. There was a pressing need for an adequate transportation system. To bring this to pass required, in the first place, an official survey of the Territory to locate the roads; second, the establishment of such country roads as were necessary to enable the farmer to haul his products to the market; and third, the establishment of an adequate railroad system to furnish the means for an outlet of the excess products of the Territory as well as an inlet of the necessary imports. While the government survey was not lacking, the settlers in the early period lacked the spirit of cooperation necessary for the development of a system of roads. The result was the survival of wagon trails and the absence of bridges. Streams were either forded or else crossed via ferry.

More interest was shown, however, in the establishment of railroads. To build these, required time, money, and cooperation to determine upon the most desir-

able location. Since it was evident that the town and community connected with a railroad would have many advantages over one without it, the rivalry was very keen, and speculation rampant. Many railroad companies were organized, a number of which never built a mile of road. Some had been chartered by the Territorial Legislature, while others held charters from other states. The Atchison and Topeka Railroad Company was organized in 1859. It was to connect Atchison with the gold mines of Colorado.¹ The Leavenworth, Pawnee and Western Railroad Company was to connect Leavenworth, Lawrence, and Topeka.² The city and county of Leavenworth had subscribed over \$200,000 in bonds to build this road.³ The Parkville and Grand River Company was designed to help make Quindaro by connecting it with the Kansas valley trade. The last two projects were supported by Governor Robinson.⁴ The Leavenworth, Hamlin and Nebraska Railroad Company was organized the 29th of November 1859. It proposed to build a road from Leavenworth to the Nebraska line in

-
1. Gleed, C.S., "The First Kansas Railway." Trans. of K.S.H.S. VI, 357-58.
 2. Kansas State Record, Aug. 4, 1860.
 3. Herald of Freedom, Sept. 17, 1859.
 4. Robinson Collections, "Quindaro Kansas Journal." March 13, 1860; Kansas State Record, Nov. 26, 1859; also Feb. 4 & Dec. 8, 1860; also S.C. Smith to Robinson, Dec. 1, 7, 14, 19, 1858, Robinson Corresp. 1848-64. Vault, K.S.H.S.; N.P. Banks, Jr. to Gov. Robinson, includes Fremont's letter, March 19, '56. in Robinson Papers, 1848-64. Byers, O.P., "When Railroading Outdid the Wild West Stories." Col. K.S.H.S., XVII, 339-40

the direction of Fort Kearney.¹ The Palermo and Fort Riley Company was contemplating a railroad traversing the Kansas Territory in the southwesterly and northwesterly direction.² The Kansas Central Railroad Company was to connect Wyandotte and Fort Riley.³ The Jefferson City and Neosho Valley Company planned to build from the Osage Valley and the Southern Kansas Railroad Terminus at the Missouri State line to Emporia, via Moneka, Hampden, Ottuma, and Neosho Crossing.⁴ There were others like the Wyandotte, Minneola, and Council Grove and the Leavenworth and Fort Gibson Companies.

To get some concerted action on the question, a railroad convention was held at Topeka, 17 October, 1860; but it failed to produce united action. The Atchison, Wyandotte and Topeka interests had pitted themselves against the Leavenworth, Douglas and Doniphan county interests. The Atchison group got control, led by W. Y. Roberts of Wyandotte, president. The opposing faction refused to be told and walked out, led by Governor Robinson of Lawrence and Judge Means of Leavenworth. The division came over the question of apportionment, al-

1. Kansas State Record, Dec. 31, 1859.

2. Ibid, Dec. 17, 1859.

3. Ibid, Feb. 18, 1860.

4. Lawrence Republican, Je. 9, 1859.

though the real issue back of it was that of the routes. The convention had continued its business in spite of the rupture, and on the second day adopted a schedule memorializing Congress for grants of land in behalf of the following roads: 1. A railroad from the western boundary of Missouri, where the Osage Valley and the Southern Kansas Railroad terminates, westward via Emporia, Fremont, Council Grove to Fort Riley; 2. A railroad from Wyandotte City, up the Kansas Valley, via Lawrence, Le-compton, Tecumseh, Topeka, Manhattan and Fort Riley reservation to the western boundary of the Territory; 3. A railroad from Lawrence to the southern boundary of the Territory, in the direction of Ft. Gibson and Galveston Bay; 4. A railroad from Atchison via Topeka to Santa Fe; 5. A railroad from Atchison to the western boundary of the Territory. A committee of five representing the roads was appointed to memorialize Congress in behalf of the adopted schedule.¹ Here the question remained, awaiting the action of Congress on the Pacific Railroad Bill, although the agitation and rivalry continued.

While there had been much agitation and organization before 1860, there had been but very little con-

1. The best accounts of this R. R. Convention are found in: Wyandotte Commercial Gazette, Oct. 20 & Nov. 3, 1860; Topeka Daily Capital, Aug. 25, 1860, pp. 200-2; Kansas St. Record, Oct. 20, & Nov. 3, 1860.

struction. The only railroad in the Territory that was actually operating at the time of the admission of the State was the Atchison and St. Joseph road. It was completed February 29, 1860 and extended a distance of twenty miles into the Territory.¹ The St. Joseph to Topeka road, however, was under construction. C. K. Holliday of Topeka was one of the road's chief promoters, and Topeka had voted \$30,000 in city bonds to speed its work.² The transportation problem of the Territory, therefore, remained dependent upon river navigation and upon the horse and ox wagon, although Atchison had profited greatly by the railroad. While at times the Kaw river was navigated as far as Fort Riley, plying the "Gus Linn," the "Chippewa Falls," and the "Kansas Valley" packets; yet this depended upon the amount of water in the river which varied with the seasons, and was therefore inadequate to satisfy the needs of its section of the Territory.³

The second economic problem, the want of markets, was still largely an outgrowth of the problem of

-
1. Atchison Champion, Mar. 19, 1860; Kans. St. Record, Mar. 3, 1860.
 2. Kans. St. Record, Dec. 24, 1859; Topeka Tribune, Mar. 24 & 31, 1859.
 3. Horton, Js. C., "Business Then and Now." Trans. K.S.H.S. VIII, 144-5; Topeka Tribune, Je. 2,9, & Mar. 24, 1859; Kans. St. Record, Je. 30, 1860.

transportation. It was not yet overproduction, but the cost of transportation that caused much of the economic distress in the Territory. The immigration to the Colorado gold mines helped the market price in immigration centers like Leavenworth and Kansas City but was of less value elsewhere.¹ In April of 1859 Gov. Robinson wrote that owing to the immigration to the gold mines corn was selling at Leavenworth and Kansas City for 60 cents a bushel, whereas at Lawrence it was worth only 30 cents. In ordinary seasons when it was worth but 25 cents on the river he wrote it would be worth nothing for export at Lawrence, since it would not pay the expense of hauling it.² The Neosho Valley Register predicted that wheat would never be raised in Kansas beyond the need for home consumption. "We are too far removed from markets to carry our produce there." He advised the farmers to raise corn and turn it into pork and beef and sell it to the Pikes Peak miners.³ These conditions led John J. Ingalls to the conclusion that the Kansas Territory was not in a position to compete with Illinois and the lower

-
1. From Leavenworth there was a northern and middle route leading to the mines, and the southern route from Kansas City.
 2. Robinson's letter of Apr. 30, in Kansas Herald of Freedom, May 7, 1859.
 3. Neosho Valley Register, July 21, 1860.

states in agricultural produce, because they had the advantage of a nearer market. The only way the Kansas farmer could make corn growing profitable, he thought, would be to turn it into pork.¹ The problem of an adequate market, therefore, was ever present in the Territory and the conditions had not changed much by 1860.

A third problem that retarded the economic progress of the Territory was the scarcity of money. A number of Territorial banks had been authorized and a few established, but they had proved inadequate. There existed a bank at Atchison known as the "Bank of the State of Kansas."² It had been established under the act of February 19, 1857. This act had provided for a "Kansas Valley Bank" at Leavenworth with branch banks at Atchison, Lecompton, Doniphan, Fort Scott and Shawnee. The capital stock required for the main bank was \$800,000 and \$300,000 each of the branch banks.³ The act of February 3, 1858, however, had repealed the act of February 19, 1857,⁴ but since the Atchison bank had already been established the Legislature had passed an act, nine days later, to retain the branch bank at Atchison.⁵ On the 11th of February, 1858, the Territorial Legislature

-
1. "Ingall's Letters," in Trans. of K.S.H.S. XIV, 116-117.
 2. It was called that in 1861; See Private Session Laws of Kans. Ter., 1861, p. 5.
 3. Kansas Statutes, 1857. pp. 103-112.
 4. Private Ter. Session Laws, 1858. p. 102.
 5. Ibid, p. 103.x

passed a second banking act which provided for the incorporation of the Lawrence, Leavenworth, and Wyandotte banks with a capitalization of \$100,000 each. As soon as the directors would deposit with the Comptroller of the currency \$25,000 in State bonds and have \$2,500 in specie, the Comptroller would countersign \$25,000 of circulating notes and the bank could open its doors for business.¹ It appears, however, that Lawrence was the only town that took advantage of the act, but not until July of 1861; for no State bonds were available until May 1861.² The citizens of Leavenworth and Wyandotte, however, had established private banks. In 1857 Scott-Kerr & Co. had established a bank in Leavenworth, which did a thriving business and was later changed into a National Bank.³ There were two private banks in Wyandotte, and the Exchange Bank of Atchison.⁴ There were other banks resembling the western "wild cat banks." Sam Wood operated one in Lawrence for a short time. Generally speaking, however, the banking system did not

1. Ibid, pp. 103-109.

2. Kansas State Record, Aug. 10, 1861 & Feb. 12, 1862.

3. Andreas, History of Kansas. pp. 433-34; 453. Isett Brewster & Co. preceded Scott-Kerr & Co.

4. Ibid, pp. 433-34; 380. The Atchison Exchange Bank was managed by Hetherington.

x. The capital stock of this bank was finally fixed at \$52,000 and \$100,000 securities. Andreas, Hist. of Kansas. p. 380. It should also be mentioned that the branch banks were to be independent of the main bank

supply the settlers with enough of the necessary medium of exchange. The complaint was general. In 1859 John J. Ingalls wrote that the want of money was the great difficulty. There was grain enough and stock enough but no medium of trade.¹ The Neosho Valley Register complained that they felt the dearth of money more than any other place in the Territory.² Convention delegates had to be subsidized,³ and often mail was delayed due to scarcity of money.⁴ These were, of course, typical frontier experiences.

The fourth economic problem involved the question of land. There were several aspects of it, the conflict over the Indian land, the conflicting claims, and the problem of foreclosures. During the years 1825-1841 the Federal Government had removed the Indians from east of the Mississippi river on to reservations west of the river. This movement had placed some nineteen or twenty tribes into the Kansas Territory. Barely had the last tribe, the Miamis, been settled when the white men caught up with them and steps were again taken to remove the Indian. This process took much time, lasting till 1881, al-

1. Ingalls' Letters, Trans. of K.S.H.S. XIV, 113-114.

2. Neosho Valley Register, July 21, 1860.

3. Morrill, Gov. Ed. N., "The Early Settlers of Kansas," Trans. K.S.H.S. V, 152-153.

4. Martin, Geo. W., "A Chapter from the Archives." Col. of K.S.H.S. XII, 360.

though the last Indian lands were not sold until 1901. The great majority of Indians, however, were removed in the late sixties and early seventies. In the meantime both the speculator and the squatter took undue advantage of them, the former by sharp business practices, the latter by squatter sovereignty. Against the speculator the Indian often remained unprotected;¹ against the squatter, however, the Federal officers did interfere in 1860 and burned seventy-five squatter cabins in an attempt to drive 1500 settlers off the Cherokee Neutral Lands.²

A second phase of the land question was that of boundary quarrels and conflicting claims. As has been pointed out elsewhere, much of the best timber land had been claimed by the pro-slavery men from Missouri in the early Territorial period for strategic purposes, although this process was by no means confined to this faction. Since much of this land remained waste and idle it was always in danger of being jumped by settlers who had come to the Territory to build homes. Many of the murders can only be explained in this way. The Dow-

-
1. Abel, Anna H., "Indian Reservations in Kans." Trans. of K.S.H.S. VIII, pp. 86-108; Webb Scrap Book. III; Lawrence Daily Journal Oct. 28, 1884.
 2. Kansas State Record, Nov. 10, 1860; Kans. Ter. Clippings, 1857-60; Lawrence Republican, Feb. 9, 1860; Wyandotte Com. Gazette, Dec. 22, 1860; U.S. Statutes at Large, II, 332; Kans. Ter. Clippings. II, 241-43.

Coleman case¹ and the killing of Gaius Jenkins by Lane² well illustrate this point. These quarrels were still jeopardizing the peace and tranquility of the Territory when Kansas became a State. In 1860 Sol Miller pointed out that nine out of every ten pre-emptors possessing land in northern Kansas had evaded the law by false swearing. They had sworn either that the land was "proved up," although in reality they had done no such a thing; or that they were the sole claimants, when in fact they had transferred half or part of the land to some speculator who had furnished the means necessary to pre-empt the land.³ The result was that many of the claims were contested and in the attempt to determine ownership, quarrels followed which often resulted in an appeal to Judge Lynch.⁴

The problem of fore-closure was constantly with the early settlers. The interest rates were exorbitant, ranging all the way from 10 to 60 per cent per annum.⁵ Many of the settlers had been unable to pay for their claims, and the almost total crop failure of 1860 had left them at the mercy of the creditors and speculators. What made things worse was that in the summer of

1. Andreas, History of Kansas, p. 116.

2. Kans. Hist. Clippings, V, 194-97.

3. White Cloud Chief, Mar. 15, 1860; Kans. Ter. Clippings, I, 138.

4. O.H. Brown's letter to J.A. Halderman, Feb. 25, 1859. Halderman Papers, Vault, K.S.H.S.

5. Territorial Census of 1860.

1860 in the midst of the famine, the Federal Government had decided to open the public lands for sale, including the New York Indian lands.¹ According to the pre-emption act of 1841 the lands acquired under the act but not paid for would again be thrown on the open market. Conditions, therefore, were crowding the settler, but he was not without recourse. They banded together "without distinction of party" and on the appointed day, adjourned the sale for another year, and remained at the Land Office long enough to make sure that none of their well earned homesteads were exposed for sale. The result was that nobody dared to risk a purchase, and only 80 acres were sold by the government at Fort Scott that day.²

Economically speaking the Kansas settler in 1860 found himself in need of a government that would aid him in the establishment of roads and railroads, which in turn would connect him with reliable markets. He needed a government that would supply him with the necessary medium of exchange, that would help him solve his land problems, that would establish agricultural schools and experiment stations to help him determine upon the suitable crop production for the Prairie and Plain regions.

1. Hyatt Papers, Vault, K.S.H.S. MS. #1; Western Argus, Dec. 1, 1860.

2. Lawrence Republican, Jl. 26 & Aug. 30, 1860. The Committee appointed to arrange for the protection was composed of S. C. Pomeroy, J.A. Martin, H.W. Grimes, & F.G. Adams of Atchison, Judge J.C. Lamdin & J.D. Chamberlin of Butler Co.

The social like the economic life was beset with difficulties, although the complaints appear less frequently in print. The living conditions had improved very little during the Territorial period. The energy that might have introduced more comforts into the pioneer's home had been spent in plunder, warfare, and in politics. The farm houses varied in size from 12 by 14 to 16 by 20 feet. They had been built either of logs or of native stone. The cracks between the logs were usually filled with bits of wood and plastered over with mud. The roofs were covered with what looked like barrel staves before they were finished, and did not protect against severe storms and cold. In 1856 Charles Barnes wrote that he could count the stars of an evening through the spaces, while sitting inside.¹ The cabins usually had but one door and one window. The window was made by covering the place for the sash with white cotton, while the door was of the same material as the roof. Many cabins had no floor except the bare earth. Where floors did exist they were made of split logs with the flat side turned up, unless they were made of straw. Within, the houses were partitioned by curtains of woolen or cotton cloth. The furniture, too, was of the simplest kind. It was home made and was without paint or

1. Webb, Scrap Book. XI, 118-120.

varnish. It usually consisted of a bedstead which turned up in one corner, and a sofa bedstead, chairs, tools, and a table.¹

While the pioneer lived in a log cabin and was without many of the simple conveniences of home life, a number of the wealthier politicians and business men already lived in more pretentious houses. One of these "mansions" still standing, is the "famous old Stanton Home" named Mt. Oeolia. It was built by Gov. Frederick P. Stanton in 1857, while Secretary and Acting Governor of the Territory. It was located on a bluff about three miles east of Lecompton and about fifteen miles from Topeka. Although it was very simple in design, it had open fireplaces of brick and all the woodwork within was of walnut.²

The shelter for the livestock was seldom mentioned, and probably was sought by the animals in forming a huddle, or found in the river valleys, and among the trees and shrubs.

The wearing apparel of the pioneer conformed to his environment. He often wore a rough woolen shirt of yellow or red. His high boots formed a large cir-

1. Dickson, C.H. "The True History of the Branson Rescue." Col. K.S.H.S. XIII, 281-282. He describes Major J.B. Abbotts house of 1855.

2. Topeka Journal, Jl. 21, 1923 in Kans. Hist. Clippings XI, 77.

cumference around his leathern hose. The buffalo skin tossed over his back was his covering by day and often his bed, sheet, and blanket by night. A coon-skin cap or a slouched felt hat covered his face, which hot suns and keen frosts had made brown as an Indian's. You can visualize this pioneer hunter as he approaches his cabin, with a rifle across his shoulder, the belt stuck full with twine, knives, hatchets, and ammunition; the produce of his last shot perhaps upon his shoulder; his visage made fiercer by the uncombed hair and thick, bristly beard. There he stands, schooled in the arts of frontier life. He was prepared to bridge the wide rivers, to penetrate the thickest forest, to conquer the wild Indian, or the most savage beast that it may be his lot to light on. He was ready to do or die.¹ Therein lay the charm of the pioneer, as step by step he was able to force back the Indian, the buffalo, the deer, and carry forward the outposts of civilized life. And yet "at what price glory." For it was rugged individualism, too often based upon the principle "that might makes right," victory at any price. Nevertheless civilization marched on.

The pioneer woman was no less courageous, for hers was the more difficult task. Frontier families were large and it was her lot to keep them comfortable

1. New York Times, Nov. 21, 1856, T.H. Gladstone describes "Life in Kansas as viewed by a stranger."

in the log cabin. She had to prepare the food, rear, and cloth them. In time of sickness she often had to be mother, nurse, and doctor. The most prevalent diseases she had to guard against were intermittant, remittant, and typhoid fever, pneumonia, scarlatina, consumption, croup, whooping cough and infantile cephalites.¹ While the frontier life of vigor and the open air were conducive to health, yet when sickness came the isolation was keenly felt. Neighbors were few and far between, varying in distance from one-half to ten or more miles, with no means of communication except by horseback or ox-wagon. In addition to these cares and the deprivations, sacrifices, saarcity of food and loneliness which these early years heaped upon her, many a mother paid the supreme price of life in order that others might live, while others passed through the "valley of death" in the absence of medical care. While the records revealing the bitter hours of travail and suffering are missing, yet the census statistics reveal a pitiful tale. In the year ending June 1, 1860 approximately one-half of the total number of deaths recorded occurred under five years of age and one-fourth under one year of age, although the death rate per thousand of men and women between the ages of twenty and sixty was only 10 and 9.7, respectively.² In addition

1. Eighth Census Report of U.S. Mortality. p. 22.

2. Ibid, pp. 44f.

to these cares there were the many hazards and anxieties of life forced upon the woman by the Kansas Civil Wars and the raids when it might have been more pleasant to die than to suffer the tragedies and uncertainties of life. Hers, therefore, were the more heroic efforts of saving life rather than those of destroying it.

Although many immigrants returned to their states rather than to endure the hardships of the frontier, it is reported of those that remained that they soon felt at home in their world of simplicity, and even found pleasure in its privations to which they had become inured. They learned to despise the softness of civilization and conventional society, and preferred to be surrounded by obstacles, to subdue nature, or experience the hair-breath escapes from the Indian, the wild animals, or even the white-skinned enemy, be he a "Border Ruffian" or an "Abolitionist", for these excitements formed the chief staple of their daily experience.¹

Intemperance in drink has always been associated with frontier life. The Kansas Territory proved no exception. Often the extremes of life carried them to the extreme in the use of intoxicants. To mitigate the evil the settlers resorted to legislation. The first Territorial restriction was passed by the "Bogus Legis-

1. New York Times, Nov. 21, 1856.

lature" in 1855. It was the local option law carried into Kansas from Missouri. It served as the basic law for future legislation. Each municipal township decided for itself whether or not to issue dram shop and tavern licences. The law prohibited the sale of liquor on Sunday. Violations of the law were punishable by fine and imprisonment.¹ In 1859 the Codifying Commission appointed by the Territorial Legislature abolished the "Bogus Laws" including the local option law. The law of 1859 which replaced it had, however, retained the local option provision but introduced other changes. It penalized the user if he became intoxicated, held the seller responsible for the damages done, and raised the license fee from a minimum of \$10 to \$50. The justice of the peace was to enforce the law.²

The Territory was infested with saloons. In 1860 the Federal Census reported 141 saloon keepers and ten wine and liquor dealers.³ Leavenworth and Atchison led with 46 and 32 respectively, but they also existed in Topeka and Lawrence.⁴

To combat this evil temperance societies had been

-
1. Francis, Clara. "The Coming of Prohibition in Kansas." Col. K.S.H.S. XV, 193-195. The license tax varied from a minimum of \$10 to \$500 a yr., the amount to be determined by the court. Penalty was \$100 for first offense & \$100 plus 3 to 30 days imprisonment for 2d.
 2. *Ibid.*, pp. 197-199.
 3. Eighth Census of U.S. 1860. Population. p. 167.
 4. Lawrence Republican, Aug. 25, 1860 lists 60 for Leavenworth.

organized.¹ The local option law gave these organizations the chance to launch a crusade against recalcitrant dealers. A false rumor had circulated in the East that in Lawrence "liquor was to be had at every house." When this peached the Territory it aroused the women of Lawrence to action, and they organized into a "Light Brigade." They were determined to purge the town. It was July 1856, and there was only one dealer in the retail business. The women had previously paid him for his stock and asked him to close up to which he had agreed. When later he returned with a replenished supply from Leavenworth, the "Light Brigade", with hatchets inhand marched to the shop, poured out all the liquor and took possession of the premises. The Brigade was composed of "well dressed, intelligent looking ladies."² A second attack was made on the liquor vendors in Lawrence in 1857. During the Civil War a similar crusade was launched against the bar tenders and loungers of Mound City. This brigade was made up of women from Moneka and Mound City. The report has it that they broke every bottle, glass, decanter, and

-
1. Herald of Freedom, Jl. 30, 1859 & Topeka Tribune, Oct. 15, 1859 & Jan. 19, 1861. There were societies in Osawatomie & Topeka.
 2. Semi-Weekly Tribune, Jl. 15, 1856 in Webb. XIV. 233. Wm. Hutchinson reported that his wife, the Mesdames Fred W. Read, L. Bullene, G.W. Brown, John Speer & S.N. Wood had been among them. Trans. K.S.H.S. VII, 405.

knocked in the heads of every barrel and keg.¹ In both instances there were men present who guarded against outside interference.

The liquor question was by no means one sided. There was agitation to establish a brewery in Topeka. The argument ran that in Central and Western Kansas there was a class of people who would drink whiskey or beer no matter what the cost. A distillery would, therefore, establish a home market for the farmer's grain, satisfy the demands for liquor, and keep the money in the Territory.²

Quite a different story was the exploitation of the Kansas Indian by the liquor venders. It has been pointed out that the intemperance among them varied and was roughly in direct proportion to their distance from the Missouri border.³ What happened was that the liquor venders carried their fire water to the Indian reservations and exploited their government annuities. The results were disastrous to the Indian. When he became intoxicated his reason was utterly dethroned and his most violent passions ran riot. It often ended in a big fight

-
1. Botkin, "Among the Sovereign Squatts." Trans. K.S.H.S. VII, 428-29. Clara Francis writes that the Mound City crusade was the precedent for Carrie Nation. In time the Lawrence episode preceded it. Col. K.S.H.S. XV, 201
 2. Topeka Tribune, Mar. 31, 1860.
 3. Frederickson, O.F., The Liquor Question Among the Indian Tribes in Kansas, 1804-81. p. 78. This is an intensive study of the subject.

leaving ruin, wounded and dead in its wake.¹ In 1860 the Territorial Legislature passed an act prohibiting the "sale, exchange, gift, or barter of spiritous liquors or wine to any Indian within the Territory unless directed by a physician for medical purpose." But even legislation will not always stop exploitation or change peoples habits.²

The major crimes of the Territory were those committed in the name of Jayhawking and the Underground railroad. They will be treated in another chapter.³

A more constructive program had been carried on in the field of education. The Territorial law of 1855 made the Missouri school laws the basis of the Kansas school system. The act provided for the "organization, maintenance and support of common schools." While it had not provided for central supervision, yet the district clerks were to make reports to the Territorial secretary. It also provided for four district officers, one inspector and three trustees.⁴ The sch-

-
1. St. Louis Republican, Jl. 14, 1856 in Webb. XIV, 214; J.B. Hodgkin to S.N. Wood Aug. 25, 1860 in S.N. Wood Papers, Vault, K.S.H.S.; W.E. Connelley, "The Prov. Govt. of Nebr. Ter." S.H.S. of Nebr. 2d Series III, 119-120.
 2. Frederickson, Liquor Ques. etc. pp. 65-95.
 3. See Chapter III The Kansas Anomalies.
 4. Kans. Ter. Laws of 1855, Chap. 144.

ools were to be "open and free" only to white children. Due to the sparseness of settlement, the difficulty of earning a livelihood, and the general turmoil of the times, little progress was made the first three years.¹ Private schools, however, had been established in Lawrence, Topeka, and probably in other places.²

The first Free-State Legislature of 1858 had introduced important changes. It created the office of a Territorial Superintendent of schools, to be appointed by the governor. This was important because it opened the way for State administrative supervision over education. The Territorial Superintendent was given general supervision over the common schools and in turn was responsible to the governor. The statute also provided for the office of county superintendents. These county officers were authorized to divide the county into convenient districts, apportion and disburse the money, examine teachers, visit schools, and make reports to the Territorial Superintendent. A District Board was provided for to be composed of a director, treasurer, and clerk. The act also prescribed the course of study; including orthography, reading, writing, English, grammar, geography, and arithmetic, with

-
1. Clyde L. King, "Kans. School System." Col. K.S.H.S. XI, 424-5.
 2. E.P. Fitch of Mass. opened a school in Lawrence Jan. 2, 1855 & Miss Sarah Harland opened one in Topeka. Cordley, "The Schools of Kans." Trans. K.S.H.S. III, 419-420.

provision for elective studies to be arranged for by the board of education.¹

In 1859 the Territorial Legislature passed a new law. While it was in a large measure a copy of the act of 1858, it had made some very important changes. In the first place it deprived the Territorial Governor of his administrative power over education by making the office of superintendent elective, and subject to one year tenure. It also restricted the voting qualifications to "white male inhabitants," reduced the salary of the Territorial Superintendent from \$1,500 to \$800 a year and changed the tax levy. One half of one per cent of the assessed valuation was to go for equipment, another half for salary, and \$250 for incidentals. The money was to be apportioned to the various school districts in proportion to the number of children per district, between the ages of five and twenty-one.² The cities and towns were to make their own regulations.³

With this attention given to education public school districts were organized and the schools opened their doors to educate the youth. In 1859 there were 222 school districts organized and 136 schools in opera-

-
1. Gen. Laws of Kans. Ter., 1857-58; pp. 44-63. In 1885, due to prohibition movement, physiology & hygiene were added. In 1903 U.S. history and Kansas history were added. Three months was regarded a minimum term according to the 1858 law.
 2. Herald of Freedom, March, 19, 1859.
 3. King, "Kans. School System" Col. K.S.H.S. XI, 438.

tion.¹ By 1860 the organized districts had increased to 480.² The enrollment in the elementary schools in 1860 was 5,432, of this number 3,914 attended the public schools and 1,518 attended select schools.³

Secondary education was in its infancy. The High School was still unknown. It's forerunner was the academy. In 1860 there were three of them in the Territory, one in Topeka with 150 students, another in Atchison county with 80 students, and a third in Johnson county with 22 students. There may have been one in Douglas county but it was not reported.⁴ Very little is known as to the type and character of the work done in these schools.

In the field of higher education there was more activity, but it was not always motivated by cultural motives. Students of education, however, have often mistaken this activity as a criterion of the spirit and zeal for higher education. In the period from 1855 to 1860 there were chartered in the Kansas Territory eighteen universities and ten colleges.⁵ One writer asserts

1. King, "Kans. School System." Col. K.S.H.S. XI, 425,438.

2. Ibid. 425.

3. Ter. Census of 1860. Andreas, Hist. of Kans. p. 178 has other figures.

4. Ter. Census Report of 1860. Information is scattered in various vols.

5. King, Col. K.S.H.S. XI, 444.

that "Nothing more clearly reveals the abiding interest of the early Kansas settlers in higher education than the number of denominational colleges they established and the provisions relating to state institutions that they put into their proposed constitutions."¹ There is undoubtedly much truth in this statement, yet it fails to tell the whole story. Any person familiar with the literature of this period will admit that back of this movement was an economic motive; the expectation on the part of the managers of the various town and city operations that a college or university would enhance the value of the city lots belonging to the security holders, increase the business of the city, and be a financial asset to the community in general. Only on this basis can we explain the great rivalry that existed between the towns in their bid for the public institutions. It was not alone the cultural interest that promoted the settlers to establish colleges. Indeed one wonders in how far that interest was represented, for had it been the dominant motive more than three or four colleges should have survived the formative period in spite of the hard times.²

11 Ibid. King's statement. He also cites Prof. Blackmar.
 2. The four that survived were Baker; Bluemont Central College, now State Agric. College; High Univ.; and Lawrence Univ., now Univ. of Kans., and Bethany College at Topeka. King, "Kans. School System." Col. K.S.H.S. XI, p. 441.

Besides the schools the newspapers played a part in helping to educate the settlers. On the 27th of November, 1858, the Kansas Herald of Freedom wrote that there were twenty newspapers in circulation in the Territory and at least fourteen presses lying idle. Leavenworth had five newspapers, Lawrence, Wyandotte, and Atchison each had two, and Lecompton, Topeka, Emporia, Junction City, Palermo, Elwood, Troy, White Cloud, and Fort Scott each had one. The Territorial Census of 1860 reported twenty-eight newspapers, eight Republican, nine Democratic, three independent and eight unclassified. These papers had a wide circulation, considering the time and conditions. The circulation as reported varied from 400 to 2000.¹ In this way the Kansas people received information on local, state, and national politics as well as news and propaganda.

The Church had also exerted an influence on the inhabitants of the Territory. The settlers had barely started to build homes when the larger denominations sent their representatives after them with instructions to organize churches. Even before the Territorial days the Catholics, the Baptists, the Episcopalians, the Presbyterians, and the Friends had established missions

1. Ter. Census of 1860; Appendix H.; Herald of Freedom, Nov. 27, 1858. He quoted the Leav. Herald but took issue. The Herald said there were 24 and ten idle presses.

among a number of the Kansas Indian Tribes.¹ During the Territorial period the various denominations established churches among the settlers. The Federal Census of 1860 reported 97 churches organized in thirteen counties. The Methodists headed the list with 36, followed by the Baptists with 13, the Episcopalians 11, the Congregationals 8, the Presbyterian and Union denominations each had 7, the Roman Catholic and Christian denominations each had 6, and the Friends, Lutheran, and Presbyterian Cumberland denominations each had one.² This report, however, must have been incomplete for the Unitarians had a church in Lawrence;³ moreover, the Territorial Census reported 102 churches in 14 counties;⁴ and the contemporary newspapers reported that the Methodists alone had about one hundred churches.⁵

The slavery question had also produced a division among the Kansas churches. It is well known that the General Conference of Methodist Churches had divided on this question in 1844 when they met in New York to discuss the status of Bishop James Osgood Andrews.⁶ For ten long years the churches of the border states had

-
1. McCabe, "The Churches of Kans." Trans. K.S.H.S., III, 422-423.
 2. Eighth Census of U.S. 1860. Mortality & Misc. Statutes. 393-4.
 3. Webb. XI, 68.
 4. Ter. Census Report of 1860.
 5. Kans. St. Record, Sept. 22, 1860; Ibid June 30, 1860 reported 40 Baptists churches.
 6. Spencer, Rev. Joab, "Days of the Missionary." Col. K.S.H.S. XII, 135-7.

waged a border warfare over the question of ownership of church property. In Kansas the Methodist Church North and the Methodist Church South continued the quarrel over slavery.¹ Both churches, however, continued to prosper until the Civil War.² The war, however, forced the southern churches in Kansas to close their doors. The church had failed, therefore, in one of its important social functions, viz., to prevent the war. Instead of doing that it had taken sides in the struggle and no doubt helped to break up amicable relations.

The revival or camp meetings thrived in the Territory. As a rule they were held in late summer and in the fall of the year. They were well attended. At times almost the entire neighborhood would desert their homes of night to attend these meetings. In addition to the religious duties they performed a social function, furnishing excitements of various kinds.³ "It was a great time for zeal and lungs," wrote Albert Robinson Greene. "On a fair day a preacher of average ability could be heard a mile or more. It was said of one of these enthusiasts that when he was in good trim his secret prayers would reach that far horizontally. Camp

-
1. Sweet, Wm. W., "Some Religious aspects of the Kans. Struggle," Kans. History Pamphlets, VI, 579-80; Scarritt, Rev. Nathan, "Position of the M.E. Church South!" Kans. Hist. Pamphlet, 1860, I, 1-2.
 2. Spencer, "The Methodist Epis. Church South in Kans. Col. K.S.H.S., XII, 138.
 3. Wyandotte Commercial Gazette, Nov. 10, 1860.

meetings during the summer were as much a feature of the years experiences as shucking bees and spelling matches were of the winter season.... Everybody took a week off and attended. The crowds that assembled in what seemed to be a thinly settled country were astonishing for numbers; also for other things."¹ There were some people in the Territory, however, who took exception to these meetings and regarded them "infinitely worse than horse races." They maintained that more mischief, vice and immorality was carried on there by persons who went there expressly for that purpose than at any other kind of a gathering. Moreover, the good accomplished seldom amounted to much.²

The discussion in this chapter has revealed a number of facts that were apt to have a bearing on subsequent events. In the first place the physical basis of the settlement had introduced two new problems, a diminishing amount of rainfall and timber. These called for new agricultural adjustments which had not yet been made. In the second place the settler was still confronted with the frontier problems of transportation, lack of markets, scarcity of money, the land problems, primitive living conditions, and the need of adequate medical care. These conditions helped to make the set-

 1. Greene, "In Remembrance." Col. K.S.H.S., XI, 485-486.

2. White Cloud Chief. Sept. 13, 1860.

tlar as well as his economic conditions unstable. In the third place he was poor, existing on a scant production of the bare necessities of life. A crop failure, therefore, would make him dependent upon outside help. This was the condition of the great majority of the Kansas settlers. Although there were a number of families in the Territory who were well established and represented wealth, they were still in the minority. The most encouraging features lay in the settlers undaunted courage, his willingness to suffer the hardships of life, and his readiness to encourage education and organize churches to educate the future citizen. The next chapter will deal with the political situation in the Territory before the admission of the State.

CHAPTER II

The Political Conditions in 1860

By the end of the decade of the fifties it was generally conceded that Kansas would become a free state. With this realization and with the approach of the presidential election of 1860, the focus of the national slavery controversy shifted away from Kansas. Once the Free-state men found themselves securely in control in the Territory, they became involved among themselves in bitter factional wars. No longer was it a question of whether the Northern or the Southern influences would dominate, but whether one or the other of the Free-state factions or combinations of factions would dominate. This change in the composition of the parties, however, did not soften the character of Kansas political controversies.

Factions were less pronounced in the pro-slavery party because they were fighting to regain control. Moreover, they had lost support to the Free-state party during the Civil War, due to the extreme attitude of the "Border Ruffian" wing and had to tread lightly.¹ In spite of this, however, the national factions within

1. J. H. Lane and M. J. Conway both had been Democrats. Conway had joined the free-state party because of his opposition to the "Border Ruffian" wing. Herald of Freedom, Apr. 9, 1859.

the Democratic party existed also in the Territory. There were Southern and Northern Democrats, Douglas and Administration Democrats, and later Douglas, Breckinridge and Bell supporters.¹ None of them, however, were very outspoken.

In the Free-state party the situation was different. The two outstanding political leaders of the Territory were both members of this party. They differed in temperment and disagreed in policy. Gov. Robinson was calm and deliberate. He preferred the legal method of settling the Territorial disputes to the use of force. In business he was shrewd and ambitious. General Lane was temperamental, active, and very ambitious. He was disposed to resort to armed collision. Moreover, he was an opportunist. He had left Indiana a Democrat and entered the Kansas Territory with the statement on his lips that he would as "leave buy a negro as a mule," and if the agricultural conditions of the Territory favored the growing of hemp he was willing to make Kansas a slave state.² When

-
1. Ibid. March 19, 1859 & Atchison Union, March 10 & 31, 1860. Among the supporters of the Administration Dem. were Gideon C. Chase of Atchison, Dr. Crane, G.M. Beebe and Wood of Doniphan; while J.P. Slough, S.A. Stinson, Js. Christian, G.W. Purkins, I.E. Eaton, and J.A. Halderman of Leavenworth supported Douglas. Gen. Stringfellow and Sen. Atchison had lost their erstwhile political prominence.
 2. Stephenson, "Pol. Career of Gen. Lane." Publ. K.S.H.S. III. 42-43.

he discovered that these views would jeopardize his political ambitions he underwent a change of heart. The Big Spring's Convention of September 1855, already found him a leader representing the other extreme; willing to resist the Bogus laws "to a bloody issue," should peaceable remedies fail. He had been chairman of the Committee on Platform and reported the resolution, un-animously adopted by the Convention, to forget their party differences and remain intact as a Free-state party until they had achieved political freedom, vindicated their rights of self government, and had become an independent State in the Union.¹ It was easier for him, however, to make than to execute a promise, for his next political move was to organize the Republican party in Kansas.

The faction within the Free-state party, which later became the Republican party, cropped out occasionally during the Territorial period, and became more pronounced with the passing of time. A few examples will suffice to illustrate the nature of this rivalry. In December 1855, in a meeting following the negotiations of the Treaty of Lawrence, it became known that Gov. Robinson of the Committee of Safety had invited Sheriff Jones, the "notorious Border Ruffian" to the "Grand Peace Party"

1. Webb, Scrap Book. V, 183-184; Herald of Freedom, Aug. 7, 1858 quotes the Minneola Statesman on the resolution.

to be held at Lawrence. It is told that when the discussion provoked by the invitation had subsided General Lane arose, "his eyes shone, his hair fairly stood on end, and his long arms began to gyrate. He vociferously recounted the devilish actions of the border-ruffian Jones. He pointed with long, bony fingers to the room where lay the 'murdered Barber,' whose pale face was yet wet with the tears of his mourning wife. He declared that the men of the Lawrence companies which he commanded would not be present if Jones was permitted to become a guest, and he ended his fiery speech with the threat that if Jones did come he would have to be carried out feet first!" Feelings long engendered appear to have culminated on that evening.¹ Another incident grew out of the question whether or not to participate in the election of State officers under the Lecompton Constitution. The party leaders again were divided. A Territorial Convention had been called to meet at the West Congregational Church in Lawrence. It was December 24, 1857. Governor Robinson and Thomas Ewing, Jr. were holding forth for the second day, persuading the Territorial delegates to de-

1. Moody, Joel, "The Marais des Cygnes Massacre." Col. K.S.H.S. XIV, 218. Probably the first time Robinson & Lane took issue was in the scheduled Lane vs. Lowry duel when Robinson was a second for Lane, Oct. 30, 1855 Webb. VI, 207, 226

feat the purpose of the pro-slavery constitution by electing a Free-state ticket. Gen. Lane was absent, feigned to be sick. At the opportune moment he sent his political Lieutenant, E.B. Whitman, with the foaming steed to the church. In his dramatic way Whitman presented the bewildering report that a desperate battle was impending at Sugar Mound, eighty miles distant, between the Free-state men under the command of Gen. Lane and the Federal troops. This created the desired furror. The convention at once dissolved and Lane had carried his point.¹ It was the aftermath of these brawls, however, that was important. Out of them grew hatreds and wounds which were never healed during the lifetime of the leaders. They reappear again and again; in the political campaigns, the railroad questions, in the policies of state, and divided Kansas into Robinson and Lane factions. In short, the early history of the State of Kansas is not understood unless interpreted in the light of these factions.

In spite of some temporary radical victories in the fifties, the free-state party appeared to hold no great future for General Lane. Too often he could win only about a third of the party vote to support his views.²

-
1. Ewing, Thomas, Jr. "The Struggle for Freedom in Kans." Rept. from Cosmopolitan Magazine, May, 1894. The result was, no party action was decided on for the election of Jan. 4, 1858.
 2. Ewing, T., Jr., "Struggle for Freedom in Kans."

Moreover, on the 3d of June 1858 had occurred the murder of Gaius Jenkins, which eventually gave Lane title to the disputed claim.¹ Jenkins had been a prison mate and personal friend of Gov. Robinson. This act had put a damper on Lane's political possibilities within the ranks of the free-state party, had lost him some support, and left him without a political issue. Furthermore, the Lawrence men were divided on the railroad question. At this stage of the developments, Lane and his supporters preferred to have the railroad enter Lawrence south of the Kaw river; whereas Gov. Robinson and his followers wanted it on the north side of the river.² The radical element of the free-state party felt that the party had accomplished its main objective and that it was time to affiliate with the National Republican party. This would give the organizers added prestige, provide a temporary issue, and put them in line for the more lucrative federal positions when Kansas became a state. Just what motives prompted Gen. Lane and his supporters to action, however, is not clear, but these were among the possibilities.³

1. Kansas History Clippings, V, 194-197.

2. S.C. Smith to Gov. Robinson, Dec. 1, 19, & Jan. 11, 1858 in Robinson Correspondence, 1848-64. Vault, K.S.H.S.; Robinson to Wm. Hutchinson Dec. 31, 1858. Hutchinson Papers, Vault, K.S.H.S.

3. Kansas Weekly Herald, Apr. 17, 1858, & July 3, 1858. The Herald of Freedom, Mar. 26, 1859 accused them of trying to precipitate a Civil War with the object of plundering the people and dissolve the Union.

The first attempt to organize a Republican party in Kansas had been unsuccessful. A convention was held at Lawrence on the 10th of November, 1858, but it had decided nothing except to request the Central Committee of the Free-state party to call another convention to decide on "such changes in the organization of the party as may be called for by the exigencies of the times."¹ It had been called into being by the Leavenworth State Constitutional Committee, itself a product of the radical wing of the Free-state party. The apportionment too was based on the Leavenworth Constitution. The result was that many had regarded it an illegal procedure and only fifteen delegates had attended. The Central Committee of the Free-state party had met in September and considered the question of reorganization but had given it up as too momentous a task for a committee to decide.²

Gen. Lane now took charge of the reorganization movement. On the 27th of January, 1859 he went to Leavenworth and met with Champion Vaughan to plan the procedure.³ On the 17th of February appeared the notice

-
1. Herald of Freedom, Nov. 13, 1858. The majority report blamed the failure on the weather and road conditions, but the minority report submitted by J.R. Goodin attributed it to the "doubt surrounding its legality." Ibid, Nov. 20, 1858. W.F.N. Arny, M.F. Conway, A.D. Richardson & J. Ritchey had signed the majority report.
2. Ibid, Nov. 20, 1858. There were 100 delegates invited.
3. Ibid, Jan. 29, 1859.

of the call of the convention. It was to be held at Osawatomie on the 18th of May, 1859. Seventy-five delegates were provided for, to be apportioned by counties. The apportionment had been arranged, it was reported, to favor the radical wing.¹ It was reported also that O.C. Brown had been influential in determining the place of the convention.² The call bore the signature of fifteen prominent men, headed by Gov. Charles Robinson and Gen. James H. Lane,³ which was good political strategy on the part of Lane. Gov. Robinson later explained that he had been placed under misapprehension. He had just returned from the East when he was approached and had understood that the movement represented practically a unanimous opinion of the Free-state party and that the time had come to change the name.⁴

1. Ibid, March 19, 1859.

2. Learnard, O.E. "Organization of the Republican Party." Trans. K.S.H.S. VI, 313-314.

3. Lawrence Republican, Feb. 17, 1859. The other signatures were G.W.Deitzler, Solon & T.D. Thacher, Wm. Hutchinson, M.F.Conway, Wm. A.Phillips, Eldridge Bros., John C. & Champion Vaughan, Js.L.McDowell, Augustus Wattles, D.R.Anthony, and H.F.Adams.

4. Robinson's letter of explanation of Apr. 30, 1859 in the Herald of Freedom, May 7, 1859; Also his Original MS. on The Kansas Conflict, Chap. 16, pp. 591-93. Vault K.S.H.S. His letter reads: "I put my name on the modified call of the convention, on my return from the East because I was told that it was nearly the unanimous opinion of the Old Free State party, that the time had come to change the name, and because I did not want to appear to oppose the known wishes of my old Free State friends. I have some doubts about the correctness of those representations, but I do not propose to withdraw my name till I see what kind of a party is organized and what kind of candidates represent it."

To systematize the work counties were to organize and call conventions to elect delegates to the Osawatomie convention. The Leavenworth Times, the Lawrence Republican and other lesser organs were to give it publicity.¹ Gen. Lane and T. D. Thacher would be available as speakers to lend inspiration to the movement.² By the 5th of March some fourteen counties had united in recommending that the convention should be held.³ In due time T. D. Thacher of the Lawrence Republican reported that Horace Greeley would attend the convention in person "to see some old friends" whom he could find at Osawatomie more easily than by traveling over the broad Kansas prairies.⁴ Abraham Lincoln had also been invited but found it impossible to attend. He warned Delahay against the temptation of lowering the Republican Standard in order to gather recruits. "In my judgement," he wrote, "such a step would be a serious mistake - would open a gap through which more pass out than pass in; and this would be the same, whether the letting down should be in deference to Douglasism or to the Southern opposition element. Either would surrender the object of the Republican organization - the preventing the spread and nationalization of slavery. This object sur-

1. Herald of Freedom, Jan. 29, 1859.

2. State Leg. refused Lane the use of the Hall. Ibid, Feb. 5, 1859.

3. Freedom's Champion, Mar. 5, 1859.

4. Lawrence Republican, May 5, 1859.

rendered, the organization would go to pieces."¹ Thus an attempt was made to lend prestige to the movement by connecting it with national party leaders.

The conservative wing of the Free-state party had, however, not been idle. They had focused their onset on Gen. Lane, attacking his character and his motives. Geo. W. Brown saw in the movement an attempt to place Lane and Vaughn^a in the United States Senate, M.F. Conway in the House of Representatives and leave the State offices to the conservatives. He went further and reminded the readers that the papers that were sponsoring the organization of the Republican party had also sustained and defended the action of the Jayhawkers throughout in their raids upon the people in Southern Kansas and in Missouri. As he saw it the movement was merely another attempt to complete their programme which the people previously had refused to endorse.² He also severely criticised the committee on the apportionment and could excuse it only on the ground that it had all been concocted "in Jim Lane's office."³ The most ungenerous attack was launched, however, by the Weekly Western Augus when it reminded the people of the Terri-

1. Lincoln to Delahay, May 14, 1859. Delahay Papers, Vault K.S.H.S.

2. Herald of Freedom, Mar. 26 & Apr. 16, 1859.

3. Ibid, Mar. 19 & 26, 1859.

tory that as soon as the "Legislature had passed an act opening the jails of the Territory, excusing the murderers and robbers of Southern Kansas," a call had been issued for a Republican caucus in Lawrence.¹ Sol Miller remained more calm, although he feared that the movement would result in a split party and that it would engender still more hatred and animosity and return the government into the hands of the Democratic party.² As a last resort the Herald of Freedom proposed a bolters convention to be held at Big Springs as a Fourth Anniversary of the founding of the Free-state party. The purpose was, of course, to defeat the movement of the radical wing. The call was signed by 56 members from Big Springs and 54 from Franklin county.³ The convention met and organized, but it failed to accomplish its object. The time was ripe for the organization of the Republican party.

-
1. Weekly Western Argus, Feb. 19, 1859. It continued: "Among those present might be found the following distinguished gentlemen, viz: Gen. J.H. Lane (who killed Jenkins); T.D. Thacher (Editor of Republican); Capt. James Montgomery (who killed John Little and heads the land pirates who infest Southern Kansas); Judge Conway (who 'took to the prairies' for the Leavenworth Constitution.); Pat Delvin (the murderer and abuser of chastity); Dutch Snyder (who burned Jackson's house); Pickles (the notorious horse-thief); Rev. H.P. Johnson (nigger-holding Republican); Dr. Jennison (assassin, etc. ad infinitum)!"
 2. White Cloud Chief, Apr. 4, 1859.
 3. Herald of Freedom, Apr. 9, 1859.

On the 18th of May, 1859, the convention delegates assembled at Osawatomie to perfect the organization of the Republican party. The day before had been significant for caucuses.¹ It appears that the extreme radicals were either outnumbered or else they had compromised with the conservatives to assure of the success of the convention; at least some of the important offices were filled by the more moderate conservative men. Oscar E. Learnard of Coffee County was made President of the convention. He has left information that the office was given him as a reward for having rallied the conservative element to the convention.² S.C. Pomeroy and Thomas Ewing, Jr. were among the eight Vice Presidents elected, W.Y. Roberts and Ewing were members of the Platform Committee, and John A. Martin was one of the four Secretaries elected. Among the leading members of the radical wing were D.W. Wilder and T.D. Thacher elected as Secretaries and T.D. Thacher and W.A. Phillips as members of the Platform Committee.³ Gen. Lane and Gov. Robinson's names did not appear.

The platform as adopted announced the organization of the Republican party based on the following principles: The true bases of government was found in

-
1. Learnard, O.E., "Organization of Republican Party." Trans. K.S.H.S. VI, p. 314.
 2. Ibid.
 3. Herald of Freedom, May 28, 1859; Wilder, D.W., Annals of Kansas. New Ed. p. 255.

the Declaration of Independence. The constitution did not carry slavery into the territories, but was a creature of special enactment. The Supreme Court's decision in the Dred Scott case was denounced. The people in an organized territory should be permitted to enact their own laws, free from Congressional and Executive control. The extension of slavery to soil now free was opposed. The administration in power was criticised for failing to enforce the law prohibiting the importation of slaves and Congress was asked to pass remedial legislation. Of the Wyandotte Constitutional Convention they demanded the incorporation of an article in the Kansas Constitution prohibiting slavery. Congress was asked to pass a liberal homestead act, giving 160 acres of land to every citizen who would settle upon and improve it. The selling of territorial lands during a season of universal depression was opposed. Internal improvement of rivers and harbors was encouraged and Congress was asked to aid in the construction of a Pacific Railroad "by the most central and practical route."¹ The provisions of the Osawatomie platform bear a closer resemblance to the National Republican platform of Chicago adopted a year later than to the one adopted at Philadelphia in 1856.²

The Osawatomie platform was debated for near-

1. Wilder, Annals. pp. 255-256.

2. For Phila. & Chicago platforms see Stanwood, A Hist. of the Presidency. pp. 291f & 271, resp.

ly a day, but was finally adopted without a dissenting vote.¹ W.A. Phillips, W.Y. Roberts and Cummins had opposed the resolutions on the nature of government and the one asking the Wyandotte convention to incorporate within its bill of rights an article prohibiting slavery. Finally, however, they acquiesced in the wishes of the majority.² George W. Brown charged Horace Greeley with having written the platform; but he denied it, saying that there was not one line in the platform adopted at Osawatomie that was either written, dictated, or suggested by him.³ Horace Greeley had addressed the convention but he had not been permitted to attend the business session.⁴

With the establishment of the Republican party in Kansas, the Free-state party ceased to be important. Geo. W. Brown soon sold his paper, Gov. Robinson saw in it a political future, and one by one the malcontents were silenced, absorbed either by the Republican or Democratic parties. The Lane vs. Robinson factions remained, however, and were destined to grow more intense with the passing of the Territorial days.

-
1. Lawrence Republican, May 26, 1859.
 2. Herald of Freedom, May 28, 1859. Resol. 4, 5, & 7.
 3. Freedom's Champion, Je. 4, 1859. Contains Greeley's letter. Wilder wrote that J.A. Martin had written Art. 1, 8, 9 and part of 11; Cummings 7; Thacher 2 & 5; Ewing 3, 4, 6 & 10. Annals p. 257.
 4. Lawrence Republican. May 26, 1859.

On the 11th of May the Kansas Democrats had held a convention at Tecumseh where they adopted a platform important for its liberality on the slavery question. It undoubtedly was to serve as an appeal to the malcontents of the Republican movement. In the preamble it set forth:

"Whereas the slavery question is practically settled in favor of a Free State, beyond the possibility of further controversy; and

"Whereas, we recognize no difference between Pro-Slavery and Free-State men as such: therefore, be it

"Resolved, That we affirm our abiding faith and confidence in the principles of the Democratic party as enunciated by Jefferson, Madison, Jackson, and the founders of our Government and reenunciabed in the Cincinnati platform."

In the platform the convention asserted that free and slave states could exist harmoniously together in the union. It approved of popular sovereignty as expressed in the Kansas-Nebraska Act, but also asserted that Non-intervention by Congress with domestic institutions of the state and territory was a vital and distinct feature of the Democratic party. The negro was regarded as inferior and they called upon the Wyandotte Constitutional Convention to deny him the right of suffrage and not permit the free negro to enter the State of Kansas. Moreover, they asked the Constitutional convention to submit its product to a vote of the people. They condemned the registry and the unequal and oppressive tax laws passed by the last legislature. They came to the support of the Republicans in favoring a liberal homestead act to replace the pre-emption law and urged the

President to postpone the public sale of government lands for a period of twelve months.¹

The comparative strength of the Kansas political parties was tested for the first time since the Republican organization in the election of delegates to the Wyandotte Constitutional Convention. This will be treated elsewhere. Suffice it to say that the Republicans won the election by only 1,219 votes but elected 35 out of a possible 52 delegates. On the 8th of November, 1859 the Territorial delegate to Congress and the members of the Legislature were elected. The Democratic party had convened at Topeka on the 24th of August and had nominated Judge Saunders W. Johnston over J.A. Halderman, both of Leavenworth, as their candidate for Congress. The fight had been close.² The Republicans had met at Lawrence on the third of August and re-nominated Marcus J. Parrott.³ Parrott won over Johnston by 2476 votes.⁴ In the Legislature four Democrats and nine Republicans had been elected to the Council and sixteen Democrats and twenty-three Republicans to the House.⁵

1. Wilder, D.W., Annals of Kansas, pp. 254-255.

2. Topeka Tribune, Aug. 25, 1859.

3. White Cloud Chief, Aug. 11, 1859.

4. Ibid, Dec. 22, 1859. Parrott polled 9,708 & Johnston 7,232 votes.

5. Atchison Union, Jan. 7, 1860, gives Dem. 5 in Council Andreas only 4. Marion's seat was contested. Had he promised to vote to remove Leg. to Lawrence he could have retained his seat. says Topeka Tribune, Jan. 14, 1860.

This placed the Republicans in control.

The fourth Territorial Legislature which met at Lecompton on the third of January, 1859 was elected before the Republican party organized. The majority being Free-state men, they removed the Legislature to Lawrence and remained there until they adjourned, the 11th of February. Important business was transacted by this Legislature. They passed the act which provided for the Wyandotte Constitutional Convention. Of great importance was the work of the codifying commission. It was composed of Wm. McKay, Ed. S. Lowman and James McCahan. They repealed the "Bogus Statutes" and replaced them with laws borrowed from Ohio and other states. In several instances they created what was needed. The Code of Civil Law Procedure was retained, however, substantially as it had been enacted.¹ That the ardor of the Free-state men had not yet subsided was shown by the fact that they took the "Bogus Statutes" and burned them in the streets of Lawrence "amid great rejoicing."² A number of the statutes introduced by this Legislature still occupy an important place in the State laws of today, especially the Code of Civil Procedure.

1. Chap. XI will treat this in detail.

2. Andreas, Hist. of Kansas, p. 171.

The fifth Territorial Legislature was elected after the organization of the Republican party.¹ They assembled at Lecompton on the 2d of January, 1860, but after organization they also adjourned to resume business at Lawrence. Gov. Medary had tolerated the removal in 1859 but proceeded to veto it in 1860. He maintained that the new hotel built at Lecompton had removed the original cause. The Legislature promptly passed the resolution over the governor's veto and the Republican members again packed up and moved to Lawrence.² They only remained in session, however, until January 18. Hugh S. Walsh refused to pay the Legislative expenses and they were forced to adjourn.³ Governor Medary immediately reconvened the Legislature at Lecompton, but the Republicans again voted to adjourn to Lawrence and again passed the resolution over the governor's veto. This time they remained in session at Lawrence until the end of the session.⁴

The dispute between the Democrats and the Republicans over the place of meeting no doubt was a precursor of the dispute over the location of the capital. The Topeka Tribune accused the citizens of Lawrence of having offered "corner lots" to members of the Legisla-

1. See page 51.

2. The vote was 9 to 4 and 22 to 7. Lawrence Republican, Jan. 19, 1860; Topeka Tribune, Jan. 14, 1860.

3. *Ibid.*

4. Andreas, Hist. of Kansas. 176-177.

ture to carry the vote for the removal.¹ On the other-hand, the Lawrence Republican accused Hugh S. Walsh of having financial interests in the new hotel and the Legislative halls at Leecompton and charged that this had motivated his actions.²

The Legislature enacted several laws of more than ordinary importance. Among them was the act abolishing slavery in the Territory. The governor vetoed the act on the ground that the Legislature had misconstrued the "true spirit of the organic act." The Legislature promptly passed the bill over the Governor's veto.³ Another act pertained to the Territorial census. On the 11th of February, 1859 the Territorial Legislature had passed an act which provided for a Territorial Census. In 1860 the Governor reported the population of the Territory as 71,770 based on the Census report. This was less than the number required for a Representative in Congress. The Legislature feared that this report would endanger the Territory's chances for admission and declared the Census report as incomplete. They appointed a new committee to make further investigations. In due time it reported that the Census had been incomplete

1. Topeka Tribune, Dec. 31, 1859 & Jan. 14, 1860.

2. Lawrence Republican, Jan. 12 & 19, 1860.

3. Vote was 29-8 & 9-4. The minority votes were cast by the Democrats. Andreas, 176-177.

and estimated the population at 100,000.¹ The White Cloud Chief estimated that fully a third of the population had not been reported by the Census reporters.² The Federal Census Committee came to the rescue of the Territory and in due time reported the population as adequate for admission.

On the 7th of January, 1861 the last Territorial Legislature convened at Lecompton. Like its predecessors it organized and then adjourned to reconvene at Lawrence. Here it remained in session until the 2d of February when the Territorial Legislature adjourned sine die. Before it adjourned, however, it turned over to the State Government all claims of the Kansas Citizens incurred during the Territorial days and also the Territorial debts.³ Much of the legislation had been of a local character and therefore of minor importance.⁴ Thus ended the history of the Territorial Legislature in Kansas.

As they approached the time for the National Presidential Conventions, the question arose whether the parties in Kansas should send delegates to their respective conventions. The Democratic party divided on the

1. Andreas, 177; Freedom's Champion, March 12, 1859.

2. White Cloud Chief, Feb. 16, 1860.

3. Andreas, 177.

4. Topeka State Record, Feb. 9, 1861.

question. The Central Committee refused to call a Territorial convention. They maintained that the party was adverse to the idea so long as Kansas remained a territory.¹ Nevertheless, a convention was held at Atchison on the 27th of March, 1860. It had been called by G.W. Purkins and S.A. Stinson of Leavenworth.² Only eight counties were represented, but they organized, passed resolutions supporting Douglas and elected twelve delegates for the National Convention.³ The Weekly Western Argus repudiated the idea as irregular and without binding force.⁴

The Republican party held its convention at Lawrence, April 11, 1860. They adopted resolutions in which they reiterated the platform adopted at Osawatomie. They expected the next session of Congress to admit Kansas and elected six delegates for the Chicago Convention and three presidential electors to represent the State in the electoral college.⁵ The convention delegates were instructed to declare for Wm. H. Seward as the first choice. If the party decided against Se-

1. Atchison Union, March 31, 1860; Weekly Western Argus, March 14, 1860.

2. Atchison Union, March 19, 1860.

3. Ibid, March 31, 1860.

4. It was supported by the National Democrat, Fort Scott Democrat, Atchison Union, Paola Chief, Americus Sentinel. The Leav. Herald supported the Conv. Weekly Western Argus, March 14, 1860.

5. White Cloud Chief, Apr. 12, 1860, Lawrence Republican Apr. 19, 1860. They disagree on names of delegates. Andreas agrees with Lawrence Republican.

ward then they should support the nominee of the party.¹

Sol Miller, an unofficial observer at the Chicago Convention reported that the Kansas delegates had been "ardently attached to Seward" and had been disappointed when his nomination failed to carry.² When the Administration failed to admit Kansas the Republicans of the Territory were again disappointed that they could not participate in the presidential election. They blamed the Democrats for their misfortune. Their feelings gave way to violent expressions of hatred. They soon found consolation in the thought that by "heaping wrongs upon Kansas" the Democratic party was digging "its own grave" and would be "decently buried by the people" in the election.³ Lincoln's election, therefore, relieved their feelings. The Commercial Gazette no doubt expressed the sentiment of the liberated Republicans in remarking that the "people of the United States at last had declared themselves independent ... of a miserable oligarchy of slaveholders and traitors."⁴ It is not difficult to understand, therefore, why the State of Kansas so enthusiastically supported the Civil War.

In 1860 the political situation in Kansas was as unsettled as the economic question. Although the Re-

-
1. White Cloud Chief, Apr. 12, 1860.
 2. Ibid, June 14, 1860.
 3. Commercial Gazette, Nov. 3, 1860.
 4. White Cloud Chief, Nov. 10, 1860

publican party had been organized and was destined to control Kansas politics for several decades or more; yet it was divided by two hostile factions whose flames were to be fanned with increased vigor by every political breeze that might sweep the Kansas prairies.

CHAPTER III

The Kansas Anomalies in 1860

This chapter will deal with three unusual episodes which occurred during the year 1860 or else carried over into it. They left an impression upon the inhabitants of the Territory and effected the subsequent development of the State. These events were: The question of slavery in its various aspects, an adventure known as Jayhawking, and the famine.

The slavery question in the Territory manifested itself in different ways, slavery and legislation, the violation of the fugitive slave law, and the kidnapping of free negroes with the intent to sell them into slavery. The first aspect of the slavery question need not detain us long for several reasons. In the first place the Census of 1860 reported only two slaveholders in the Territory.¹ It was therefore not apt to play a significant part in the future. Secondly, the issue had been settled by 1860 since the Free State people were constantly outvoting the opposition. There remained, however, a constitutional

1. U.S. Census of 1860. The Topeka Tribune, Jan. 27, 1859 reported slaves owned by settlers on the Wyandotte reservation, in LeCompton and at points along the Santa Fe road. The Lawrence Republican of Feb. 2, 1860 reported others. Maybe the Census report was not accurate.

question that bears further consideration. It has been discussed elsewhere that the Territorial Legislature of 1860 had passed a bill prohibiting slavery in the Territory, that the Governor had vetoed it, and the Legislature had passed it over the Governor's veto.¹ On the 10th of January 1861 acting Governor Beebe asked the Legislature to repeal the law because he regarded it as unconstitutional. He argued that if at the time of the passage of the bill "the right of property in slaves legally existed - and it is generally conceded it did -" then the act was clearly unconstitutional, for in such case it would seek "to destroy the existing rights of property without rendering a just compensation therefrom." If on the other hand no such right existed then the act was unnecessary.² The Legislature ignored the Governor's recommendations.

The constitutionality of the act was tested, however, in the United States District Court December 31, 1860, held at Leavenworth. The case involved the freedom of a negro woman named Fanney, claimed by Horace Haley as a slave. She had left his custody and lived at the house of F.R. Foard. Haley petitioned to recover possession of his property and Foard demurred on the ground that by the act of February 23, 1860 Fanny was no longer a slave.

1. Chap. II.

2. Cory, C.E. "Slavery in Kans." Trans. K.S.H.S. VII, 235.

Judge Pettit overruled the demurrer and ruled that the law prohibiting slavery was unconstitutional.¹ The decision was based on the argument that the Territorial law had transcended the power vested in the Territorial Legislature by the Organic Act and was therefore void. The qualifying phrase in the Organic Act, "subject only to the Constitution of the United States," had served as the scapegoat for the decision nullifying the act.² Since a few days later Kansas was admitted as a State with a constitution prohibiting slavery the question was not carried further.

A much more troublesome problem was the unwillingness on the part of some of the radical leaders to abide by the Fugitive Slave law. Often the peace of the Territory was disturbed by these men who induced the slaves to escape their masters. Among the Territorial leaders who promoted these illegal adventures were John Brown, Sr., Capt. James Montgomery, Capt. Jennison, Joseph Gardner, "Preacher" J.E. Stewart, and John Henry Kaigi.³ Thaddeus Hyatt of New York and Geo. L. Stearns of Boston, Mass. supported the movement financially.⁴

1. Atchison Champion, Jan. 5, 1861.

2. Kansas State Record, Jan. 26, 1861.

3. See Papers of Js. Hanway, G.L. Stearns, T. Hyatt, C.K. Holliday, J. Brown, Sr. in Vault of K.S.H.S. Topeka.

4. Hyatt & Stearn Papers. Esp. Stewart to Hyatt Dec. 20, 1859, Montgomery to Stearns & Chas. Ingersoll to Stearns Je. 6, 1860.

A few examples will suffice to illustrate the nature of these incidents. On the 20th of December, 1859 "Preacher" John E. Stewart appealed to Thaddeus Hyatt for help and related his experiences:

"I have only a few hours for rest today, as I must start on the road again at nightfall to such a place of safety for two of my black brethren that I have brought thus far from the land of bondage since the rescue of Doy, I have spent a great portion of my time in this way, and have brought from Mo. fourteen, including one unbroken family of which I feel rather proud, and very thankful that I have been able to do so much good for the oppressed and so much harm to the oppressors---I am in the habit of taking my team into Mo. under the pretense of buying something, say pigs, potatoes, etc. etc., get into conversation with some slaves, find out some who wish to escape, appoint a meeting, stow them in the bottom of the waggon give them some wepons to defend themselves with, and then put it through for life and sometimes our success depends upon the fleetness of our horses, sometimes on a steady hand, when the revolver cracks." 1

On the 9th of June Joseph Gardner's house was attacked between the hours of twelve and one o'clock at night. The attack was made by Pro-slavery men who demanded admission to recover their lost property. When this was refused, shots were exchanged. After the shooting had subsided one of the fugitives who had fought nobly to defend his freedom, opened the door. The attacking party who had anticipated the movement fired the deadly shot and the slave fell dead.² Although the end sought by these "liberators" was justifiable, the

1. Stewart to Hyatt, Dec. 20, 1859. Hyatt Papers.

2. Gardner to Stearns, June 9, 1860. Stearns Papers; Lawrence Republican, June 14, 1860.

method used to accomplish it was illegal and hazardous. It engendered hatred and often resulted in fatalities, and in the end freed only a few slaves.

While some of the Free-state men were engaged in violating the Fugitive Slave law, some of the Pro-slavery men were occupied with kidnaping free negroes in the Territory and selling them into bondage. Mary Jane Robinson, an orphan girl of Belmont, Kansas, one day got on board the ferry boat that plied the waters between St. Joseph and Belmont to do some shopping at St. Joseph. When she got off the boat she was grabbed by two men who swore out affidavits that she was a slave belonging to a Mr. Trot of Lexington, Missouri. She was sent down the river and sold into slavery.¹ Another case was that of Hope Carnard of Quindaro, also a mulatto. He was kidnaped, taken to Weston, Missouri, shipped south, and also sold into slavery.² It was reported that in 1860 Missouri had a ready market for slaves and an organized gang of kidnapers on the border who made a profitable business out of it.³

The second abnormal occurrence in the Territory was that known as Jayhawking. The term was applied to a group of men who took the law into their own hands.

-
1. Lawrence Republican, Je. 7, 1860 and for another case see Ibid JI, 26, 1860.
 2. Kansas State Record, Je. 30, 1860.
 3. R.J. Hinton's article in Kans. Ter. Clippings, 1857-60. II, 352.

The leaders were made up of a group of active abolitionists who called themselves Vigilantes but their enemies called them Jayhawkers.¹ The most noted among them were Captains James Montgomery, John Brown, Sr., C.R. Jennison, and the Forbes brothers.² They operated in Southern Kansas, especially in Linn and Bourbon counties and occasionally reached into Missouri. The Jayhawker movement in Kansas started in 1856-7, reached a crisis in the summer of 1858, broke out again in the fall and winter of the same year, and again reached a crisis in 1860. The nature of the movement varied somewhat with the times and counties. In Bourbon county to begin with it was directed against a certain group of Pro-slavery settlers who were supposed to be occupying claims formerly possessed by Free-state men. They were asked to leave their homes with notice not to return on pain of death.³ If they failed to heed the warning

-
1. Montgomery's letter in N.Y. Tribune by "D.R." Kans. Ter. Clippings. II, 335-6.
 2. Lesser lights were Cleveland, Doy, Waffle, Wm. Whipple & Eli Snyder. Topeka Tribune Dec. 8, 1860; Exec. Minutes K.T. 1858-60. p. 40. K.S.H.S.
 3. When cases were brought to the court Judge Williams would decide in favor of the Pro-slavery men because a six months abandonment of the claims had worked a forfeiture of legal title to it under the pre-emption laws. Even though the Free-state men had formerly occupied the land many would lose legal title on that basis. To counteract this the Free-state men set up their own court in Anderson county called the "Squatters Court." Dr. Gilpatrick of Anderson Co. was made judge and Henry Killbourn Sheriff. Gen. Lane, P.B. Plumb, Maj. Abbott & Col. Phillips were at one time prominent members of this court. An interesting fight was that between Stone & Rev. Southwood. Andreas, History of Kansas, pp. 1066-67.

armed conflicts would follow. In Linn county the claims troubles were mixed with the slavery question. This kept the Southern Kansas Territory in turmoil and was accompanied with plunder, theft, and murder.

In Bourbon county these troubles reached a crucial point in May and June of 1858. Fort Scott resembled an armed camp. The conflicts between James Montgomery and Geo. W. Clark left the settlers unprotected and in a quandary. Attempted arrests by Territorial officers were frustrated by one side and then by the other.¹ Gov. Denver now came to their rescue. He reached Fort Scott on the 13th of June and after some deliberation with citizens from both factions an agreement was arrived at on the 15th of June, 1858, known as the Denver-Montgomery Treaty.² This treaty of eight articles provided that the usual organizations of county and township government should continue on the basis of the Territorial laws; and that the citizens should discontinue their persecutions, vexations arrests for petty or imaginary offenses and exert themselves to preserve the peace by following the legal channels of procedure in all cases, including disputes that might grow out of pre-emption claims. Article two provided that past

1. Andreas, Hist. of Kans. pp. 1066-1070.

2. Herald of Freedom, Jan. 8, 1859 refers to it as the Fort Scott Agreement. Andreas op. cit. p. 1069 writes that the meeting was held at Raysville where Gov. Denver assumed control.

offenses against laws should be referred to grand juries.¹ The troops were to remain at Fort Scott until county and township organizations had been completed and peace was restored.

Tranquility was thus restored and both parties seemed to have striven for some months to preserve the peace. Notwithstanding the quietude the embers of turmoil had not been extinguished but only temporarily smothered, and the least provocation would again set the Territory aflame. Many settlers had been dissatisfied with the agreement, both Pro-slavery and Free-state men, thinking that the leaders and their 'banditti' should have been punished. A dispute had also arisen as to what were in fact the terms of the treaty. The Montgomery men interpreted it that "no arrests should be made for any offenses committed prior to June 15," the day of the treaty, that "by-gones should be by-gones" and that all should do their best to preserve the peace.² The Pro-slavery men claimed on the other hand that the treaty had not provided for "entire immunity from punishment for all crimes committed prior to June 15, but only that private individuals should refrain from inflicting punishment accord-

1. Lawrence Republican, Jan. 6, 1859. This issue contains the text as Acting Gov. Walsh gave it to the Thachers. It had been entered in the Executive Minutes. The treaty was agreed to by all parties present, including Montgomery. The treaty is found in Exec. Min. 1857-1861. pp. 259-61

2. Andreas, Op. cit. p. 1069.

ing to their own code and pleasure," that all offences should be referred to the grand juries of the proper counties, and that the compromise only pledged immunity from punishment for political offenses.¹ The two factions also disagreed as to what constituted political offenses.

It is difficult to say which party broke the truce. Suffice it to say that shortly after the troops were withdrawn from Fort Scott suspicions led to actions and the troubles were renewed.² On the 12th of November Montgomery with several of his men entered the house of R.D. Round, one of the grand jurors of the county at the later term of the District Court, and on pain of death compelled him to divulge the transactions of that body. The next day he with 24 armed men appeared in Paris. They entered the clerk's office and demanded to know if any indictments had been found against him or his men for Jayhawking in Linn County. On this ground he threatened to resist any arrest to the point of death. On the 15th and 16th of November four citizens of North Paris and two near Scott City were robbed and ordered to leave the Territory.³ On the 16th of November Benj. Rice was arrested on a number of indictments by Charles Bull, Sheriff of Bour-

1. Andreas, Op. cit. p. 1069.

2. Exec. Min. K.T. 1857-61, p. 317. The troops were not withdrawn until after the October elections of 1858. The elections were held Oct. 6 and the troops were to be withdrawn the following day.

3. Herald of Freedom, Nov. 29, 1858. This issue contains a petition signed by 18 Ft. Scott citizens. See also Andreas, Op. cit. p. 1069.

bon County. One of the indictments was for the murder of Travis who had been shot on the 28th of February. Montgomery regarded this a violation of the treaty. Several weeks of horsestealing, robbery and threats of violence now followed. These events culminated in a second agreement at Raysville, Dec. 1, 1858.¹

At this meeting the Denver-Montgomery treaty was discussed. The two factions disagreed over the second resolution. A vote was taken on it and the Montgomery men defeated it, 109 to 64.² It appears that a new set of resolutions were introduced and adopted. Wilder has reported that at this meeting "they repudiated violence and lawlessness and pledged themselves to bring the guilty to punishment."³ Just what was decided at this meeting has not been discovered.⁴ It is reported

 1. Andreas, p. 1069.

2. It appears that the Lawrence Republican failed to distinguish between the treaty of June 15 and Dec. 1. See Lawrence Republican, Jan. 6, 1859.

3. Wilder, Annals, p. 246. He wrote that the meeting was held at Ray's mill, that W.R.Griffith was Pres. and J. E. Jones Sec.

4. On the 6th of December resolutions favoring Montgomery and Brown had been adopted at Mound City and Sugar Mound. At Mound City it was agreed to discontinue all criminal proceedings growing out of political difficulties, release all Free-state men in confinement. Pro-slavery men who had engaged in political difficulties and had been expelled were to remain away as punishment. No troops, marshal or officer of the Gen. Govt. should be used to arrest Free-state men on account of political difficulties prior to this date. The Thachers had agreed to this agreement. This is the first time the term "political difficulties" appears in the text of the treaties. Unless it was mentioned in the Raysville treaty of Dec. 1. Lawrence Republican, Dec. 16, 1858. The Sugar Mound agreement had been proposed by Capt. Brown, provisions are given in Villard O.G., John Brown 1800-1859, pp. 665-6. Taken from Lawrence Republican Jan. 16, 1858.

that Montgomery had charged the Pro-slavery men for having broken the treaty by finding indictments against Rice and others, and that a resolution had been passed for the release of Rice.¹ When this information reached Gov. Denver he is reported to have repudiated the interpretation in these words: "In that agreement of June 15 it was never intended to compromise the laws of the Territory, by debarring the Grand Juries from the proper discharge of their duty. The agreement was substantially this: 'That for past offenses no arrests should be made, except upon indictment found by the Grand Juries.'"²

The two factions had failed to come to an agreement upon the subject. The Territorial officials refused to release Rice. On the other hand Montgomery insisted upon freeing him. On the 15th of December he organized a rescuing party and with a body of about 100 men, armed with revolver, Sharp's rifles and cannon they entered Fort Scott at about 4 o'clock the next morning. They released Benj. Rice who was confined in the Free State Hotel and proceeded to arrest citizens at will and insulted their families. J.H. Little who had stood on a box and watched the procedure through a transom had been killed and his store robbed of most of its contents. The

-
1. This had caused the Ft. Scott men to bolt, it is reported, and they had resolved to kill Rice in case an attempt was made to release him. Lawrence Republican Dec. 23, 1858. reported by "K".
 2. Andreas, Op. cit. p. 1069. Judge Wright had also repudiated Montgomery's interpretation as not based on facts.

loss was estimated at from \$2000 to \$7000 in value.¹

On the 19th of December Captain Brown made the famous Missouri raid. This appears to be in direct violation of Article 5 of the agreement drafted by him and accepted by the citizens at Sugar Mound. It provided that, "All parties shall hereafter in good faith discontinue and thoroughly discountenance acts of robbery, theft or violence against others, on account of their political differences."² J.G. Anderson who participated in both of these encounters described them to his brother on the 14th of January 1859 in these words:

"As soon as I was well I had a call to go into the service and went to Fort Scott to help release Benjamin Rice; we were fired on by one John Little Ex. Deputy Marshall who had me in keeping last winter; our men fired back and he received a ball in the forehead which done him up just right.

"I was also engaged in liberating ten slaves in Missouri under Capt. Brown. There was a negro came over into our neighborhood hunting for assistance to remove himself, wife and two children from Missouri to a land of freedom: They were to be sold in a few days. We assisted five more at another plantation. There was another company in another neighborhood; they liberated one slave, but met with some resistance in which the master was killed. There has been nothing done since, I forgot a man by the name of Jackson was burned out, but I had no connection with it, neither Brown nor Montgomery; it was a company from Osawatomie.

"There was eleven blacks taken in all but there has been an addition since which makes twelve. I am now three miles from Lawrence with Old Brown as they call him. We are looking out a railroad route establishing depots and finding watering places. Our road is a long one, terminating in Canada."³

-
1. Exec. Min. K.T. 1858-60, pp. 1-2. Reported by Jones, Campbell, U.S. Dep. M., Chas. Bull, Sheriff of Bourbon Co.; Ibid, pp. 9-10 Sam Walker's report; Herald of Freedom Dec. 26, 1858; Andreas. p. 1070. He reports the loss at \$7,000.
 2. Villard, John Brown. p. 666.
 3. J.G. Anderson to his brother Jan. 14, 1859, in R.J. Hinton Collection. Correspondence, 1850-79. K.S.H.S.

Several weeks after the Missouri raid the Jayhawkers sacked Barnesville, a town on the military road 12 miles from Fort Scott.¹

It was time for another peace meeting to stay the laws and tie the hands of the Territorial officers. This time the meeting was held at Dayton in Bourbon County. Capt. Montgomery addressed the audience while the committee was deliberating on the terms of the treaty. Five resolutions were passed. It was now decided that all criminal process for actions connected with political difficulties prior to December 25 were to be discontinued and quashed. The Pro-slavery men that had been driven out were to stay out, and the Territorial government was not to take any action in criminal cases for acts committed prior to December, 1858. Reasonable exertions should be used to bring to justice persons guilty of political crimes that had occurred since December 20, 1858. It was also resolved to petition the Territorial Legislature to change the county seat away from Fort Scott. The resolutions had been heartily supported by all except one Jayhawker who had taken 1200 lbs. of pork and a gun from E. Kepley, a Pro-slavery man near Dayton. He had expected that the Linn County resolutions would

1. Exec. Min. K.T. 1858-60. pp. 21-23.

be adopted granting amnesty to the day of meeting.¹

Not satisfied with the protection promised by these agreements, Capt. Montgomery proceeded to Lawrence to present his troubles before the Legislature. Here he was introduced to most of the members. After he had fully explained the Southern Kansas troubles at several meetings² the Legislature passed "An Act to Establish Peace in Kansas." The provisions of the act are:

"Sec. 1. That no criminal offense heretofore committed in the counties of Lykins, Linn, Bourbon, McGee, Allen, and Anderson, growing out of any political differences of opinion, shall be subject to any prosecution, on any complaint or indictment, in any court whatsoever in this Territory.

"Sec. 2. That all criminal actions now commenced, growing out of political differences of opinion, shall be dismissed.

"Sec. 3. This act to take effect and be in force from and after its passage.

A. Larzalere, Speaker of House.
C.W. Babcock, President of Senate.

Approved February 11, 1859.
S. Medray, Governor."³

The Legislature of 1859 had further played into the hands of the criminals of the Territory. They had repealed the "Bogus Laws" of 1855 and enacted new ones to take effect the 1st of June but had made no provision for the punishment of offenses committed in the interim. The result was that Judge Williams dismissed nearly all the

-
1. Lawrence Republican Jan. 13, 1859. The Com. on Resol. was composed of Daniel B. Jackman, F.K. Morgan, J.C. Burnett, Wm. H. Kimberlin & E.T. Jemall. Pres. was Horatio Knowles of Marmaton.
 2. Lawrence Republican Jan. 29, 1859 from Daily Repub. Jan. 19, 1859 and Jan. 20, 1859.
 3. Laws of Kansas Territory 1859. Chap. 104, p. 577. On the same day they passed a special act pardoning John Sullivan. Ibid. p. 567

criminal cases before the court in Wyandotte and Johnson counties.¹ The attempt to prosecute the Jayhawkers had, therefore, been forestalled.

Before the Amnesty Act was passed, however, a movement had been started to bring the culprits to justice. On the 15th of January 1859, the citizens of Fort Scott had petitioned the Governor for help. They had asked him to place the counties of Linn, Bourbon, Anderson, and Lykins under martial law.² Upon investigating the situation, the Governor had discovered that he could not depend upon immediate help from the citizens of the counties because they had been robbed of their arms, horses, and the provisions necessary to support themselves and their families. He had asked the President, therefore, for 600 stand of arms, and had ordered Gen. W.S. Walker in charge of U.S. Cavalry at Fort Riley to proceed at once to Paris and Fort Scott, guard the arrival of the arms from Tipton, Missouri, and aid in restoring order. Volunteer companies were also being organized under orders of the Governor.³ On the 12th of January Secretary of State Cass wrote Gov. Medray:

"The President has heard of the outrages in Southern Kansas with great regret. The law is now a dead letter in the counties of Lynn, Lykins and Bourbon; the respectable citizens there are terrified, and many of them are leaving the Territory, while deeds of

1. Herald of Freedom, June 18, 1859.

2. Exec. Min. K.T. 1858-60. p. 40.

3. Ibid, pp. 37-38.

violence on persons and property are every day committed with perfect impunity and without the least regard to past political division. It is absolutely necessary that Montgomery, Brown and the other ringleaders of this predatory band should be arrested and tried for these crimes; and if the civil authority be not sufficiently powerful to secure their arrest, then you are instructed to make a requisition for a military force on Col. Sumner, to act as a posse comitatus under the orders of the marshal to accomplish the object. His force consists of about 200 men embodied and well mounted, and armed with Sharp's rifles and Colt's revolvers, and having two forts. You ought not, however, to resort to this alternative unless it should become necessary for the arrest of Montgomery and his leading associates. The President entirely approves of your suggestion that the power of the Territory ought first to be employed. ---Whilst those Companies are in the process of formation, it might be expedient to place a detachment of U.S. troops in that region to protect them against any onslaught from Montgomery and his band."¹

On the 13th of January 1859, the Lawrence Republican reported: "A telegraphic dispatch announces that the Administration has offered \$250 for the arrest of Montgomery and Brown, and has authorized the Marshal of the Territory to increase his posse to any extent."² It appears that Marshal Russel had collected a posse of about 200 men and started to make arrests.³ By the time of the passage of the Amnesty Act he was well under way. The interference of the Legislature, however, caused him to disband his posse and the prisoners were released.⁴

-
1. Governor's Correspondence, 1859. Archives Dept. K.S.H.S. Letter of Sec. Cass to Gov. Medray Jan. 12, 1859. In a letter of the 19th Cass asks Medray to correspond with him directly hereafter on orders from the President. He also says that the President has asked him to say that the military force is to be used only as a last resort when civil law has been found inefficient. Ibid.
 2. Lawrence Republican Jan. 13, 1859.
 3. Herald of Freedom Feb. 12, 1859, John Stuart wrote a letter stating that not a single one of the 200 was from Missouri. Lawrence Rep. Feb. 3, 1859 wrote that only 19 were from Linn county, rest from Mo.
 4. Lawrence Republican Feb. 17, 1859.

The origin of the Amnesty Act became a matter of dispute. The Lawrence Republican wrote: "They who had clamored loudest for vengeance upon Montgomery and the people, were the most earnest in procuring the passage of the Amnesty Act."¹ The Herald of Freedom wrote that the Amnesty was a "creature of Mr. Montgomery's friends."² The Act originated in the House of Representatives. There were two bills introduced on the 11th of February. The first bill, introduced by John W. Wright of Leavenworth, provided for a general amnesty for the entire Territory. Attempts were made to limit it in various ways. All were voted down except Danford's amendment excluding Douglas, Shawnee, Wabaunsee, Davis, Wise, Chase, Butler, Hunter, Madison, Breckenridge, Osage, Neosho, Anderson, and Franklin counties. It passed by a vote of 18 to 16. The bill was, however, voted down 9 to 24.³ On the same day shortly after, A. Curtiss of Doniphan county introduced a second bill applying the amnesty only to Lykins, Linn, Bourbon, Megee, Allen, and Anderson counties. All rules were suspended and the bill was passed by a vote of 19 to 8.⁴ The council rushed it through by a vote of 8 to 5 on the same day, February 11.⁵ Charles H. Branscomb, H.J. Can-

1. Ibid.

2. Herald of Freedom Feb. 26, 1859.

3. House Journal 1859. p. 352-354.

4. Ibid, p. 359.

5. Senate Journal, 1859. p. 320

niff of Douglas; A.M. Clark, O.M. Marsh, W.Y. Roberts of Leavenworth; A. Danfield of Linn; Graham of Doniphan, Graham of Nemaha; J.B. Irvin of Atchison; and Messrs. Bailey, Scott and Weeder had helped to defeat the first bill, but voted for the second bill.¹ In the Senate J.P. Root, Cyrus K. Holliday, Lyman Allen, Robert Crozier, David Sibbet, Andrew J. Mead and O.E. Learnard voted for the Amnesty Act.² Although the political affiliation of the Legislators was not given, it is known that a number of the affirmative votes were cast by Free-state men. It is significant that the Amnesty Act bears a resemblance to the agreement reached at Mound City, a Montgomery treaty.³

The Amnesty Act had produced a lull in the activities of the Jayhawkers. Renewed disturbances were expected to break out, however, at any time. The warfare now became more interstate in nature. On the 8th of April Gov. Stewart of Missouri wrote Gov. Medary that he was sending Adjutant Gen. G.A. Parsons to the border to protect Missouri against further invasions by the Kansas Jayhawkers.⁴ The abolitionists continued in their efforts to assist slaves to escape their masters and invaded Missouri for that purpose. The organization referred to as the "Dark Lantern Order," with its place

1. House Journal 1859, p. 359.

2. Senate Journal 1859. p. 320.

3. See p. 72 footnote.

4. Executive Min. 1858-60. pp. 63-64.

of rendezvous in Bates County, Missouri, was reported to have invaded the Kansas Territory with intent to kidnap slaves and take revenge for losses suffered.¹ Threats of violence, plunder and warfare followed, again involving Montgomery and his men. On the 12th of April the Lawrence Republican carried the information that Judge Williams had made it known that the Amnesty Act was "unconstitutional, or in opposition to the Organic Act," and indictments were renewed against Montgomery and his men.² Threats were followed by action. The Jayhawkers had made example of Scott, Hinds, and Harrison by hanging and had shot Moore and Bishop;³ while the Black Lantern Order had killed three and threatened the life of others.⁴ On the 1st of December a special messenger reported at Warsaw, Missouri that the Abolitionists under the notorious Capt. Montgomery were hunting down and driving from the Territory "all men who [had] disapproved of their robbing and murdering, and who [had] acted in a manner to sustain the laws.... The roads leading eastward from the Territory [had] been crowded with wagons and persons, male and female, escaping from these fiends."⁵ The Deputy Sheriff of Bates County

1. Manhattan Express. Dec. 1, 1860. Article marked "H", dated Nov. 20.

2. Lawrence Republican Apr. 12, 1859.

3. Kansas Ter. Clippings II, 337-38. The Jayhawkers hanged them on Sunday morning.

4. Kansas State Record Dec. 1, 1860.

5. Kans. Ter. Clippings. II, 337-8.

reported that families living on and near the old Jackson place, within the State had been notified to leave their homes and had fled to Butler and places in the interior for security, "leaving their homes and effects behind them, unprotected."¹ On the same date the Topeka Tribune reported: "The true state of the case seems to be, that Montgomery is still in Fort Scott and that vicinity, adding to his numbers, thoroughly acquainting them with all the arts of warfare, and preparing for a movement of a character so bold and startling as to throw John Brown and Harper's Ferry completely into the shade."²

A crisis had again arisen and government action was necessary. On the 19th of November, 1860 Acting Governor Beebe wrote William S. Harney of St. Louis, Missouri, who was Commanding General of the Department of the West:

"Sir, There exists in the Southern part of this Territory-Linn Co., disturbances of a nature so serious as to justify the belief that the ordinary means subject to the command of the Executive of the Territory will prove insufficient to the restoration of order and the vindication of the constituted Authorities. Having been informed by letter of your predecessor, Col. Sumner, then commanding, that any requisition made on the officer in command, for troops would meet with prompt attention, I have to request, that of the force stationed at Fort Leavenworth, you cause 200 Infantry to be placed subject to the order of the Governor of the Territory. Your prompt action herein is earnestly solicited."³

On the 6th of December the Lawrence Republican reported that the disturbances had "drawn a 1,000 men in-

1. Ibid.

2. Topeka Tribune, Dec. 1, 1860.

3. Exec. Min. K.T. 1858-1860. p. 105.

to service in Missouri, at a cost to the State of \$30,000."¹

Montgomery and his supporters, however, were never apprehended. On the 14th of January, 1861, Capt. Montgomery wrote to F.B. Sanborn:

"Our late experience, in the 'war of extreme ferocity,' has been decidedly rich. Harney was powerless, here, and of that, no one was more sensitive than he himself. Had he proclaimed Martial Law, as we supposed he would do, He would have got himself ingloriously whipped. We did not wish to fight, but we would not have held still to be murdered. We had only to mount a small active force and play off. The scarcity of food would have compelled the troops to keep close by their wagons. In short, large forces would have moved too slow, and small forces could not have taken us.

"With our knowledge of the country and the favorable disposition of the inhabitants, One Hundred Thousand men could not have done what Harney was ordered to do. As it was, they did not even compel us to send away our fugitives, of whom we had ten of different ages and sexes."²

From another source comes the information, however, that it was Nathaniel Lyons, who died in the battle of Wilson Creek, who had saved Montgomery from arrest. He had been ordered to cooperate with Gen. Harney in the arrest of Montgomery and being an abolitionist he had arranged for his escape.³ Southeastern Kansas was still in a state of turmoil, therefore, when Kansas became a State.

1. Lawrence Republican, Dec. 6, 1860.

2. Montgomery to Sanborn Jan. 14, 1859. Stearns Papers. K.S.H.S. Montgomery asked Sanborn not to publish the letter, Stearns could read it.

3. Botkin, T. "Among the Sovereign Squatts." Trans. K.S.H.S. VII, 418-19; Hutchison, Wm., "Sketches of Kans. Pioneer Experience." Trans. K.S.H.S. VII, 403-04.

The motive back of these movements has received various interpretations. The conservative wing of the Free-state party saw in the Southern Kansas troubles the hand of Gen. Lane. It was an attempt on the part of the radical wing to win Republican votes by replacing the Pro-slavery settlers of Southern Kansas with Free-state voters and set in motion their aggressive policy.¹ Gen. Lane had commissioned Capt. Montgomery to rally Southern Kansas to his support. As proof for their argument they pointed to Montgomery's destruction of the ballot box at Sugar Mound, January 4, 1858 and to Lane's offer to protect Montgomery in January of 1859 before the passage of the Amnesty Act.² On the 15th of January Montgomery asserted that the voluntary company of which he had command, had been "mustered into service by General Lane."³

The Jayhawkers justified their operations on the ground that they were reconquering lost territory. James Hanway wrote: "The close of the year 1856, had given renewed confidence to the border ruffian element. Many free state men left their claims, not feeling it safe to remain during the winter months, but in 1857-8, as the political horizon brightened up, the free state

-
1. Herald of Freedom, Jan. 15, 1859; Robinson's Testimony At Harper's Ferry, Lawrence Republican, Mar. 1, 22, 1860.
 2. White Cloud Chief, Feb. 3, 1859.
 3. Lawrence Republican, Jan. 20, 1859.

men, many of them, returned to take possession of their former claims. In many cases they found them occupied by pro-slavery parties from Missouri hence this was one cause of renewed difficulties."¹ On the 15th of January, 1859 Montgomery wrote that the "beating of Mrs. Stone by Preacher Southwood and family may be considered as the commencement of a new era in the history of Southern Kansas, ending in the forcible expulsion of nearly all the violent pro-slavery men in the troubled district.-- The present difficulty," he added, "was caused by the violation of the Denver compromise."²

A United States officer, representing the point of view of the Administration, explained the disturbances of 1860 as an attempt on the part of the Jayhawkers to escape punishment for horse stealing. He had observed that during the summer of 1860 the United States Court at Fort Scott had found indictments against 33 Jayhawkers for horse stealing. Montgomery, Jennison, and the Forbes brothers had been the principal culprits. The Forbes brothers had been placed under heavy bonds and the sureties held responsible for the full penalties should the guilty parties escape. To get out of the quandary the Jayhawkers had resorted to violence, killed the wit-

1. James Hanway Collections. K.S.H.S. Written Jan. 10, 1871; R.J.Hinton's Article. Kans. Ter. Clip. II, 349-54; A. Wattle to Hyatt, Dec. 3, 1860. Hyatt Papers. K.S.H.S.

2. Letter of Montgomery in Lawrence Republican, Jan. 20, 1859.

nesses (Scott, Hinds, Harrison, Moore, and Bishop), and broken up the court to prevent the collection of the bond money.¹ It was reported that the theft of horses by the Jayhawkers from Missouri had reached such proportions that the pedigree of most of the Kansas horses should have been labeled as "Out of Missouri by Jennison."²

Whether these wars in Southeastern Kansas had been stirred up by John Brown's Potowatomie Massacre of 1856 and kept alive by his subsequent bushwhacking in December of 1858 cannot be answered. Like so many historical questions the proof of cause is impossible; nevertheless it was only in Southeastern Kansas where the depredations were still conspicuously in evidence in 1859-60 and there they were being conducted by men who were associated with Brown the previous year.³ The Jayhawker movement appears to have been supported by Stearns and Sanborn.⁴ Whether the disputed land claims were a cause or merely an excuse for further troubles will also remain unanswered. The movement was used, no doubt, by many as an easy method of supplying the necessities for

-
1. Topeka Tribune, Dec. 8, 1860. Copied from Kans. City Journal of Com. Williams fled the court in 1860.
 2. Lyman, Wm.A., "Origin of the Name Jayhawkers." Col. K.S.H.S. XIV, 206.
 3. Dr. J.C. Malin's conclusion of the Southern Kans. troubles; Gov. Robinson testified that Lane's orders had been responsible for the depredations in Southeastern Kansas. Lawrence Republican, Mar. 1, 1860
 4. Montgomery's letters to G.L. Stearn et. al. in Col. K.S.H.S. XIII, 262f; Especially Montgomery to Stearns, Mar. 8 & 11, 1861. Stearn's Papers, K.S.H.S.

a livelihood by stealing and plundering.¹ It was probably more than a mere coincident that the troubles were most pronounced during the winters of 1858-9 and 1860-1, the years of crop failure, and were less noticeable in 1859 which had produced a bumper crop. Moreover, not all men had joined these groups with the same motive.² The Jayhawker movement was an outlet for many unwholesome spirits.

The famine was the third abnormal event of 1860 and was no doubt most far reaching and effective in its consequences. There had been seasons of drought in the years preceding, in 1855, 1856, 1857 and 1858.³ The year 1860 was, therefore, but the climax of this dry cycle. Moreover, the drought of 1860 was not confined to Kansas but extended over Southern Missouri, Arkansas, Oklahoma, and Texas.⁴ Although the settlers in 1859 had produced a good crop the surplus had been sold in a competitive market before the effects of the next years drought were apprehended. The Kansas Civil War of 1856-57 and the disturbances of Southern Kansas in the following years had also helped to curtail production. Further-

-
1. J.F.Snyder in 1860 wrote: "Montgomery's men number about 275. They are ragged, but well armed thieves whose chief aim is plunder." Kans. Ter. Clip. II, 347-8.
 2. Doy & Waffle, who were with Montgomery's men for a while, were outright thieves, the "vilest of the vile." They stole from Free-state and Pro-slavery men alike, and therefore Montgomery dismissed them. It was one thing to steal from the Pro-slavery men but quite another to rob Free-state men. Lyman. Op. cit. 204-5.
 3. See Territorial Papers of those years.
 4. Western Kansas Express. Mar. 23, 1861.

more, the years 1858-59 had brought many new settlers into the Territory which would have to be fed. It is no wonder, therefore, that the crop failure of 1860 in this frontier Territory was disastrous and left a famine in its wake.

The duration of the drought varied with the sections of the Territory. It was longest in the southwestern counties of the Territory, where it started in June of 1859 and lasted until November, 1860. During the winter of 1859-60 the sun shone for 49 consecutive days through a cloudless sky upon a snowless plain. The spring season failed to bring the usual rains. In many fields wheat, Indian corn, and buckwheat were deposited in the ground to die without germination, or else grow for a short season and then wither away. The hot winds of summer parched the soil, broke it open in huge cracks and stifled much of the vegetation. In the bottom lands of the Missouri and the Kaw rivers, however, meager crops were raised.¹ The month of July brought intense heat and dust storms. On the 11th the thermometer rose to the unprecedented heights of 112 and 115 degrees at Topeka and Fort Scott, respectively. The air was so heavily laden with dust that it hid the sun, darkened the sky,

1. Martin, Op. cit. 386-7; St. Joseph News, Nov. 8, 1912, in Kans. Hist. Clip. IV, 348; Andreas, Hist. of Kans. 178.

and at Topeka reduced visibility to a hundred yards.¹ In Butler County the grasshoppers ate what vegetation was left in the fields, even eating the leaves off the trees.² Streams dried up and wells ceased to produce water.

These conditions frightened the settlers of the Territory. Douglas County postponed its county fair.³ Many settlers asked for help, others emigrated.⁴ Topeka designated a day for humiliation and prayer.⁵ Thaddeus Hyatt was driven to his pen and has left "A Prayer for Rain" describing the conditions:⁶

Cover the Sun, O God!
 Oh! cover it with thy hand!
 For it scorceth man, and it scorceth beasts,
 And it burneth up the land!
 It glowers and simmers: A Sun in its name,
 But a hell in its wasting, its fierceness and flame!

The cattle vainly roam
 In search of spring and stream;
 But nothing they find, though fainting and blind,
 Save dust and the Sun's red gleam:
 For the springs are dry, and the streams are bare,
 And all moisture is burnt from this fiery air!

To determine the needs of the Territory a number of investigations were made. On the 21st of August, 1860 Judge W.F.N. Army and Thaddeus Hyatt arrived in Atchison to ascertain the facts. Thaddeus Hyatt had just been released from prison, for failure to answer certain questions

1. Martin, G.W. Papers & Letters.

2. New Eng. Kans. Relief Com. 1860-61. K.S.H.S.

3. Lawrence Republican Aug. 23, 1860.

4. Commercial Gazette Nov. 19, 1860.

5. Kansas State Record July 14, 1860.

6. Lawrence Republican Sept. 13, 1860. There were two other verses.

of the Mason Senate Committee investigating the John Brown raid on Harper's Ferry. In September of 1860 they traveled in Kansas to observe the extent of the drought. They published their report in the Leavenworth Times. This was the first survey of conditions in the Territory. It reported that in the counties of Madison, Franklin, and Shawnee the corn crop would average about three bushels to the acre; in Linn and Coffee counties about five bushels; in Jefferson and Jackson counties from five to ten; in Anderson and Lykins ten bushels; in the river bottoms of Douglas and Johnson counties about twenty, five bushels in some parts of the upland and in other parts a total failure. The crops in the northern tier of counties looked more promising. They made no report on the southern and western counties. Hyatt immediately left for the east to provide for the needs of the Kansas settlers.¹ Meanwhile, he prepared a form to gather further information and sent 500 blanks to the different counties and townships of the Territory with instructions that they be filled out and returned to him.² Most of the reports were filled out in October and November of 1860, after the crops had matured. On the 14th of January, 1861 he reported:³

1. Commercial Gazette of Wyandotte, Sept. 29, 1860, quotes the Leavenworth Times on this report.

2. Hyatt Papers. Hyatt to Lilly Sept. 25, 1860. K.S.H.S.

3. Ibid, Hyatt to B.F. Camp, Jan. 14, 1861.

"I have statistical tables --- from 60 Townships out of 25 Counties of the Territory; numbering probably one seventh of the entire population, and representing its average condition from the Vermillion to the Verdgris and from the Osage and Potawatomie to the Big Blue and the Smoky Hill forks. The following was their condition two months ago; and it has been steadily growing worse hour by hour. --- 12,673 persons had then \$10,671 or less than a dollar per head, --- 18,967 bu. of corn and corn meal; or a fraction under $1\frac{1}{2}$ bu. to the individual and 106,201 lbs. flour, less than 9 lbs. to the person; Not enough to last until the first of the present year. This explains the starvation that stares them in the face! Of winter clothing they are almost entirely destitute."

On the 5th of November he estimated the number who needed help at 30,000.¹ By February 1861 he had increased it to 50,000.² "There is but a step between 50,000 people of Kansas and actual starvation," were the words attributed to him.³ His distributing agent, S.C. Pomeroy, supported his statement, saying: "The picture which Hyatt gives above is not over-colored. Things are awful here and getting worse every hour. Unless something is done speedily there will be such a wailing here by and by as has not been heard since the slaughter of the innocent."⁴

Quite a different condition was pictured by George W. Collamore. He had been sent to the Territory by Thomas H. Webb of the New England Emigrant Aid Company in February of 1861. The New England Kansas Relief

1. Lawrence Republican, Nov. 22, 1860.

2. Kans. Natl. Democrat, Lecompton, Feb. 21, 1861.

3. Ibid.

4. Ibid.

Committee was headed by Webb, whereas the New York Kansas Relief Committee was headed by Hyatt. The two Committees were competitors in the relief work and were not very friendly rivals. In April of 1861 Collamore criticised his opponents saying that "General Pomeroy's statistics show how much persons are willing to receive" rather than their actual need. His estimate of the number of people that would need help "before the next harvest" was 5,000. He knew of none that were absolutely destitute. He thought the famine had "been manufactured by Hyatt," Pomeroy and Army," and that Hyatt's report had warped the public mind into the belief that a famine did exist. Many people called for help who were in no need of it.¹

The editors of some of the Kansas newspapers also took exception to Hyatt's reports. The Leavenworth Daily Conservative questioned his honesty and asserted that the counties of Leavenworth, Doniphan, Atchison, Wyandotte and Douglas had raised enough of crops to sustain their population.² The National Democrat of Leecompton regarded it a gross exaggeration which no intelligent citizen of Kansas could believe.³ Vivaldi of the Manhattan Express was less critical, He admitted that without aid many of the people would have been in a condition of extreme suffering and want, nevertheless he felt

1. Emigrant Aid Relief Work. Collamore to Webb. K.S.H.S.

2. Leav. Daily Conservative, Feb. 14, 1861.

3. Kansas Natl. Democrat, Feb. 21, 1861.

that Hyatt had overstated the need.¹ The Topeka Tribune estimated the yield of corn in the counties of Leavenworth, Atchison, Doniphan and Wyandotte as high as forty bushels per acre. It reported that Shawnee and Jackson counties still had old corn and that there were enough hogs and sheep in the two counties to feed ten times their number of inhabitants during the next six months.²

Hyatt classified his opponents as the owners of "corner-lots" whose actions were prompted by the "jealousy of a rival city," "jealousy of a Senatorial candidate," and a stupid idea that to tell the whole truth about the Kansas famine would destroy their land values and trade, and prevent immigration to the Territory.³ He feared that their criticism had cost the people of Kansas the equivalent of \$50,000 in State appropriations, and probably an equal amount in private donations.⁴

Both agents of the Kansas Relief Committees had personal motives that prompted their actions and biased their reports. In the Territory it was generally understood that Pomeroy was trying to "ride into the United States Senate on the famine horse," and that Hyatt was supporting him. On the other hand, Collamore represented

1. Kans. Western Express, March 23, 1861.

2. Topeka Tribune, Sept. 8 & 15, 1860.

3. New England. Kans. Relief Com. 1860-61.

4. Hyatt Papers, 1st Ms.; Kans. State Record, March 16, 1861; Hyatt to Lilly, Hyatt Papers, Sept. 25, 1860.

the interests of the New England Emigrant Aid Company and it would not pass him up unrewarded if he represented their cause.¹ The newspapers were protecting their local interests. Leavenworth was studiously watching the growing trade of Atchison. The Democratic papers opposed Hyatt for political reasons.

To give a true picture of the conditions in the Territory is, therefore, impossible. Hyatt was the only one who really attempted to get at the actual facts and most of the reports returned to him are incomplete.² It appears reasonably safe to say, however, that the counties of the northeast and the settlers in the larger river valleys had raised enough of crops to bridge the crisis, whereas those on the frontier, the southern and western counties, and the settlers in the uplands needed help. They undoubtedly had many among them who were destitute.³ The settlers who lived in between the two extreme sections had many needy settlers but less than those west and south of them, with exceptions of course. Generally speaking the settlers were quite well supplied with live stock, but they had to be careful not to butcher the dairy-cow which supplied them with milk and butter, or the yoke of oxen that would be needed to plow the field. The

1. Robinson gave him a military position.

2. New Eng. Kans. Relief Com.; Western Kans. Express, Jan. 26, 1861.

3. Hyatt Papers.

Joint Committee of the Territorial Legislature estimated the number that were "dependent upon outside resources" at 30,000.¹ The native Indians too were suffering. The Secretary of Interior asked for \$100,000 for their relief.² Hyatt's gruesome pictures were overdone, while Collamore had overlooked the needs of many sufferers.

Most of the aid given to the Kansas settlers was distributed by the two relief organizations. The first one in point of time was the Kansas Territorial Relief Committee. It was organized at Lawrence, Kansas on the 14th of November, 1860 and was an outgrowth of the Leavenworth county relief organization, one of many such organizations. They had appointed a committee and authorized it to call a convention of the several counties to be held at the Eldridge House. The object was to ascertain the "aggregate amount of relief needed by the people of Kansas."³ The convention organized with dele-

1. Kansas State Record, Feb. 9, 1861.

2. Kansas State Record, Feb. 16, 1861.

3. Neosho Valley Register, Nov. 7, 1860. J.L. McDowell, A. C. Wilder, Thos. Ewing, J.C. Stone, W.C. McDowell, J.C. Vaughan & H.P. Johnson were among the members of the Leav. Co. Com. Hyatt claims the honor of having originated the idea of the county organizations at the Mound City meeting. Hyatt to Lilly, Sept. 25, 1860, Hyatt Papers. Moreover, as early as Sept. 6, 1860, Hyatt, Army and Pomeroy had entered into an agreement whereby the Kans. Relief Work would be put under Hyatt direction. Pomeroy would distribute provisions from Atchison and Army would help Hyatt raise the funds. New Eng. Ks. Relief Com. 1860-61.

gates from twenty-three counties represented.¹ A Kansas Territorial Committee of fourteen members was elected, an Executive Committee of six members, and an Auditing Committee of four members were provided for.² Another committee was appointed to prepare an address which would appeal to the people of the United States for aid. M.J. Parrott and C.K. Holliday were members of this committee. In a series of resolutions the convention agreed to recognize the existing county and township organizations and recommended the organization of other counties for relief purposes. It instructed the Executive Committee to appoint a committee to solicit loans for real estate and other property to be available for emergency cases. A resolution was passed requesting the President to postpone the sale of lands. It was also agreed that all solicitation, collection and distribution work was to be done without compensation for time or services, except for the necessary incidental expenses.³ General Pomeroy informed the convention that contracts had already been made with the Hannibal and St. Joseph Railroad to transport supplies for the relief of Kansas for 12½ cents per hundred, also

-
1. Atchison & Douglas Cos. each had 16 del. Atchison Champion, Nov. 17, 1860. R.B. Mitchell was elected Pres. of Conv.
 2. Ibid. Gov. Robinson, T. Ewing, Sam Medray, M.J. Parrott were members of the auditing Com. Elwood Free Press, Dec. 22, 1860.
 3. Atchison Champion & Kans. State Record of Nov. 17, 1860.

with various other roads leading through Illinois, Indiana and Michigan at the rate of a cent per ton per mile. To be able to benefit by these rates, however, the supplies had to be sent by car load through the proper committees and properly directed. The Territorial and Executive Committees met during November and organized. S. C. Pomeroy was elected President of the Territorial Committee and Executive Secretary of the Executive Committee. At this meeting it was also decided that all agents from Kansas now in the field soliciting contributions were to be requested to account "for the same to S.C. Pomeroy, President of the Territorial Relief Committee at Atchison."¹ It is evident from the minutes of these meetings that this was intended to be the sole relief organization of the Territory to which all contributions and provisions were to be sent, and then distributed among the Kansas settlers. This was, however, not to be the case.

On the 23d of November, 1860 the New England Kansas Relief Committee was organized in Tremont Temple Boston, Massachusetts. This Committee remained in Massachusetts and never effected a Territorial organization

1. Atchison Op. Cit. Dec. 1, 1860. Rev. C. Reynolds was V. Pres., J.L. McDowell Sec. and Geo. H. Fairchild Treas. of Ter. Com. of 14. Other members on Exec. Com. were Reynolds, Bodwell of Topeka, McDowell of Leav., F.T. Baker of Centralia. Exec. Com. & Ter. Com. both to meet once a month at Atchison and Lawrence, respectively.

like the Kansas Territorial Relief Committee.¹ To be -
gin with it sent its provisions to Atchison to be dis-
tributed from there.² When Gen. Pomeroy demanded of
Webb, however, to either pay the full freight charges on
the provisions or else allow him to distribute them at
will, Thomas Webb refused to be told.³ He directed all
provisions to Lawrence and asked Geo. W. Collamore to
take charge of the distribution. The change was made
sometime in February or March of 1861.

Before the two committees got control of the
distribution many counties had sent soliciting agents in-
to Ohio, Indiana, Illinois and further east and sent what-
ever they collected directly to their counties.⁴ After

-
1. Among its members were J.A. Andrews, Gov. of Mass., Ho-
ns. J.P. Putnam & T. Russel, G.L. Stearns, J.S. Warren &
Thos. Webb. Collamore to Gov. Robinson Mar. 21, 1862 in
Leav. Daily Cons. Mar. 27, 1862.
 2. Pomeroy to Webb, Feb. 8, 1861. N. Eng. Kans. Relief Com.
1860-61. Pomeroy mentions that Webb has tons of goods
lying at Atchison in the Express office which he can -
not touch because they are subject to the full express
charges. They would have come free if sent in name of
Gen. Relief Com.
 3. Other Railroad Cos. cooperating-Ill. R.R.; Mich. Central;
Indianapolis & Cincinnati; Chicago, Burlington & Quincy;
and the St. Louis, Alton & Chicago. The reduction varied
from 1/8 to 1/2 the regular rates. Kans. State Record,
Nov. 3, 1860; Hyatt Papers. Whether this was the real
reason for severing relations or just the excuse is
hard to tell. The N. Eng. Co. had its interests in
Lawrence not in Atchison. Moreover, Hyatt had supported
the radical wing in the Ter. and Webb was a Robinson
supporter. The Harper's Ferry trial was still fresh in
the minds of people. All three may have entered in.
 4. Collamore to Webb Jan. 15, 1861. Eng. Aid Co. on Re-
lief. K.S.H.S.; J.S. Brown to Webb Dec. 2, 1860, New
Eng. Kans. Relief Com. 1860-61.

the Relief Committees were well established, however, provisions were sent either to Atchison to be distributed by Pomeroy or else to Lawrence where Collamore was in charge of the distribution.

The distribution of the relief provisions was a tremendous undertaking. To do it adequately required a knowledge of the needs of the Territorial settlers. It is no wonder, therefore, that as usual the agents were subjected to much criticism. The Lawrence station under the direction of Collamore, had purposed to supply the settlers with the most important spring seeds. Collamore divided these among the settlers of 35 counties.¹ He distributed 3,243 bushels of potatoes, 5,678 bushels of wheat, 3,987 bushels of corn, and vegetable seeds. No family was to receive more than three bushels of seed wheat. The distributions were to be based upon the need and the judicious use that would be made of them?² The records of the seed wheat indicate that the instructions were carried out quite faithfully.³ There is no way of checking the distribution of the other seeds. Clothing was also distributed, but the records are unsatisfactory.

The New England Relief Company had also collected a considerable amount of money. When Webb closed the

1. He excluded Atchison, Marshall, Leavenworth, Cherokee, Republic, Shirley, Irving, Godfroy, Washington, & Woodson. Kans. Relief 1860-61.

2. Ibid. The printed forms contain the instructions.

3. Ibid. Reports from counties & haulers make it possible to check the distribution of wheat.

books he reported that from November 5, 1860 to July 17, 1861 the Committee had taken in \$34,617.39; of which \$31,865.23 represented collections and \$2,752.16 had been derived from sale of clothes, sold to the United States Government. This money was used to pay for the distribution of the provisions and for Collamore's salary. Thomas Carney of Leavenworth, Lathrop and Bullene of Lawrence, Fich and Eskridge of Emporia, Bullene and Reed of Lawrence, and Andrew J. Mead of Manhattan were the six major companies patronized by Collamore in the distribution of the provisions.¹ The banking business was done through Scott Kerr and Company of Leavenworth.²

The Records of the distribution made by the Territorial Relief Committee at Atchison are less satisfactory. Their purpose had been to relieve the immediate suffering in the Territory. Beginning with the 21st of November, 1860 appeared Gen. Pomeroy's first of a series of seven weekly reports of the provisions received and distributed by the Committee. Among the provisions received were flour, potatoes, beans, corn, wheat, meat, dried fruit, fish and clothing. These gifts had come mainly from New York, Illinois, Iowa, Indiana and Ohio.

-
1. They each received \$4,568.01, \$19,878.67, \$972.51, \$4,865.81, and \$1,493.38 respectively for helping to distribute them. Hensley & Raisin got \$500, N. McCracken \$600 and Collamore received \$400 in salary. \$320 were paid to several other persons. New England Emig. Aid Co. Account Books #1, 2, & 3. Book #3 is with Kansas Relief 1860-61.
 2. N. Eng. Emig. Aid Co. See Scott Kerr & Co. receipt books.

On the 15th of January, 1861 appeared the last of these reports published in the newspaper.¹ On the 15th of June, 1861 the Atchison Union reported that from the 1st of October to the 27th of May, 1861 the Territorial Committee had received 14,423,424 pounds in relief goods, 550 boxes of clothing, boots and shoes, and \$104,081.37 in money.² These liberal contributions had done much, no doubt, to relieve the suffering in the Territory.

The distribution of these provisions, however, had produced dissatisfaction. A tabulation of the total distribution by counties, beginning with October 1, 1860 and ending March 15, 1861, showed Shawnee and Douglas counties ranking first and second, followed by Allen, Breckenridge, Anderson, Jefferson, Atchison, Pottawatomie, et. al. respectively; while Otoe, Saline, Hunter, Ottawa and Cherokee brought up the rear.³ It will be remembered that some of the counties that received most had been reported as self-supporting.⁴ This was one of the criticisms advanced against Pomeroy. On the 1st of January, 1861, A.G. Osbun of Burbon county complained that the relief provisions were distributed before they reached their county.⁵ It was charged that Pomeroy would send the poor

1. The reports are found in the Atchison Champion.

2. Atchison Union Je. 15, 1861.

3. See Appendix # G.

4. See p. 82. Note especially the reports on Douglas and Shawnee counties.

5. A.G. Osbun's letter of Jan. 1, 1861. Hyatt Papers.

from the frontier counties away empty handed. His customary answer being: "Yes, we have received goods but it is consigned."¹ A comparative study of the distribution of provisions and population will substantiate the fact that the frontier counties had received less in proportion to population than the older counties.²

Just how much money was collected by the Territorial Relief Committee has remained a disputed question. It does not appear that \$104,081.37 was the total amount. In 1895 Thaddeus Hyatt wrote on the back of a letter: "Camp got a bill through the New York State Legislature appropriating \$50,000 which was sent to the New York Committee of whom Williams (President of the Metropolitan Bank) was treasurer. This committee received and sent to Kansas \$200,000 sent to them on my appeals to the country."³ On the 13th of March, 1861 Thomas Webb wrote: "As nearly as we can estimate \$200,000 have been received by other committees."⁴ On the 26th of February 1861 the Leavenworth Daily Conservative wondered what had become of all the money solicited by Hyatt: "Where is the money! New York City gave \$50,000 in one week, probably

1. Leav. Daily Conservative Mar. 27, 1861. "B's letter entitled - "Relief Goods Stolen."

2. See Appendix #G.

3. This was found on the back of a letter of Hyatt to Hon. B.F. Camp, Albany N.Y., dated Jan. 12, 1861. The memorandum was signed "Thaddeus Hyatt, Brooklyn, N.Y., May 1895." Hyatt Papers.

4. Statement made in connection with an estimate of what was still needed in the Territory. Emig. Aid Co. Relief Work.

\$200,000 in money has been sent-but no account of it given, ask for a statement."¹

The final statement given was that of June 15, 1861. It reported that of the \$104,081.37 collected \$64,263.56 had been paid for freight on shipments received, \$10,802.99 for ferriage and drayage, and \$31,739.02 was paid in clothing to teamsters for hauling relief goods to different parts of the State.² The amount paid to the teamsters for hauling relief goods was, however, not payment in money but in clothing valued in terms of money. Figuring the difference between the money collected and paid out on the basis of \$104,081.37 it would leave a balance of \$29,014.82 unaccounted for, not to mention the sum of \$96,000 alleged as having been received above the reported sum.

Wherever relief work is undertaken all kinds of complaints and charges of corruption spring up like mushrooms over night. The late depression well illustrated this point. This was no less true in 1860. The newspapers were filled with complaints and criticism. They were most violent against Pomeroy. It is well known that he worked hard to locate the distributing center of the relief provisions for the Territory at Atchison. The

1. Leav. Daily Cons. Feb. 26, 1861.

2. Atchison Union June 15, 1861.

rival towns were jealous of Atchison and criticised the relief agent wherever they had a chance.

Pomeroy lacked business ability. Even Thaddeus Hyatt admitted this to be a fact. In a letter to W.C. Bryant, chairman of the New York Relief Committee, Hyatt asked him to send a man to Atchison who could represent the company in a business way. "By and by we shall all want vouchers and balances. To-day we can provide for them easier than to-morrow."¹ The public noticed this failing and held it against him.

Pomeroy and Challis of Atchison owned the Missouri river ferry. It was asserted that they were charging "more than double" the regular rate and consequently had made a nice profit through the relief work.²

A more severe charge appeared in the Kansas State Record under the title, "Where is the Money?" It reported "that a store had been opened at Council Grove for the sale of goods that had been sent to Kansas for the benefit of the destitute." Furthermore, it was reported "that a firm in Atchison had sent flour to different points in the State- particularly the western portion- that was marked Relief."³ The Record re-

1. Hyatt to N.Y. Com. Hyatt Papers. The letter must have been written early in March, 1861 for he says, "Pomeroy will deem it necessary to go to Topeka on the 26th to look after his prospective election to the National Senate."

2. D. Foster to Webb, May 4, 1861. Kans. Relief 1860-61.

3. Kans. State Record Mar. 30, 1861.

ported that this information came from a reliable source.

The most severe charge was, however, the one of "double entry". George H. Robb of Doniphan County, Secretary of the Wolf River Township Relief Committee, explained it in a letter written the 9th of March. It appeared in the White Cloud Chief the 21st of March, 1861. Robb accused Pomeroy of having paid the teamsters in clothing but entered it as so much money given in payment for services. The letter reads:¹

"The system is one of double entry. It is a very simple plan but very ingenious. The teamsters, as you doubtless know, receive a certain compensation for hauling each load, when they choose to take it - say from \$5 to \$15 or \$20, according to distance. Well this is the way they are paid: They sign a receipt on the books at Pomeroy's office, as for so much money received for hauling and thereupon receive an order on the 'old clothes depot' for the same amount of clothing. When they arrive at the clothing depot, they are compelled to take the old clothes at a remarkably stiff price. Considering they are sent as charity; and then another entry is made upon the books of clothes distributed. Don't you see how readily the money will be accounted for, by paying off teamsters at the rate of from one hundred and fifty per day, and at from \$5 to \$20 per head, in old clothes?"

It was estimated by one in the employ of the Relief Association that during the winter the amount paid to teamsters in old clothes receipted for as cash had amounted to about \$5,000 per week.² Whether intentionally

-
1. White Cloud Chief March 21, 1861.; Also Dan. Foster to Webb, May 4, 1861, Kans. Relief, 1860-61 Atchison Correspondence of Leav. D. Conserv., Mar. 14, 1861 appeared in the Leav. D. Conserv. March 17, 1861; "B" in Leav. D. Conserv. Mar. 27, 1861.
 2. Leav. Daily Cons. March 27, 1861.

or not, Pomeroy apparently failed to make a distinction between the money paid out in cash and the clothing paid to the teamsters valued in terms of money. This is witnessed by his final report of June 15, 1861 already discussed elsewhere.¹ On the 21st of March, 1861 Sol Miller wrote: "Since we have read Robb's statement, we have inquired of several persons who have been after relief, as to their experience in the matter. They give substantially the same statement, although, they declare they never thought anything of it at the time, but took it for granted that it was a regular and proper system of business to keep the accounts straight."²

That General Pomeroy was getting money from an unknown source was very much in evidence in 1860. It was said that before the famine he was as hard up as the rest of the Kansas settlers; but when the relief funds began to come in, he had money to spend. Soon he was able to build a city hall in Atchison,³ to rent and furnish a Senatorial residence in Topeka at a cost of \$2,000 and run "the concern for the benefit of pliant and ready members of the Legislature, at an immense daily expenditure." He could operate a pony express from Atchison to Topeka and still have a margin left to use for the purpose of "operating upon the consciences of the legis-

1. See page 92

2. White Cloud Chief, March 21, 1861.

3. Atchison Champion Sept. 22, 1860. The building was 45 by 85 feet and two stories high.

lators" during the Senatorial election.¹ Where all this money came from during a period of famine and depression, no doubt, Pomeroy knew better than anyone else. He drew no salary for his services. It had been a greed not to pay for relief services except for the necessary incidental expenses.²

It appears that the Hyatt-Pomeroy relief work was influenced by a political motive. While the direct evidence in the case is missing, there is circumstantial evidence that tends to substantiate this point. Early in September of 1860 Hyatt and Army visited Topeka, as one of several towns, to size up the Kansas situation. In the meeting a Mr. Boutwell attempted to slander the Democratic party and its papers. Mayor Farnsworth objected because he did not wish political differences to be dragged into a relief meeting. The result was that Boutwell was hissed down. Whereupon Hyatt left the room in disgust.³ Moreover, the political motive was reflected in the distribution of the relief provisions. There were several counties in the Territory that were known to vote democratic, like Leavenworth, Wyandotte, Johnson and Davis Counties.⁴ It would not be profitable,

1. Mr. "B" of Atchison to Leav. Daily Cons. March 27, 1861

2. Atchison Champion Nov. 17, 1860.

3. Topeka Tribune, Sept. 15, 1860.

4. Lawrence Republican, Jl. 14, 1859 gives the results of the election of delegates to Wyandotte Const. Convention; the White Cloud Chief Dec. 22, 1859 gives it for Territorial Representative.

politically, to distribute provisions among the Democrats; therefore they distributed them among Republican voters, especially in counties that might be regarded as pivotal, like Shawnee, Douglas and Allen. Linn and Bourbon counties were out of the question for they would vote either democratic or else support Lane. A comparative study of the chart¹ containing the distributions of relief provisions and the population of the counties will show that in Atchison and Leavenworth counties, both located in Northeastern Kansas, the aid per capita on the average, was 35 and 6 pounds, respectively. In Allen and Linn counties it was 100 and 7 pounds, respectively and in Wyandotte and Douglas counties it was 38 and 6 pounds, respectively. In other words, in the counties where the relief provisions would fall upon fruitful soil the distributions were liberal, regardless of the needs. On the other hand, in the counties where the results were apt to be negative irrespective of the aid, the distributions were very meagre. The evidence points to the conclusion therefore, that the motive of the relief work was largely political. It is even questionable whether Pomeroy would ever have been elected to the United States Senate if it had not been for the drought of 1860.

1. See Appendix #G.

CHAPTER IV.

Framing the Wyandotte Constitution.

Within a period of less than four years four conventions had framed constitutions for Kansas. The first of these, the Topeka Convention, assembled on the 23rd of October 1855, and in twenty-three days 37 of the 47 delegates agreed upon a framework of government to which the settlers were to entrust their liberty and future prosperity. At this time the negro question occupied an important position. And the delegates as well as the voters agreed to a provision whereby the negro and the mulatto were to be excluded from the state.¹ The presiding officer, General James H. Lane, had proposed, however, to continue slavery in the Territory for five more years, but had failed to carry his resolution and the constitution prohibited it. It also exempted from militia duty persons with conscientious scruples against bearing arms, provided they paid an equivalent in money for such exemption.² It left the boundaries of the State as they were in the Kansas-Nebraska bill, extending as they did west to the summit of the Rocky Mountains.³ Already the convention was divided into a Robinson and a Lane group, and the test of the comparative strength of the two factions came over the so-called "Nebraska resolution" which embodied the principle of "non-intervention". General Lane, Smith of Lawrence,

1. J. A. Martin's account of the Convention in Andreas, Hist. of Kans. p. 173.

2. Webb. VII, 121-124.

3. N.Y. Daily Tribune, Nov. 26, 1855. in Webb. VII, 5.

and Parrott and Delahay of Leavenworth supported the resolution; while Gov. Robinson and J. S. Emery opposed it. The resolution provided that "the convention approve the principle of non-intervention in the local affairs of Kansas, as enunciated by the Kansas-Nebraska bill, and ... recommended to the people of Kansas a strict observance of the principles laid down in said act." The resolution failed to carry, but it required a motion of reconsideration to defeat it.¹

The feature of the convention was provided by General Lane, challenging G. P. Lowery, private secretary of Gov. Reeder, to a duel. Gov. Robinson and M. J. Parrott were to act as seconds for Lowery and Lane, respectively. At the appointed hour the chairman of the convention, Gen. Lane and his retinue, followed by Gov. Robinson and his admirers, marched out of the convention hall, and the convention for the time being broke up. The duel was averted, however, whereupon the convention resumed its business.²

State officers and legislators were elected under its provisions. Charles Robinson was elected Governor and the State Legislators organized and elected Reeder and Lane to the United States Senate. Before the Legislators could enact any laws, however, Governor Shannon had his troops on the premises ready to arrest such officers as would insist on carrying out a program in opposition to the government

1. Ibid., 7 and 71.

2. Springfield Republican, Mass., Nov. 20, 1855, Webb VI, 239.

in power.¹ The convention that had framed the Topeka Constitution was without legal status. It had not issued from the Territorial Legislature or Congress, but was the product of a spontaneous organization, the Free-state faction. They threatened to overthrow the Pro-slavery faction in power in the Territory.² Although it was never set in motion, the Topeka Constitution served as a rallying point and bond of union for the Free-state party.

The second convention met at Lecompton Sept. 7, 1857. The movement was set on foot by the Territorial Legislature, controlled by Pro-slavery men. They framed a constitution protecting the institution of slavery and then submitted it to the vote of the people, asking them to vote for the "constitution with slavery" or for the "constitution with no slavery". Since the vote in either case was to be for the constitution which protected property already in the Territory plus its natural increase, the Free-state men refused to vote at the election held December 21, 1857.³ Hence the vote stood 6,226 for slavery and 569 against slavery. Although the radical wing of the Free-state party

1. Gov. Robinson's letter to Col. Sumner, Semi-Weekly Times, Jl. 25, 1856. Webb, XV, 126-127. Kans. Ter. Clip. III, 250-52. N.Y. Times, Mar. 20, 1856.

2. Jameson, J. A. A Treatise on Const. Conventions, etc. p.203. He writes that viewed in its legal aspects "it is impossible to regard it other than illegitimate. It was called neither by Cong., Ter. Leg., nor by any officer connected with the public admin., but in opposition to and in defiance of them all." Hoar, R. S. Const. Conv. etc. p.20 wrote that it seems "the irregularity of its formation and ratification might have been cured by congressional ratification had Congress cared to take such action".

3. Thacher, Rejected Constitutions. 710-711.

had ignored the referendum on the constitution, the Robinson-Ewing faction had participated in the Territorial election held in October, 1857, and with Gov. Stanton's help they had elected a majority to the legislature.¹ To clear the situation they now passed a law providing for a direct vote on the constitution. This time the Pro-slavery men refused to cooperate. The result was 10,266 votes were cast against the constitution and only 164 for it. Finally Congress came to the rescue of Kansas and ordered that the constitution be resubmitted to a fair vote of the people under the provisions of the English bill. The vote was taken August 2, 1858. For a second time the Pro-slavery men lost; the vote was 1,926 for and 11,812 against the constitution.² The overwhelming defeat of the Lecompton Constitution practically decided the fate of the slavery question in Kansas.

According to Jameson's interpretation the Lecompton Constitution was also illegal. It had not been authorized by Congress.³ The English bill served, however, as an enabling act for the future. It authorized the people of the

-
1. Gov. Stanton threw out the fraudulent votes. Without this the Pro-slavery men would have retained a majority in the Legislature. Kans. Scrap Book. IV, 58-59.
 2. Andreas, Hist. of Kans. 170.
 3. Jameson, Op. cit. pp.205-8. Had the English bill not been passed the question would have arisen whether the method of referendum set forth in the Convention Schedule should be followed or else the method set forth by the Ter. Legislature. The Leg. provision would probably have won on the ground that the other was no referendum. Otherwise constitutional authorities are divided on this question. Jameson holds that the power of the Leg. is supreme. p.73. Dodd, Revision & Amendment of St. Const. pp.79-80 holds that in its proper duties the power of the Conv. is supreme over the Leg.

Territory to form a constitution and State government "whenever and not before", it should be ascertained by a census that the population equaled or exceeded the ratio of representation fixed by Congress for electing members of the national House of Representatives.¹

While the Lecompton Constitution was hanging fire in Congress and the administration was exerting every effort in its behalf, the radical wing of the Free-state people in Kansas thought it expedient to frame another constitution. They felt that it would give them a legal constitution with which to combat the Lecompton constitution should Congress threaten to approve the latter.² The convention met at Minneola, March 23, 1858, but the Minneola townsite fraud nearly wrecked it at the beginning and it adjourned at once to Leavenworth reassembling March 25, to frame the Leavenworth Constitution. The Pro-slavery men refused to take part in the vote on the constitution, held May 11, 1858. Not a great deal of interest was shown in the constitution. It had come into being suddenly, as a strategic measure, and when the crisis was over the movement in its behalf was formally abandoned.³ It had been called before the passage of the English bill and was therefore subject to the same

1. Jameson, p.208.

2. Andreas, Hist. of Kans. p 168. He quotes T. D. Thacher's Art. who gives the reasons for it. Another was the question of locating the capital and land speculation connected with it.

3. Ibid. pp.169-71. The vote on the constitution was only about 4,000 of which 1,000 votes were against the constitution.

legal criticism as the Lecompton Constitution; viz. that it was unauthorized by Congress.¹

In his message to Congress December 18, 1858, President Buchanan had remarked that since the people of the Territory had rejected the Lecompton Constitution by a large majority they were authorized to form another constitution, preparatory to admission into the Union, as soon as they could meet the specifications set forth in the English bill.² On the 3rd of January 1859, Governor Medary in his message to the Legislature referred also to this question, saying:

"As the subject of forming a State Constitution, and asking admission into the Union has been extensively agitated, it might be expected that I should allude to it in this place. In doing so, I shall speak of it only in a practical sense - it has no necessary political connection. The Territorial condition is certainly not desirable for a large and wealthy community - it is a transition state from youth to manhood - from weakness to strength. It is a question, with the people of Kansas, whether they are prepared to assume the weighty responsibilities of a State government. Personal ambition should not be permitted to step in between them and their true interests. The question should be discussed in all its bearings, and brought to a decision favorable to the interests of the whole people. Population has much to do with the question, it is true; but to the people of Kansas, who have the expense of government to pay out of their own pockets, their ability to do so is of deep interest to them, and should not be overlooked."³

To this the editor of the Lawrence Republican replied: "The Governor evidently wishes to dissuade the Legislature from attempting anything in the way of the

-
1. Jameson advances no legal doubts on this constitution, regards it and Wyandotte Const. as legitimate. He lacked the facts in both cases.
 2. Herald of Freedom, Dec. 18, 1858.
 3. Lawrence Republican Jan. 6, 1859.

formation of a State Government. While Oregon, with only some 8,000 or 9,000 voters is to be hurried into the Union, Kansas, with nearly double that number is to be excluded until she has 93,000 population. Why?"¹ The Herald of Freedom, representing the Robinson wing of the Old Free State party also opposed the immediate admission of the State, because the people would be unable to bear the burden of taxation and other expenses connected with it.² On the other hand, James Blood and J. M. Winchell of the Central Committee, representing the radical wing of the Free-state party, issued a call for a convention to be held at Lawrence on November 10, 1858. They sought to achieve their political goal by setting in operation two movements, viz: to organize the Republican party, and to frame a new constitution under which Kansas was to be admitted as a Free State.³ The convention aiming at political reorganization was a failure, and further action had to be postponed, yet they never lost sight of their goal.

The Territorial Legislature of 1859 was controlled by the Free State party. In the Council, the part of the Governor's message, quoted above, was referred to a committee with J. P. Root as chairman, who on the 7th of January recommended "the passage of a law calling for a Constitutional Convention with such provisions as shall enable the entire

1. Ibid. Jan. 6, 1859.

2. Herald of Freedom, Aug. 14, 1858.

3. Lawrence Republican, Nov. 4, 1858.

Territory to be fully and fairly represented".¹ On motion of Mr. Holliday, the question was referred to the committee of the whole,² which through J. P. Root reported January 11, and after some discussion the report was adopted 9 to 2.³ On January 21, Mr. Holliday, chairman of the committee on Federal Relations, to whom the subject matter had been referred, reported Council Bill No. 80 providing for "the formation of a constitution and State government for the State of Kansas". The bill was read a first and second time and then referred to a select committee composed of Messrs. Mead, Root, and Nash.⁴ The next day the chairman of the select committee reported the bill back without amendment and recommended its passage.⁵ The bill again went to the committee of the whole on the 25th of January, it was reported back to the Council, and passed by a vote of 10 to 2. Crozier and Patrick still voted in the negative.⁶

The House had under consideration a bill of its own, reported January 22 by Roberts of Leavenworth from the Committee on Federal Relations as House Bill No. 141. It provided "for the formation of a Constitution and State government for the State of Kansas".⁷ On the 24th of January the bill was considered in committee of the whole, was amended and referred, and the next day sent to a special

1. Journal of the Council 1859. p.24. A. J. Mead & A. J. Patrick were the other members of the committee.

2. Ibid. p.27.

3. Journal of the Council, 1859. p.43. Crozier and Wright voted negative.

4. Ibid. p.121.

5. Ibid. p.127.

6. Ibid. pp.146, 149, 150.

7. House Journal, 1859. p.135.

committee of five, with Bailey as chairman.¹ Two days later the Council bill was sent to the House.² Nevertheless on January 31 Bailey reported the House bill from his committee with amendments. After consideration in committee of the whole the bill was recommended for passage. At this point, Roberts of Leavenworth moved, and it was agreed, to substitute the Council bill No. 80 for the House bill. Thereupon Roberts again took the floor and moved the passage of the bill with the following amendment, viz: to change the apportionment by striking out all after "to wit", in the 4th section, the second line and insert the following:³

<u>District</u>	<u>Delegates</u>	<u>District</u>	<u>Delegates</u>
1 - Wyandotte Co.	----	14 - Shawnee & Weller	--3
2 - Leavenworth Co.	---7	15 - Richardson, Davis, Dickinson & Clay	--1
3 - Atchison Co.	-----3	16 - Lykins Co.	-----2
4 - Doniphan Co.	-----4	17 - Franklin Co.	-----1
5 - Brown Co.	-----1	18 - Breckenridge & Madison Cos.	-----2
6 - Nehama Co.	-----1	19 - Wise & Butler Co.	--1
7 - Marshall, Wash- ington & Arap- ahoi Cos.	-----1	20 - Linn Co.	-----2
8 - Jefferson Co.	----2	21 - Anderson Co.	-----1
9 - Calhoun Co.	-----1	22 - Coffey & Woodson	--2
10 - Riley Co.	-----1	23 - Hunter, Greenwood, Godfrey & Wilson	--1
11 - Pottowattomie Co.	.1	24 - Bourbon, McGee & Dorn Cos.	-----2
12 - Johnson Co.	-----2	25 - Allen Co.	-----1
13 - Douglas Co.	-----6		

Also, to fill the blank in section five, line one by inserting "Atchison". The amendment was carried and the bill as amended passed the House. The yeas and nays were called for but no votes were recorded.

1. Ibid. pp.149f.

2. Ibid. p.160.

3. Ibid. pp.203-212.

On February 1, the House reported the Council bill as amended back to the Council, and it was considered that day. After several unsuccessful attempts to amend the bill, Mr. Learnard moved that the Council do concur in so much of the House amendments. The motion failed 5 to 8. The next question being upon the motion of Learnard, Mr. Root moved to amend this motion so as to take one vote from Wyandotte and give it to Douglas county. Learnard then offered the following substitute: "That the Council concur in the amendments of the House, relating to the apportionment, excepting so much as relates to Douglas county, and the addition of Weller to Shawnee county, and amend the amendment of the House, giving three delegates to Wyandotte county, by giving said county two delegates."¹ According to the House Journal the changes suggested in the amendment were agreed to.²

The meeting place of the convention then became the subject of contention. Mr. Challis moved for Atchison, Crozier preferred Lawrence, and Mead Manhattan. The vote for Manhattan as against Lawrence was lost 6 to 7; that of striking out Atchison and inserting Lawrence was lost 2 to 11.³ The following day, on Nash's motion, the Council refused to concur in the House amendment to hold the convention

1. Council Journal, 1859. pp.196-202.

2. House Journal, 1859. p.236. The Council Journal is indefinite. Fortunately the House Journal quotes what the Council had agreed upon.

3. Council Journal. p.202.

at Atchison, and substituted Wyandotte.¹ The bill was now sent back to the House, where in the afternoon of the 2nd of February it was again considered. Mr. Wright moved to concur in the Council amendments "except that designating Wyandotte as the place". Mr. Vaile moved to amend Wright's amendment by concurring in all of the Council amendments. This motion was carried by the vote of 22 to 8. The Council was notified and the bill was sent to the enrolling clerk. According to the information available the bill now provided that the convention was to be held at Wyandotte and that the apportionment of delegates for the convention was to be as indicated above, except that Wyandotte county was to have two instead of three delegates, and Douglas county, seven instead of six.²

On February 3, Holliday of the Council criticised the bill and suggested changes. He informed the Council of errors in the bill, saying that the 7th section of the bill sent to the enrolling clerk provided:

"that the election of State officers under said constitution shall take place on the 1st Monday of October next, and further provides in the 6th section, that the constitution shall be submitted to the people for ratification or rejection on the 1st Tuesday of October next; and whereas, it is evident that an erroneous date has been interpolated in said 7th section of said act, by inserting 1st Monday in October, instead of 1st Tuesday of December therefore Resolved, by the Council, the House of Representatives concurring, that

-
1. Ibid. p.214. The Council Jrnl. failed to mention the place. Fortunately the House Jrnl. had recorded it as Wyandotte. See House Jrnl. p.236f.
 2. See House Jrnl. p.236 & Council Jrnl. pp.202, 214, 222. The House & Council Dockets, Sec. 6, Division 1, 67 & 41, respectively fail to give additional information. The Herald of Freedom, Je. 25, 1859 gives a detailed history of the bill.

the enrolling Clerk of the Council shall be, and is hereby required to correct said error, by inserting in said 7th section of said act, the 1st Tuesday of December 1859 as the day for the election of officers under said Constitution."¹

On Holliday's motion the rules were suspended, the above resolution was read a third time, and agreed to.² The resolution was reported to the House for its concurrence in the afternoon of the same day. The Herald of Freedom reported that the House that same afternoon had concurred in the Council's request but apparently the record was not entered in the House Journal.³ On the same afternoon, again on Holliday's motion, another resolution was passed directing the enrolling Clerk to return Bill No. 80 to the Council. It failed to specify the purpose.⁴ After that nothing further appears in the Journals with reference to the bill till February 11, when the Governor's Message announced it approved.⁵ The bill approved by the Governor does not agree with the one passed by the Legislature. That the bill was corrected by the enrolling Clerk as instructed by the Legislature, and without material change is supported by the fact that G. W. Brown published it in the Herald of Freedom on the 12th, with the corrections made by the clerk. In discussing the variations a short time afterwards the editor stated that:

"The Convention law which we published in the

-
1. Council Jrnl. p.224.
 2. Council Jrnl. p.224.
 3. Herald of Freedom, Je. 25, 1859 & House Jrnl. 251.
 4. Council Jrnl. 1859. pp.226-27.
 5. Gen. Laws of Kansas Ter. 1859.p.297; Herald of Freedom, Je. 25, 1859.

Herald of Freedom of February 12th was put in type from an exact copy of the bill which passed both Houses, the clerk loaning us the Bill for the purpose of copying it. It was on the outside pages, which must have gone to press on the 8th of February. The Governor, in the interim, had assured us that he would approve the Bill on the 9th inst., and we published that as the date of his approval."¹

This bill published in the Herald of Freedom agrees with that passed by the Legislature.² How the changes in the bill were effected between the third and twelfth of February is not known. Whether the changes were authorized by the Legislature, or whether the enrolling Clerk submitted the wrong bill to the Legislative officers and the Governor, or whether somebody had schemed to deprive certain counties of delegates to the convention, remains a mystery.

The difference between the two measures was in the apportionment of delegates to the convention. The bill approved by the Governor gave Doniphan five instead of four delegates, Jefferson one instead of two, Leavenworth county ten instead of seven, and Wyandotte none instead of two. It had also rearranged the grouping of counties in several districts, placing Weller, Breckenridge, and Wise in district number 17, and Madison, Butler, Hunter, Greenwood, Godfrey, and Wilson in district number 21.³

Geo. W. Brown came to the conclusion that the clerks had picked up the wrong bill:

"The convention law as published in the Statutes, is a literal copy of the original House Bill introduced by Mr. Roberts, and is in every essential particular, the Original Council Bill, with only verbal corrections. ...

-
1. Herald of Freedom Je. 25, 1859.
 2. Ibid, Feb. 12, 1859.
 3. See Appendix #1.

The original bill of the Council must have been enrolled by the carelessness of the clerks, and presented to the officers of the Council and House for their signature, and by the enrolling Committee and by the Gov. for his approval. To sum up the matter," he said, "the Legislature passed an act which was never signed by the Gov. The presiding officers of the Legislature and the Gov. signed a bill which never passed the House at all."¹

This raises the question as to the legality of even the last of the Kansas conventions, viz: The Wyandotte Constitutional Convention. Was the error sufficiently important to invalidate it, Or was it cured by popular ratification and Congressional approval of the constitution, Hoar would maintain, no doubt, that the ratification of the constitution by the people and the approval of Congress had renovated the errors.² Jameson would have asserted in this case as he did in others, that even the approval of Congress could not make legitimate what in itself had been illegitimate.³ On the one hand it is sound logic to agree with Hoar that unauthorized conventions "have so often been held in the United States that it is now too late to question their validity"; on the other hand Jameson is correct also in saying that what in itself was illegitimate cannot be made legitimate by the action of another body. The error helps

1. Herald of Freedom, Je. 25, 1859.

2. Hoar, R. S., Const. Conv. p.52. "We come back to the fact that all constitutions are valid if called by the people speaking through the electorate at a regular election. This is true regardless of whether the Const. attempts to prohibit or to authorize them, or is merely silent on the subject. Their validity rests not upon constitutional provision nor upon legislative act, but upon the fundamental sovereignty of the people."

3. Jameson, Op. cit. p.100,112. He agrees that it could be made valid by its adoption by the electoral body, or by the acquiescence of the sovereign body. Yet neither would make it legitimate.

to explain, however, why Wyandotte county failed to be represented in the Wyandotte Constitutional Convention.

The bill that was enforced provided that on the 4th of March, 1859, the majority vote of the people should determine whether another constitution should be framed. The result of the vote was to be announced by the Governor. If it was favorable the people were to elect delegates for the Constitutional Convention on the first Tuesday in June. The delegates were to assemble at Wyandotte on the first Tuesday in July, to frame the constitution. The constitution was to be submitted to a vote of the people on the first Tuesday in October, and if approved by a majority vote State officers were to be elected on the first Tuesday in December, 1859. All elections were to be by ballot, and all white male citizens of the United States living in Kansas, and those who had their first papers, including male Indians, should be qualified to vote. Military and naval men were disqualified.¹

The wisdom of the proposal for framing another constitution was extensively debated. The Republican papers, and now even the Herald of Freedom,² favored it, while the Democratic papers, especially the Lecompton Democrat and the Western Argus of Wyandotte opposed it. The Argus summarized the arguments against framing another constitution as follows:

"If you [would] vote for the prosperity of Kansas

1. Kansas Constitutional Conv., A Reprint of the Proceedings, etc. p.7.

2. Herald of Freedom, Mar. 26, 1859. Also Emporia News, Apr. 9, 1859.

vote against the Constitutional Convention. To assume a State government now is to assume taxation which will injure our Territory for the next twenty years. None but those who hope for office under the State government will favor its formation." Lane and Vaughan, he said, "were to be the Kansas Senators, Conway the Congressman, and H. P. Johnson the Governor."¹ "We have as yet no land grants, no bridges, no public buildings, all of which will be provided for us by the General Government, if we are not over anxious to pay for them ourselves".²

To this the Lawrence Republican retorted:

"We have been a Territory for about five years with a Democratic Administration at Washington all the time and yet ... have obtained from this kind and generous Democratic party 'no railroads, no bridges, no public buildings. (Although the Democratic officials have squandered and pocketed some \$75,000 of the people's money at Leecompton)"³

Election day was a "terrible day", with rain, snow, and sleet, so only a small vote was cast, 5,306 for and 1,425 against a constitution. Five hundred and two additional votes were cast in detached townships not counted by the canvassing board, Of these 433 were for and 69 against a constitution.⁴ Leavenworth, Jefferson, Doniphan, Douglas and Davis counties had registered the largest vote against a constitution, viz: 272, 202, 192, 164 and 134 respectively. Leavenworth county also registered the largest vote, 989, for a constitution.⁵ At this time the Republican party within the Territory was still unorganized.

Two months later the delegates to the Wyandotte Constitutional Convention were elected. The election took

-
1. Weekly Western Argus, Mar. 12, 1859.
 2. Lawrence Republ. Mar. 10, 1859.
 3. Lawrence Republican March 10, 1859.
 4. White Cloud Chief, Apr. 28, 1859; Herald of Freedom, Apr. 23, 1859.
 5. Herald of Freedom, Apr. 23, 1859. Less than half of its voters had voted.

place on the 7th of June and resulted in electing 17 Democrats and 35 Republicans. The total vote cast was 13,534, of which 7,374 had voted the Republican, and 6,155 the Democratic ticket. Leavenworth, Doniphan, Jefferson, Jackson, Johnson, Davis, Morris and Wyandotte counties went Democratic by a majority of 806 votes and twenty counties went Republican by a majority of 1,219 votes.¹

From the standpoint of party strength in the convention the election was important. It was the first contest at the polls between the recently organized Republican party and the Democrats. It will be remembered that in its platform in May the Democratic party had dropped the slavery issue in an attempt to rally to its support the entire Democratic vote of the Territory. The popular vote was encouraging but not the election of delegates. Although the Republicans had but a majority of 1,219 popular votes, they had elected 35 out of a possible 52 delegates. Undoubtedly they had carefully planned the apportionment so as to assure them of a safe majority. Out of a total of 6,509 votes cast north of the Kansas river, the Democrats had won by a majority of 319 votes and elected 16 out of 25 delegates; however, south of the river out of a total of 7,025 votes cast the Republicans had won by a majority of 1,538 votes and elected 26 out of 27 delegates.² The radical wing of the Republican party was strongest south of the river. This

1. Lawrence Republican, Jl. 14, 1859.

2. Lawrence Republican, Jl. 14, 1859.

may have been a potent factor in arranging the apportionment of the Territory. In Doniphan county the election of delegates had been influenced by the railroad question. The results had been most noticeable in the election of R. J. Porter. He was a Republican and had been elected over William Lewis, a Democrat. Porter owed his election to his interest in the St. Joseph and Topeka Railroad; whereas, Lewis was defeated because he was not interested in railroad speculation.¹ The four other delegates elected from Doniphan county were Democrats.

From the standpoint of county or city rivalries the election was significant. Douglas county with a population of 8,637 received 7 delegates; Doniphan county with a population of 8,035 received only 5; Atchison county with 7,729 inhabitants had only 3 delegates; while Shawnee county with only 3,513 inhabitants had also 3 delegates; and Leavenworth county with 12,606 inhabitants had 10 delegates. It had been anticipated, no doubt, that the location of the capital would receive consideration in the convention, and it may have been another factor in arranging the apportionment.

The radical Republicans were so accustomed to

1. white Cloud Chief, May 12, 1859. He wrote: "The St. Joseph and Topeka R.R. did the matter. Certain candidates were pledged to use their efforts to have that R.R. embraced in the land grants asked for in the constitution; and the people in the lower part of the county were led to believe that their salvation depended upon the election of those candidates. Pretended Republicans of the most ultra stamp voted for the veriest Border Ruffians, upon the question."

accusing the Democrats with fraud that they again repeated the charge. They accused the Democrats of Leavenworth of having imported voters "by the hundreds" from Kansas City, Weston, Missouri, Platte City and St. Joseph.¹ It is true that the Democrats won Leavenworth county by a large majority. There may have been some fraudulent votes cast. Nevertheless, the Radical Republicans of Holton, Jackson county, had forcibly broken up the convention when they realized that they were outnumbered. Some blood had been shed.² Both parties still showed frontier characteristics.

The Wyandotte Constitutional Convention met July 5, 1859. Most of the delegates were politically inexperienced with but a local reputation. Various explanations have been offered why the experienced leaders were absent. First among the explanations was the statement that the Free-state party had been broken by the organization of the Republican party and had deprived the old leaders of their following.³ Another explanation was that the experienced leaders had framed the earlier constitutions which had been defeated. The settlers, therefore, had elected new delegates who would not prejudice the voters not Congress when the constitution would be submitted for approval. It should be added that constitution making was no longer a novelty in the Territory. Moreover, some of the old leaders were not

1. Topeka Tribune, June 9, 1859.

2. Ibid. March 31, 1859. The Tribune quotes the Western Argus. In the encounter a Mr. Chisam was wounded, S. Hall was shot in the right arm, Willock in the face, and B. Hall and others were beaten across the head with clubs and gun barrels.

3. White Cloud Chief, May 12, 1859.

very enthusiastic for the movement. The convention opened, therefore, without the official presence of Gov. Robinson, Gen. Lane, M. F. Conway, M. J. Parrott, Judge Ewing, Sam. C. Pomeroy, C. K. Holliday, Judge Schuyler and Judge Smith. "Constitution making, like the grasshopper," wrote Wm. A. Phillips, "had become a burden."¹

For the first time in the history of the Territory Democrats met together with Free-state men and Republicans in a constitutional convention. They were a motley group, representing the "great middle class" of the Territory. Benj. F. Simpson wrote that he knew only four of them. He thought that many members had been more unfortunate in that respect than he. Simpson characterized the delegates as follows: "They had no personal ambition to gratify, no animosities to resent, no friends to favor. Their sole aim and object seemed to be ... to frame a fundamental law that embodied every safeguard to the citizen, in favor of human freedom and human rights, and was adapted to the wants and conditions of the people of Kansas."²

The composition of the group is significant. By profession 18 were lawyers, 16 farmers, 8 merchants, 3 physicians, 5 manufacturers, a surveyor, a mechanic, a printer and a land agent.³ As to origin 14 had been born in Ohio, 7 in Indiana, 6 in Pennsylvania, 5 in Kentucky, 4 in each of New York and Vermont, 3 in New Hampshire, 2 in

1. Kansas Constitution. Clippings. I, 10

2. B. F. Simpson, "The Wyandotte Constitution". Trans.K.S.H.S., III, 387.

3. Wyandotte Const. Conv., 14.

each of Massachusetts and Maine, and one in each of Virginia, England, Scotland, Germany and Ireland.¹

Probably the most able as well as the most eloquent man in the convention was Samuel A. Stinson of Leavenworth county. He was born in Maine where he attended Bowdoin College, and probably was graduated from it. He was a voluminous reader. It is said of him that he devoured books. He had a well trained mind, being able to call up contents of books he had read, at will. Moreover, he had a pleasing disposition, he was witty, graceful, fluent in speech, and was an effective speaker. In the convention he made good use of his talents. Even though he was only 26 years old, he led the minority in effective arguments against the majority; especially on the questions of the credentials of delegates, the northern boundary, the negro and the apportionment questions. His stature, being tall, well formed, with hair "struggling between shades of brown and light" and a complexion as delicate as a woman's, helped to make him a striking figure. But he belonged to the unpopular minority, and yet in spite of that he was elected Attorney General of the State on the Union Ticket, in November, 1861, and later conducted the impeachment cases against the State officers. One of his contemporaries, Benj. F. Simpson, called him the "Rufus Choate of the Kansas Bar".²

1. Ibid.

2. "B. F. Simpson's Recollections" in Andreas, Hist. of Kansas., 173. Also the Wyandotte Const. Conv. Jrnl., and the Journal on Impeachment Proceedings.

A more impulsive man in the convention was Judge Solon O. Thatcher, of Lawrence, Kansas. As editor of the Lawrence Republican he had wielded an influence in organizing the Republican party. Although he was not always sure of the authenticity of the information he received on the Southern Kansas question, yet as a leader of the radical abolitionists, he generally approved of the violations of the fugitive slave law and of the John Brown and the Montgomery raids.¹ He was bound, therefore, to take a radical stand on the slavery question, which he did, and sought to rally the majority party to his support by emphasizing the importance of the slavery issue, which for all practical purpose should have been a dead issue in the constitutional convention. Consequently he made his most impulsive as well as his most emphatic speech in the convention in opposition to a "resolution offered by Mr. McCune of Leavenworth county asking that 'free negroes' be excluded from residence in the State".²

A man who gained prominence as well as notoriety in later years, who also helped to frame the constitution, was John J. Ingalls of Atchison. Andreas in his History of Kansas regards him as the "recognized scholar of the convention". He contributed particularly to the arrangement and phraseology of the instrument. His "broad brimmed" straw

1. The Lawrence Republ. of 1858 & 1859.

2. Andreas, Hist. of Kans. 173.

hat that he wore during the sweltering days of the convention furnished the delegates with a source of amusement. B. F. Simpson said in his Recollections that "it was an ever-recurring subject of comment".¹

During the hours of confusion and disorder when the convention was held together by only a fringy cord of union, it was the big tall Scotchman, William McCullough of Council Grove who "poured oil on the troubled waters". However, it was not his wisdom or his poise that brought order out of confusion, as has been said of Benjamin Franklin in the Philadelphia Constitutional Convention; rather, it was his tall, powerful, imposing form, and his "stentorian voice" that cleared the air when he shouted; "By God, we'll have order here". Only then did the factious minority subside into growling, and peace and order were once more triumphant.² There were, of course, other men of influence in the convention. Their names will be mentioned later, in the discussion of the convention.

The organization of the convention was accomplished on the first day, July the 5th. Griffith of Bourbon county nominated J. M. Winchell of Osage county as President of the convention, while J. W. Forman of Doniphan county nominated J. T. Barton of Johnson county as the Democratic candidate. The ballot resulted in a Republican victory of 32 to 13. The temporary president, S. A. Kingman, then made place

1. Andreas, Hist. of Kans. 173.

2. Wyandotte Com. Gazette, Aug. 20, 1859.

for J. M. Winchell, who was conducted to the chair by Messrs. J. Ritchie of Topeka and J. P. Slough of Leavenworth.¹ John A. Martin of Atchison was elected Secretary. Although not a delegate to the convention he defeated William Spencer by a vote of 32 to 15.² Benj. F. Simpson wrote that the fight for the presidency had introduced local prejudice into the convention. Winchell had been the beneficiary of antagonisms between certain combative localities. He came from Osage county and was interested in a town called Superior, but "spent most of his time in Lawrence, or oscillating between Superior and Lawrence".³ The ballot shows, however, that the election was divided strictly along party lines.⁴ Winchell had come to the Territory as an accredited correspondent of the New York Times. He believed that fidelity to partisan friends was the basis of all political success. Consequently, "he gave to those who had championed the cause for the presidency the chairmanship of the most important committees".⁵ He managed the convention quite well, but never failed to give first recognition to his partisans.

John A. Martin had come to Atchison in 1857, when

1. Kans. Const. Conv., 15-20.

2. Ibid.

3. The Commonwealth, Jan. 6, 1881. Kans. Legis. Clippings. Vol. 1 & 2. Simpson wrote that "in those days the Neosho Valley, the Border Tier, and 19 disfranchised counties were jealous of the Lawrence and Leavenworth politicians... and little geographical tea parties ... were of frequent occurrence".

4. Op. cit. 18-19.

5. Andreas, Hist. of Kans.

the city was still controlled by the Pro-slavery Democrats. He was a successful newspaper man, and through the medium of his paper, and with the help of other influences less often in the limelight, Atchison had become a Free-state town. At the time of the election of delegates to the Wyandotte Convention, June 7, Atchison went Republican by a small majority.¹

After the election of officers the members and officers of the convention took the oath "to support the constitution of the United States" and agreed to discharge their duties faithfully as officers or members of the convention. The motion to take the oath was introduced by John P. Greer of Shawnee. While his motion referred merely to "officers employed by this constitution", William Hutchinson of Lawrence proposed to except the members of the convention from taking the oath. Stinson now moved to amend the resolution asking all members to take the oath. He was opposed by W. R. Griffith of Bourbon county, who maintained that the members of the convention were merely sent "as a committee of the people to prepare a constitution", and as such nothing was binding until the people had ratified the instrument. Hence the oath was unnecessary. However, James G. Blunt of Anderson county said that the Ohio Constitutional Convention in 1851 had debated the same question and had decided to take the oath.

1. Freedom's Champion, June 18, 1859. This was the first time that Atchison had gone Republican.

S. D. Houston of Riley county supported Stinson's amendment to the Greer resolution that all members of the convention should take the oath. He said that if the members desired their work to be the "Constitution of the State of Kansas", they had better take it. His argument prevailed and Stinson's amendment to Greer's resolution was adopted.¹

The convention proceeded with its work and on S. A. Kingman's motion the president appointed a committee of thirteen members on arrangement of business. On this committee he appointed ten Republicans and three Democrats. The Republicans on the committee were Ingalls, T. S. Wright, McCullough, Hutchinson, Blunt, Wm. Arthur, Burnett, Burris and Crocker; the Democrats were Stairwalt, McDowell and Slough.² The following day, July 6, the committee reported through J. Stairwalt submitted a plan which if adopted would have drafted the constitution through the medium of six committees composed of thirteen members each. The first committee was to report a constitution. The other committees were to work on the Schedule, the Apportionment, the Bill of Rights and Preamble, on Phraseology and Enrollment, and Ordinances and Boundaries. J. P. Slough of the same committee reported a plan to frame the constitution by dividing

1. Wyandotte Const. Convention, 21-22. Hoar concludes that delegates to a constitutional convention should swear to support the constitution of the U.S., and to faithfully and impartially perform the duties of their positions. Hoar, Const. Conv. p.189.

2. Ibid., 24-25.

the work among fifteen committees. His proposal was adopted except that a sixteenth committee was added. The president of the convention then proceeded to make the appointments.¹ The following table gives the names of the committees, the chairman, his party affiliation, and the number of Republicans and Democrats on each committee:²

<u>Committee</u>	<u>Chairman</u>	<u>Republ.</u>	<u>Dem.</u>	<u>Total</u>
1-Preamble & Bill of Rights.....	Hutchinson (R).....	3.....	2.....	5
2-Executive Dept.....	Greer..... (R).....	3.....	2.....	5
3-Legislative Dept.....	Thacher.... (R).....	3.....	2.....	5
4-Judicial Dept.....	Kingman.... (R).....	6.....	5.....	11
5-Militia.....	Blunt..... (R).....	3.....	2.....	5
6-Elections & Electors..	Townshend.. (R).....	5.....	2.....	7
7-Schedule.....	Burriss.... (R).....	9.....	2.....	11
8-Apportionment.....	Preston.... (R).....	10.....	3.....	13
9-Corp. & Banking.....	Graham.... (R).....	10.....	3.....	13
10-Education & Public Institutions.....	Griffith... (R).....	5.....	2.....	7
11-County & Township....	Ritchie.... (R).....	5.....	2.....	7
12-Ordinance & Publ. Debt.	Blood..... (R).....	11.....	2.....	13
13-Finance & Tax.....	Simpson.... (R).....	9.....	2.....	11
14-Amendm. & Miscell....	Houston.... (R).....	6.....	1.....	7
15-Print. & Arrangement.	Ingalls.... (R).....	9.....	6.....	15
16-Fed. Relations.....	T.S.Wright. (R).....	3.....	2.....	5

This table shows that out of the sixteen committees the Democrats did not hold a majority in a single one, nor was the position of chairman given to any of their members.³

The convention adopted the Standing Rules and Regulations of the last House of Representatives of the

1. Ibid., 26-27.

2. Wyandotte Const. Conv., 68-69, gives the president's appointments.

3. Andreas, Hist. of Kans., I, 173 lists J. T. Burriss of Johnson county as a Democrat and J. T. Barton also of Johnson county as a Republican. He must be mistaken, for Barton, originally of Virginia, almost invariably voted with the Democrats and Burriss with the Republicans. Were Andreas right the Democrats would have a majority in the Judic. Com. and a chairman in the committee on Schedule.

Territory, for the government of the organization. They were printed in pamphlet form and distributed among the members.¹ Towards the close of the convention, July 28, a two-thirds rule, introduced by Graham of Atchison, was passed which provided that "no portion of the constitution, as adopted, shall be reconsidered nor any rule suspended, except by the vote of two-thirds of the members elected to this convention". The object was to prevent the Democrats from striking out some of the objectionable clauses already embodied in the constitution. This led Houston of Riley county to remark that if there was anything objectionable in the constitution the change should be made. The rule was adopted, however, by a vote of 21 to 17.²

The convention next proceeded to consider the question of credentials. The delegates whose seats were in controversy were those from Wyandotte, Morris and Chase counties and the Platte region. On the first day of the convention, even before the roll of delegates was taken, S. A. Stinson raised the issue, but Slough opposed his motion as premature. It was called up for consideration, however, by Stinson and others on four different occasions that forenoon, when finally, on Griffith's motion, amended by Slough, the chair appointed a committee of seven, five Republicans and three Democrats, to investigate the credentials of the Wyandotte delegates. The members of the committee were

1. Rules for the Govt. of the Const. Conv. of the Ter. of Kans., also Wyandotte Const. Conv., 28.
 2. Wyandotte Const. Conv., 538-541.

Messrs. Greer, Graham, Kingman, Simpson, Griffith, Slough and McClellan.¹ On the same day, in the afternoon, and on Slough's motion, the question was referred to the committee on credentials.² On July 6, the committee submitted three reports. The first report included the names of delegates entitled to seats in the convention; the second was the report of the majority of the committee which denied Bennett and Welbourn the right to seats in the convention. The reasons given for the denial were, their certificates were not verified by the seal of the Territory; they were not given under the sanction of law, for the law which had called the convention into being had stipulated for 52 delegates only, and upon that basis the representation in the convention had been distributed. Any departure from that law would, therefore, be "dangerous in policy and of doubtful legality".³ The real reason, of course was politics. This report was signed by Greer, Simpson, Kingman and Griffith. The third report was that given by the minority, Slough and McClellan. They proposed to admit the Wyandotte delegates. They maintained that:

"an examination of the Journals of the two Houses of the late Legislature, [had exhibited] that it [had been] the intention in the late Legislature in the apportionment ... to give Wyandotte county two members. That from some cause unexplained to the committee, in the bill that received the signature of

-
1. Wyandotte Const. Conv., 15-21. The Journal has omitted Slough's name. See also, The Wyandotte Const. Report of the Committee, 1859, in Archives Dept. K.S.H.S.
 2. Kans. Const. Conv., 23.
 3. "Wyandotte Const. Report of Com. July 6, 1859", in Archives Dept.

the presiding officers of the two Houses and the Governor ... the County of Wyandotte [had been] omitted and [had] been thereby disfranchised".

They showed that in the election held June 7, Bennett and Welbourn had won over their Republican opponents. Furthermore, they maintained that it was the duty of the convention whenever "a portion of the people [had been] disfranchised either by accident, mistake or fraud to give them a proper representation and thereby correct the evil".¹ Stinson requested that the convention consider the minority report. This was agreed to and he again moved that the delegates be given a chance to "be heard by attorney". This was agreed to 27 to 23.² However, on Thatcher's motion, made the same day, the majority report was concurred in.³ When the time arrived, July 7, for the convention to hear the claimants by counsel, Kingman moved to refer the matter back again to the Committee on Credentials with instructions that the case be heard there. The motion was agreed to and the case was recommitted accordingly.⁴ On the 8th of July the Republican members of the committee reported that the claimants had failed to make their appearance before the committee at the appointed time. They therefore refused to waste more time on the question and resolved to dismiss the case by refusing to give Messrs. Bennett and Welbourn seats in the convention. On this question the convention divided 33 to 18, thus denying

1. "Wyandotte Const. Rep. of Com. Jl. 6, 1859" Minority Report. Archives Dept.

2. Wyandotte Const. Conv., 27.

3. Ibid., 31.

4. Ibid., 34.

Wyandotte county the right to participate in framing the Kansas Constitution.¹ W. R. Griffith of Bourbon county then asked the convention to grant the Wyandotte delegates seats in the convention with the privilege to participate in all the proceedings of the convention except in the right to vote. After a lengthy discussion this too was denied. The vote stood 25 to 25. The Democrats voted against the resolution, saying that they were "unwilling to compromise the rights of the people of Wyandotte county".² S. P. Slough of Leavenworth then submitted a protest stating that the election of Bennett and Welbourn had been participated in by "five hundred and forty-five legal voters under the laws of this Territory, and that the omission of Wyandotte county in the apportionment for this convention, was and is a gross fraud upon the people of said county", and asked that the protest be entered on the journal of the convention. The protest was signed by the 17 Democratic members of the convention.³ The protest was received and entered, as requested. The vote stood 39 to 12. Three days later, July the 11th, G. H. Lillie of Madison, asked to reconsider the question and the Wyandotte delegates were granted honorary seats in the convention by a vote of 28-20. Dutton, Graham, Hoffman, May, and T. S. Wright now voted affirmative, whereas

1. Ibid., 57-8. The vote on the resolution was not given but on the report of the Com.

2. Ibid., 58-64.

3. Wyandotte Const. Conv., 65.

on the Friday preceding they had voted negative.¹ The reason for the change remains a mystery.

During the discussion of the Wyandotte question J. P. Slough declared:

"And here I make the Statement:- Though it may be a startling one- that we are sitting here without authority of law. We are no Constitutional Convention, if we claim our seats by virtue of the act of the 11th of February last. That act of the Territorial Legislature received the signatures of officers and the Territorial Governor. And, taking the other power, that which purports to be the law and was signed by the Governor is not the same matter which passed the Legislature". He continued- "This Convention is omnipotent - so to speak - the highest political power restricted only by the Constitution of the United States. ... If these people have been disfranchised we can ... admit them or any other persons having similar claims, not only to the floor and the privileges of debates, but to the right to vote."²

Robert Graham of Atchinson, who had been a member of the Territorial Legislature that passed the Constitutional Convention Act rose to defend the honor of the Legislature. He said that the ratio per delegate had been 1 to 288. He admitted that the Legislature had been Republican but defended himself in these words:

"It comes with a very bad grace from these gentlemen - raising a hue and cry about fraud, when they themselves are members of the party that has inaugurated all the political frauds in the Territory. It is certain that a great fraud was practiced there, but how it came about I do not know. The bill had to go through the hands of clerks, printers and officers of both Houses. I do not charge fraud upon any man, but fraud was committed. But to bring this charge against the Republican party, who in all things in this matter have acted fairly and honorably - it comes with a very bad grace from Leavenworth."³

The Republicans refused to accept the assumption that the

-
1. Ibid., 63 & 78. Lillie says he voted neg. the first time but the Journal does not agree with his statement. Ingalls had voted affirm. the first time but did not vote the second time; while Ritchie changed from affirm. to negative.
 2. Wyandotte Const. Conv., 42.
 3. Wyandotte Const. Conv., 48

convention was omnipotent. It was inexpedient for them to accept this view. James G. Blunt said:

"That same hydra-monster that has been so long treading us down to the dust, appears here today for the purpose of annoying us, and tempting us to put our foot in it in such a manner as to make this constitution null and void. ... Did I not fear that it would be used as a club against us, I could acquiesce further in the wishes of gentlemen. But I conceive that our only safety is in confining ourselves to the letter of the law, and that confines us to fifty-two members. ... If we have the power to increase our number, we may diminish also, and we may do so ad infinitum."¹

The convention delegates here were debating the question of whether the convention, once assembled, is sovereign and can alter legislative instructions. Although the question was decided on the basis of expediency rather than on a thorough knowledge of the subject matter, the result was the same. It appears that some mischief had been done at the time the legislative bill was signed by the officers. It is questionable whether the convention had the authority to alter even a legislative bill fraudulently enacted even though it deprived Wyandotte county of being represented in the convention.²

1. Ibid., 44.

2. Dodd, Walter F., Revision & Amendment of State Constitution, pp.88-92. Dodd and Hoar agree that conventions may issue orders to fill vacancies in the membership. See also Hoar op. cit. pp.171-2. Jameson op.cit. p.331 denies that a convention can itself fill vacancies in its own ranks because it would render the convention "pro tanto", self appointing. In the Berlin Controversy in the Mass. convention, 1853, the convention by an overwhelming majority decided in favor of its power to authorize the filling of vacancies. The N.Y. Const. Conv. Commission in Revision of the State Constitution, 1915, p.58 held that "The more sensible view under such circumstances is that the convention may direct an election to fill a vacancy." The question here, however, was different even though it was similar. It involved the legality of the Legisl. Act in addition to the power of the convention to correct or alter that act.

After spending the first week in preparing the machinery the convention was now ready to frame a constitution. The Ohio Constitution was selected as a basis for discussion.¹ Only the most troublesome problems are to be treated here.

The article on the Executive Department was introduced by John P. Greer, chairman of the committee, and the convention spent most of its time devoted to this article in debating what to do about the second section which provided for the disposition of the election returns. It was mentioned several times that this section had been taken from the Ohio Constitution.² According to the committee draft the returning officers should submit the results of the elections to the President of the Senate, "who, during the first week of the session" should "open and publish them, and declare the result in the presence of the majority of the members of each House of the General Assembly".³ In case of a tie the two houses by "joint vote" should choose one of the two highest for the office. The argument centered around the question to whom the election returns should be sent; also, whether the convention was performing a function that belonged to the Legislature, if it provided that the township officers should submit results to the County Board of Canvassers and they in turn should report to the State Board of Canvassers.

-
1. Wyandotte Const. Conv., pp.130-32. Also John A. Martin's account of the Constitution in Andreas History of Kansas, pp.173-76. The vote was 25 for the Ohio Const., 23 for the Ind. Const., and 1 for Kentucky. Wilder Annals p.261f.
 2. Wyandotte Const. Conv., 350, 352.
 3. Ibid., 346.

After considerable time had been spent in committee of the whole, Samuel Hipple of Pennsylvania introduced a substitute for the original section, providing that the returns be directed by the returning officers to the President of the Senate and Speaker of the House. Burriss of Ohio said that the substitute was taken from the Constitution of the State of Iowa. Thacher proposed an amendment to substitute the words "clerks of the several counties" for "returning officers". With minor changes the committee of the whole adopted the substitute. J. T. Burriss, of Johnson county, had introduced a substitute section in committee of the whole but it had received no consideration there. When the committee rose and the sections of the article were considered in the convention, however, Burriss again submitted his proposal as a substitute for the substitute, and this time it was adopted. As it stood at this stage the section provided that until otherwise provided for by law the clerks of the boards of the county canvassers should transmit the returns of every election to the President of the Senate who should then "open and publish them in the presence of both houses of the Legislature in joint convention assembled".¹

The article was then referred to the Committee on Phraseology and Arrangement of which J. J. Ingalls was chairman. The committee reported on July 25, and among other changes, amended section two, providing for the transmission of the returns to the Secretary of State instead of to the

1. Wyandotte Const. Conv., 353-355.

President of the Senate.¹ The change was agreed to and the article was again referred back to the Committee for Arrangement and Enrollment. No further changes are reported, yet section two in the adopted constitution provides for a State Board of Canvassers composed of the Secretary of State, the Lieutenant Governor and the Attorney General. How this got into the Constitution the Journal fails to explain. Thacher had suggested it early in the discussion but not in the form of a motion or amendment.²

The veto power of the Governor was also discussed at some length. Although the convention treated it in connection with the Legislative Department it is discussed here. William C. McDowell of Leavenworth, thought the convention should abolish the veto power of the Governor. To do this would enable the people to locate the blame, if laws had been passed that misrepresented them. He thought it absurd to place so much power in one man.³ He was supported by J. Ritchie of Topeka who said that he was not convinced that just because a man had been promoted "to the chair of Governor, that on that account he possessed really any better judgment than when he stood among the people."⁴

1. Ibid., 466.

2., Ibid., 348. Another reference is made to the Exec. Dept. on p. 541, where it says that on Thacher's motion the Convention resumes the work of verification of the Article, but omits all details. Miss Purdue says the section was amended so as to include the Board of State Canvassers, but the writer has failed to find the amendment. Ibid., 679.

3. Ibid., 129.

4. Wyandotte Const. Conv., 130.

J. P. Greer also was opposed to the veto power of the Governor unless it could be so qualified that the two Houses by majority vote could override the veto. Thus it would really check hasty legislation. S. D. Houston preferred to give the Legislature the power to override the veto by a 3/5 vote. J. G. Blunt reminded the delegates that the late Ohio Constitution adopted by the convention as the basis for action had omitted the veto clause. He favored to insert the veto but would permit the Legislature to overrule it by a majority vote of its members.¹ On this question all party lines were forgotten. S. A. Stinson opposed his colleague, Wm. C. McDowell. He regarded the veto power as the most wholesome restriction upon the Legislature. He was supported by J. P. Slough and S. O. Thacher who thought it unwise to depart from "old land marks". Others like W. R. Griffith and Slough referred to the Federal Government in support of their contention in favor of the veto power. Changes were proposed including a total suppression of the veto, to override it by a majority vote, by 3/5 vote, and 5/9 vote; but all deviations from the 2/3 rule were rejected.² Thus the convention fell in line with the trends of the time to strengthen the power of the executive at the expense of the Legislative Department.

Under the Legislative Department discussion was

1. Ibid., 130-132.

2. Ibid.

centered around the question of representation, the legislative power of the Senate, and apportionment. S. O. Thacher was chairman of the Legislative Committee and on the 12th of July he reported 28 sections. Section two provided that the first assembly should consist of 75 members chosen for one year and the Senate should consist of 25 members chosen for two years. After the first election under this constitution the number should be determined by law.¹ Some of the Democrats proposed to reduce the representation. J. P. Slough, supported by McDowell, moved to reduce the representation in the House to fifty, while J. T. Barton moved to set the limit at sixty. The Republicans, however, agreed to support Thacher and all attempts to reduce the number failed. Yet upon J. W. Forman's motion it was agreed that the number should never exceed one hundred representatives and thirty-three senators.² The argument advanced in favor of reduction was based on economy, while that of the Republicans was based on geographic representation, giving each county at least one representative in the House.³ Whether these were the real reasons is questionable, for certainly the Democrats knew that they held a majority in the older counties, and the Republicans must have known that the late settlers had come largely from the northern States.

When they came to the 12th section which provided that bills might originate in either House (the Convention

1. Ibid., 112.

2. Wyandotte Const. Conv., 120.

3. Ibid., 115-121.

was sitting in committee of the whole, with Hipple in the chair), President Winchell submitted as a substitute that all bills should originate in the House of Representatives and be subject to amendment or rejection by the Senate.¹

He thought this would eliminate confusion in the Legislature and thus prevent errors. For a precedent he referred to the fact that all revenue bills in nearly all constitutions originated in the popular branch. He argued that this would elevate the Senate to the position of a board of censors and critics. The chairman of the committee, S. O. Thacher, strenuously opposed the substitute. He maintained that it had no precedent and that it was unwise to experiment.²

In the first contention he was mistaken, for the Virginia Constitutions of 1776 and 1850, both had had similar clauses, although the constitution of 1850 had abolished it.³ Thacher opposed it further, saying, that it would compel the Senate to wait on the House of Representatives for work and have the evil effect of turning the twenty-five senators into lobby members of the House. While Ritchie said that if the Senate was to have the same power with the House in originating bills he would favor but one body. But all further opposition availed nothing and the substitute was adopted 28 to 13.⁴

A much more troublesome problem was that of

1. Ibid., 113 & 126.

2. Ibid., 127-128.

3. Thorpe, American Charters, Constitutions and Organic Laws, 1492-1908, VII, 3816, 3824, 3839.

4. Wyandotte Const. Conv., 129

apportionment, A committee of thirteen had been appointed by the president to determine the apportionment of the State. It was headed by H. D. Preston of Shawnee and comprised 10 Republicans, including Thacher, and 3 Democrats.¹ The Committee was to get its information as to the population from the Secretary of Interior, as based on the Census taken under the act of the last Legislative Assembly.² On the 20th of July the committee reported a plan of apportionment, and suggested among other things that every organized county was to have at least one representative and that the unorganized counties should be attached to those that were organized. This led S.A. Stinson to remark: "It is not square miles and acres that are to be represented, but people; and although there may be hundreds of square miles with nothing on the land, it does not work injustice if these square miles are not represented."³ The report also included a plan of apportionment but the question was recommitted to the committee for further consideration.⁴ On the 26th of July the committee reported a second time. This time the majority plan provided for a Republican scheme of representation which would render a Democratic victory impossible in either House. The report contained three sections and the third section provided for the following plan of representation:⁵

-
1. Ibid., 68.
 2. Ibid., 37-8, 66-67.
 - 3., Ibid., 357-359.
 4. Ibid., 261.
 5. Ibid., 75-76.

		<u>Rep.</u>	<u>Sen.</u>
1st Dist.	Doniphan.....	4	2
2nd "	Atchison & Brown.....	6	2
3rd "	Nemaha, Marshall & Washington..	2	1
4th "	Clay, Riley & Potawatonic.....	4	1
5th "	Dickinson, Davis & Wabaunsee...	3	1
6th "	Shawnee, Jackson & Jefferson...	8	2
7th "	Leavenworth.....	9	3
8th "	Douglas, Johnson & Wyandotte...13	13	4
9th "	Lykins, Linn and Bourbon.....	9	3
10th "	Allen, Anderson & Franklin.....	6	2
11th "	Woodson & Madison.....	2	1
12th "	Coffee, Osage & Breckenridge...	6	2
13th "	Morris, Chase & Butler.....	2	1
14th "	Arapahoe, Godfrey, Greenwood, Hunter, Wilson, Dorn & McGee...	1	1
	Total.....	74	25

The Democrats of Leavenworth exposed the gerrymandering scheme of the Republicans to the convention, but without practical results. Wm. C. McDowell said that Brown county, with a safe Republican margin had been added to Atchison, a doubtful county, in order to give both a safe Republican margin; thus giving the second district six Republican representatives. In the eighth district, Johnson and Wyandotte were Democratic, but the large Republican majority of Douglas county would give the district a safe Republican victory of 13 representatives. Moreover, the Convention had instructed the committee to give each organized county at least one representative. This, in fact, was defeated by their scheme of gerrymandering, because the majority of the population of Brown, Wyandotte and Johnson counties were Democrats who would not be represented by Republican representatives. In this way, said McDowell, they had disfranchised all the Democratic counties except two, Doniphan and Leavenworth, and they knew that if they

would attach any counties to these Democratic strongholds they would only add that many more Democratic representatives.¹ That was the only reason they left them unattached. The three Democrats of the committee submitted a minority report but it was of no avail. The majority report was adopted by a vote of 26 to 15.² The Democrats, led by S. A. Stinson, entered a protest against the action of the convention in the apportionment of the State. In it they contended that the apportionment was "based upon no rule of representation, and was evidently devised to meet the necessity of a political party." They further protested against the action of the majority because they had prevented a full discussion of the measure by moving the previous question.³ The St. Joseph County Forum⁴ and the Herald of Freedom severely criticised the action of the majority. The Herald regretted "that so good an instrument should be marred by a foul blotch", and regarded the disfranchisement as "equal, if not greater than any practiced by the Border Ruffians. The apportionment in the Lecompton Constitution was fair and honorable in comparison with this."⁵

On the 13th of July, S. A. Kingman, chairman of the Committee on Judiciary, presented a report of twenty-one

-
1. Wyandotte Const. Conv., 477-79.
 2. Ibid., 482. Two Republicans, Koss and Greer, voted neg. but all Democrats present voted Democratic.
 3. Wyandotte Const. Conv., 518-19.
 4. Kans. Const. Clippings, I, 45.
 5. Herald of Freedom, Aug. 13, 1859.

sections. It provided that the Judicial power of the State should be vested in a Supreme Court, District Courts, Probate Courts, Justices of the Peace and such other courts inferior to the Supreme Court as may be provided by law.¹ There was but little debate on any one of the sections except number 14 (now 13, for one of the sections was stricken out). This had to do with the compensation of the judges of the Supreme and District Courts. The convention, while in committee of the whole and on J. Blood's motion, had stricken from the original section the clause which provided a minimum salary of \$2,000 for the Supreme and District Court judges.² Most of the eighteen lawyers had opposed it. When therefore the section was considered in the convention efforts were made to guarantee a reasonable minimum salary for these judges. C. B. McClelland of Jefferson county, a merchant, moved to make the minimum salary \$1,800. The motion was tabled, 25 to 21. Eleven of the lawyers voted negative. Then Robert Graham, another merchant of Atchison renewed the effort for a \$2,000 minimum salary. He wanted the best man on the bench. Wrigley of Doniphan, a lawyer, moved to amend Graham's motion by substituting \$1,500 for \$2,000, but withdrew it when a motion to table both amendments had failed, 21 to 29.³ Soon J. Blood, of Douglas, also a merchant, renewed the effort for \$1,500 as a minimum

1. Wyandotte Const. Conv., 145.

2. Ibid., 155.

3. Ibid., 159-161.

salary, but also withdrew it so as to test the strength of the convention on Graham's motion for \$2,000. The test on Graham's motion came when Thatcher moved to table the amendment, which succeeded 31 to 18.¹ Finally the convention agreed to the clause introduced by Burriss and amended by Slough, viz: "Justices of the Supreme Court and judges shall receive such compensation as may be provided by law, and not more than \$2,000". But almost immediately thereafter, Slough explained that the intention of his amendment had been to make the compensation "\$1,500 to each judge". The convention consented to the change. The final copy was made to read, however, "not less than \$1,500 to each justice or judge each year".² On S. A. Stinson's motion the Supreme Court judges were given the ranking of Chief Justice and Associate Justices.³ And on Wm. C. McDowell's motion the justices of the peace per county were increased from one to two.⁴ On the debate over this article the convention divided on the basis of their professional interests rather than on that of politics. Usually the lawyers and merchants voted for higher salaried judges.⁵

The question of suffrage came up in the convention on July eleven, when Wm. Hutchinson of Lawrence presented the petition of 252 inhabitants of Douglas and Shawnee counties, "on the subject of elective franchise and the rights

1. Wyandotte Const. Conv., 161-167.

2. Ibid., 167; also Ibid., 581.

3. Ibid., 149.

4. Ibid., 158.

5. Ibid., 167.

of females in connection therewith."¹ A long debate ensued over the questions of receiving the memorial and of hearing Mrs. Nichols. Somewhat prophetic were the words of S. D. Houston of Riley who said:

"The time is coming when it will be impossible for any power in this land to curtail one single human right. If the Republican party, which has come into power for the moment, shall ignore these rights, it will devolve upon some other party to develop them. But, sir, whilst we are in power, I would say to gentlemen, let no man hesitate to do right - let us have the advantage of the whole field as it spreads itself before our vision. Gentlemen may laugh, but it is one thing to laugh and another thing to have a solid pillar of stone to stand upon."²

J. P. Greer doubted the propriety, as well as the policy, of allowing persons who petition the convention to come in and be heard. "I think", said he, "the Convention fully competent to dispose of all questions that legitimately come before it." The one man really enthusiastic for the cause which Mrs. Nichols represented was Wm. Hutchinson. He pleaded her cause and said among other things:

"At a Convention of ladies in Southern Kansas, Mrs. Nichols was elected to appear here and advocate their rights in connection with the various subjects embraced in their petition. Sir, I am willing to stand open and above-ground on this question. I am sorry that a question agitating the public mind so universally as woman's rights - calling together intelligent audiences in every State in the Union - should have become, in our estimation, of so slight importance as to be thought unbecoming the dignity of the body to be heard in open Convention! I think no evil consequences can result from giving our attention to a question so interesting to half the people of the Territory. The day is coming when open and fair discussion of all questions pertaining to the constitutional rights of women as well as men, must be heard before all such bodies as this."³

1. Ibid., 72.

2. Ibid., 73-74.

3. Wyandotte Const. Conv., 75.

The convention agreed to permit the committees on Judiciary and Elective Franchise to receive the memorial, however, and also to allow Mrs. Nichols the use of the Hall, during an evening.¹ The petition presented by the women through Mrs. Nichols reads:

"Greeting: We, the undersigned citizens of Kansas Territory, do respectfully represent to your Honorable Body that, whereas, the women of the State have individually an evident common interest with its men in the protection of life, liberty, property and intelligent culture; and whereas, the enjoyment of these guarantees involves the possession of equal political rights:- Therefore we, the undersigned, being of full age, do respectfully petition and protest against any Constitutional distinctions based on difference of sex. To this end your petitioners will ever pray."²

To this the respective committees responded, July 14, that they did not deny that sex involved "them in greater and more complicated responsibilities", but that they were compelled to dissent from the conclusion of the petitioners.

"They think the rights of women are safe in present hands. ... Such rights as are natural are now enjoyed as fully by women as men. Such rights and duties as are merely political in their character, they should be relieved from, that they may have more time to attend to those 'greater and more complicated responsibilities' which petitioners claim and your committee admits, devolve upon women".³ When the Miscellaneous Article was under discussion Ed. Stokes of Douglas offered a third section in which he attempted to extend the right of suffrage on the following conditions:

1. Ibid., 75-6, also 383.

2. Wyandotte Const.- Report of Com., 1859, Archives Dept.

3. Wyandotte Const. Conv., 169.

"The Legislature may, at any regular session provide for submitting the question of female suffrage, and all persons twenty-one years of age, and over, who have resided in the State six months previous to such election, shall be allowed to vote. Ballots shall be prepared with the words 'for female suffrage' and 'against female suffrage', then at all future elections there shall be no distinction in the qualifications of electors on account of sex."

On motion by J. P. Slough the section was tabled.¹ While Mrs. Nichols was unable to win the Wyandotte delegates to the support of her cause to extend the elective franchise to women in political elections, nevertheless she was able to win enough votes to incorporate a rather vague negative clause into the Legislative Article which was to confer on women the right of suffrage in school elections. Even this section, introduced by Thacher, provoked considerable opposition, but was finally adopted by a vote of 22 to 19.² Hence her efforts were not entirely in vain.³

When the Article on Election and Suffrage was under consideration, Section one read that "every white male person ... shall be deemed a qualified elector." Wm. Hutchinson moved to strike out the word "white", but the motion was lost 3 - 37; Hutchinson, Ritchie and Stokes cast the three affirmative votes.⁴ Thus all efforts made in the convention to extend the suffrage were defeated.

1. Ibid., 324.

2. The yeas and nays were not called for. Ibid., 135-37. The section is No. 23, Art. II.

3. Kansas City Star, Oct. 15, 1909. A large portrait of her, painted in oil hangs in the public library in Kansas City, Kansas, to commemorate her efforts. She died in California in 1885, two years before the Kansas Legislature passed the bill that conferred on the women of Kansas the right of municipal suffrage. The women of the Columbian Club placed the painting there.

4. Wyandotte Op. cit. pp.300-301.

The article on county and township organization, as originally submitted by Mr. Ritchie, chairman of the committee, provided a method for changing county lines and county seats, limited the tenure of office of the county sheriff and treasurer, provided for the election of county and township officers and for the removal of justice of the peace and township officers.¹ The debate centered about section one. The questions that were debated were, first whether a change in county lines and county seat should be made upon the approval of the people of the several counties affected by such a change or whether it should be made upon the consent of the people residing in that district. A second question was, whether the change should be made through the State Legislature. After a long debate during the course of which numerous substitutes and amendments were presented² the convention finally decided upon the following solution:

"The Legislature shall provide for organizing new counties, locating county seats, and changing county lines; but no county seat shall be changed without the consent of a majority of the electors of the county; nor any county organized, nor the lines of any county changed so as to include an area of less than four hundred and thirty-two square miles."³

On July 11, Robert Graham of Atchison, chairman of the Committee on Corporations and Banking submitted seven sections on Banking and Currency. The article prohibited the establishment of banks otherwise than under the general banking law. It provided for the regulation of the State

1. Wyandotte Const. Conv., 189-190.

2. Ibid., 195-200, 221-228.

3. Ibid., 584.

banks and prohibited the State from becoming a stockholder in any bank.¹ The discussion centered on the second section involving the questions of the circulating notes and their collateral security. The original section was regarded as too indefinite. President Winchell introduced a substitute, therefore, which required that all general banking laws should require of its banks, as collateral security for its circulating notes, a deposit with the auditor of the State, bonds of the several States or of the United States equal in amount to the circulating notes of the bank. These bonds were to be valued at the cash rates of the New York Stock Exchange. The substitute was adopted, with modifications.² S. A. Kingman moved to substitute the bonds of the State of Kansas for those of the several states,³ and although it was adopted at first, it was later struck out, on Graham's motion, and the original wording was retained.⁴ B. Wrigley of Doniphan attempted to amend section six so as to require that a majority of the stockholders of any bank should be resident householders of the county in which the bank was located. This led to a lengthy debate and was argued for by Messrs. Wrigley, Greer, Graham, Hutchinson, J. Blood and McClelland, but it was defeated. The object, as pointed out by Wrigley, was to prevent the speculators from exploiting the people. He related his experience in

1. Ibid., 80.

2. Wyandotte Const. Conv., 87.

3. Ibid., 87-88.

4. Ibid., 105-109.

Indiana where "the bill-holder sometimes could not find the bank, or at least it was often difficult for him to find a place where he might present his note for payment. He might sometimes find the bank in a stump, and again sometimes in the hat of some president that might be walking in the northern swamps". He was opposed to such license in banking.¹ On Mr. Greer's motion a seventh section was made to read that "no banking institution shall issue circulating notes of a less denomination than five dollars",² and Mr. Blood introduced an eighth section which provided that before a banking law could be enforced it would have to be approved by a majority vote of the people voting at the general election.³

The article on corporations presented by Graham elicited but little discussion. Six sections were presented, none were added, although some changes were made. On Slough's motion section one was struck out and replaced by clauses which he said he derived from the first and second sections of the article on corporations in the Ohio Constitution. The essential difference was that the substitute prohibited municipal corporations from being created by special law.⁴ While in committee of the whole, and again on Slough's motion the second section was amended so as to make stockholders liable for double the amount of their investment.⁵

1. Ibid., 89-92.

2. Ibid., 102-103.

3. Ibid., 104.

4. Ibid., 79-81.

5. Wyandotte Const. Conv., 81.

The question of the Kansas Claims was likewise brought before the convention.¹ The tabular report was printed in the Journal and showed 463 claimants who claimed a total loss of \$676,020.21, incurred during the years of the Civil War, 1856 and 1857. Of the amount claimed the commissioners had allowed \$412,978.03.² In the convention the whole question was referred to the Committee on Ordinance and Public Debt. On the 26th of July the committee reported section nine to the convention relating to the question under consideration. It provided that "No debt of the Territory [should] be assumed by the State, except by a law passed by a vote of two-thirds of each branch of the Legislature".³ This led to a debate in which those who had interest in the claims opposed the section on the ground that it was equivalent to a repudiation of the Territorial debt. The attack was led by J. Blood and S. D. Houston. The result was that the section was stricken out. On McDowell's motion, however, the convention added a resolution to the article on Resolutions which provided "That Congress be further requested to assume the debt of the Territory".⁴ Some Republicans feared that the Democrats were attempting to play a sharp game by favoring the incorporation of the debt question into the Constitution, and then would turn

1. Ibid., 94.

2. Ibid., 403-430.

3. Ibid., 482.

4. Ibid., 558 & 592.

around and try to defeat the Constitution on the ground of that very debt.¹

The question of internal improvements did not elicit much discussion. It was introduced by S. E. Hoffman of Woodson county, in connection with the article on Finance and Taxation. This section prohibited the State from ever being a party in constructing and carrying on any works of internal improvement. Should the Federal Government, however, make grants of land or property to the state for the purpose of making internal improvements, in that case the state should devote thereto the avails of such grants. P. S. Parks opposed the amendment and pointed out its possible evils by citing as an example the debts incurred by Indiana during the thirties of the 19th century, and proposed an out and out restriction. S. A. Stinson of Leavenworth then introduced a substitute for the substitute, viz: "The State shall never be a party to carrying on works of public improvement". This was adopted,² and helped to keep the State from becoming a partner in the construction of bridges and railroads.³

On the 18th of July a Homestead exemption clause was submitted to the Convention by S. D. Houston, chairman of the Committee of the Miscellaneous article. The clause

1. Lawrence Republican, Jl. 21, 1859.

2. Wyandotte Const. Conv., 325, 328-334.

3. Thomas Carney tried his best to make the State a partner in the building of bridges across the Kaw river in the Legis. of 1862. It failed by one vote.

provided that real, personal or mixed property to the value of \$2,000 should be exempt from forced sale under any process of law, and was not to be alienated without the just consent of husband and wife, but no property should be exempt from sale for taxes or for the payment of the initial cost of the same.¹ A long discussion followed in which President Winchell, Houston, Griffith, Thacher, Blunt and Kingman took active part. In the course of the discussion S. D. Houston expressed himself as opposed to the large credit system. He said:

"It puts everything into the hands of the creditor. I do not know but one of the most wholesome provisions in the Constitution would be something like this: That after a certain time - say the first of January, 1865 - no debts shall be collectable by law in the State of Kansas. ... But we only ask for any person who comes into our State and makes a home for his family that it shall not be swept away from him by any ruthless intervention."²

S. A. Kingman insisted that to place any limitation on the value of the homestead was wrong:

"One hundred thousand dollars is as disgusting to me as one thousand. ... In either case it is opposed to the principle, that a home is a home, ... the hearthstone, the fireside around which a man may gather his family, with the assurance that neither the hand of law ... nor all the uncertainties of life can eject them from the possession of it..."³

S. O. Thacher regarded the distinction between an exemption law and a homestead law as a distinction without a difference. "I am not willing to allow any man to sport on one hundred and sixty acres, obtain credit from friendly men, and then

1. Wyandotte, op. cit. 270-71.

2. Ibid., 309.

3. Ibid., 338.

turn around and cheat them out of it."¹ President Winchell then moved to strike out the first three lines which limited the property to a definite value and asked to insert a clause limiting the property to 160 acres of farming land or one acre within the limits of an incorporated town or city, together with all the improvements thereon.² James G. Blunt then pled for the tenant and the laboring man who were without a home and protection, both; and cited an incident where the tenant, according to the present proposal, would be left at the mercy of the owner of the homestead and without any equivalent protection because he was too poor to afford a homestead.³ The amendment passed 33 to 7, and the resolution was adopted.⁴ J. P. Greer proposed to make it a real homestead by striking out the section which would authorize its sale for indebtedness, but his motion failed to carry, and the resolution was sent to the Committee on Phraseology and Arrangement.⁵ The committee was instructed to submit to a vote by the people the Homestead exemption clause as an article separate from the constitution. The motion to instruct the committee was carried, 35 to 8, and the convention adopted the article the following day, July 29, 1859.⁶

The slavery question was discussed from various angles and on different occasions. The convention considered

1. Wyandotte Const. Conv., 339.

2. Ibid.

3. Ibid.

4. Ibid., 342-345.

5. Ibid., 345.

6. Ibid., 520-23 and 556.

the fugitive slave act, the education of the negro, the admission of free negroes and mulattoes, and the question of negro suffrage. On the 13th of July, 1859, James Hanway, member of the convention from Franklin county, wrote concerning the question:

"It matters not what is the subject matter before the Convention, the Democracy are sure to have his case attended to, not only this, but he is of such an important personage that whenever you find a Representative and Democrat talking together - Mr. Sambo must be introduced and his case duly attended to. It is in the Conv., outside of the bar, in the streets, Hotels, boarding houses and even in the fashionable parlour of our Wyandotte friends, ... Jim Buchanan is nowhere, when Sambo and his keepers are about ..."¹

When the Bill of Rights was under consideration the last clause of the first section provoked a lengthy debate. It read:"... and the right of all men to the control of their persons, exists prior to law and is inalienable."² The Democrats, led by Wm. C. McDowell, regarded the language of the last part of the section as an enunciation of the "higher law principle" and proposed that that sort of thing should not "go into any constitution" adopted at Wyandotte: for if that doctrine was correct no man could be made amenable to any criminal law. If it were adopted "it would place us in the attitude of the commission of solecism; recognizing somewhere the right and power to punish crime, yet in the Bill of Rights" we would obviate it "by asserting that the control of the person is above, beyond and anterior to all law."³ Benj. Wrigley maintained that it set at

1. James Hanway Papers, I, Letter of July 18, 1859.

2. Wyandotte Const. Conv., 187.

3. Ibid., 272 & 276.

defiance the federal fugitive slave law, which he maintained was its object. S. O. Thacher argued, that the principle of the Declaration of Independence permeated the Federal Constitution, and maintained that it did not fasten slavery upon anyone. The clause pertaining to those who "owe service" was but a declaration that no contract should be invalidated. He spurned the thought that "the constitution recogniz [ed] the right of property in man".¹ As the debate continued James G. Blunt denounced the fugitive slave law in most vehement terms, saying that it was not only,

"... inhuman and infamous, but ... beyond doubt, a violation of the Constitution of the United States." He continued, "I will here be frank to declare that while I will never interfere with the institution of slavery, where it exists in the States by municipal law, neither will I in any manner be responsible for any of its sins. While I shall use no means to induce slaves to flee from their masters, neither will I suffer myself to be used as an instrument for their capture and return. I expect to recognize every man upon the free soil of Kansas as a free man, without reference to the color of his skin unless I know that he is guilty of a crime that should deprive him of his liberty, and so help me God, while the fugitive slave act remains upon the statute books I shall ever consider it a Christian duty to disregard its cruel mandates. No wicked and infamous law shall ever deter me from feeding the hungry and sheltering the weary, and exercising towards a fellow-being the kind offices of a common humanity. 'As ye would that others should do unto you, do ye even so unto them', ... and I desire here to say that the officer who shall ever command me, as one of the posse comitatus, to aid in the execution of the fugitive slave law offers to me a direct insult and he may expect me to act accordingly. I will ever hurl defiance at its commands, despite corrupt and tyrannical power."²

After several delegates had admitted that the clause was ambiguous, and several attempts had failed to change the section, S. A. Kingman introduced a substitute that quieted

1. Ibid., 72-74.

2. Wyandotte Const. Conv., 277-78.

the troubled waters. He said that it contained terms that were already fixed in the minds of the American people and was derived from the Declaration of Independence. It reads: "All men are possessed of equal and inalienable rights, among which are those of life, liberty and the pursuit of happiness."¹ After further discussion the substitute was adopted, 42 to 6. Messrs. Burnett, Hutchinson, Houston, Ritchie, Stokes and President Winchell voted negative.² The Democrats voted affirmative. The section prohibiting slavery was passed by a vote of 48 to 1. J. W. Forman of Doniphan voted in the negative.³ It was adopted without debate.

The question of educating the negro came up in connection with the second section of the article on Education.⁴ Wm. C. McDowell of Leavenworth asked the convention to insert the word "white" after "admission of" thus he would close the schools to all but "white pupils of both sexes". The amendment failed, however, 26 to 25. S. A. Stinson immediately moved to add the following clause to the section: "... but no negro or mulatto pupils shall be admitted to such schools." In support of it he said: "We come from Leavenworth county representing a popular sovereignty constituency, whose will is in favor of excluding negroes from the common schools of Kansas and we don't wish

1. Ibid., 278-283.

2. Ibid., 285.

3. Ibid., 286-87.

4. Ibid., 175.

to let an opportunity go by without so expressing that sentiment."¹ A debate followed during the course of which J. P. Slough remarked: "I shall never consent, by my vote, or by any action of mine, that those upon whom Nature's God has stamped inferiority, shall ever associate with my children in our common schools." He favored the idea of educating the blacks, but would keep a separate fund for this purpose and use what they contributed to the government to educate their children.² S. O. Thacher, J. G. Blunt and J. Ritchie upheld the argument of the opposition. Thacher said: "Gentlemen, I trust this proposition comes not from your hearts. Let me believe, rather, it is your eagerness, in your forlorn condition, to make party capital, that forces you to take this wicked shift. ... What meaning would there be in our great struggle for liberty, what lesson would it teach to the world, were we to close the fearful conflict by an act as tyrannical and unnecessary as this?"³ On Blunt's motion, Stinson's motion to add the prohibition clause was tabled 29 to 20.⁴

While the Miscellaneous article was under discussion Wm. C. McDowell introduced the following clause as an additional section: "No negro or mulatto shall come into or settle in this State after the adoption of the Constitution." Immediately J. Ritchie moved to table the motion.

1. Wyandotte Const. Conv., 175.

2. Ibid., 177.

3. Ibid., 181.

4. Ibid., 192.

It carried 28 to 20.¹ On the 25th of July the subject was revived by P. S. Parks of Leavenworth but the chair ruled it out of order.² The question of negro suffrage, however, was decided against the colored men by retaining the word "white" in the restriction clause. The Democrats, although they favored the retention of the word "white", were willing to grant this privilege to the Indians who had adopted the habits of the "whites". Wm. A. Phillips wrote that it was generally conceded that the Indian who could chew a plug of tobacco and drink a half pint of raw whiskey should fall under that head.³

Two attempts were made during the convention to authorize the Legislature to regulate or prohibit the sale of alcoholic liquors except for mechanical and medicinal purposes. Ritchie's resolution was introduced on July 11, and referred to the Committee on the Legislative Department,⁴ while Preston introduced his on the twenty-third. J. P. Slough moved to table it, whereupon Blunt asked to put a bottle of whiskey with it. The yeas and nays were called and the convention refused to table it, 19 - 31. A debate followed in which Thacher and Blunt argued that for the convention to attempt to regulate or prohibit the sale of alcoholic liquors was legislation, so Preston withdrew the section.⁵

1. Ibid., 325.

2. Ibid., 465.

3. Kansas Constitutions - Clippings, I, 12.

4. Wyandotte Const. Conv. 76.

5. Ibid., 457-59.

The question of settling the boundary of Kansas elicited as much discussion, if not more, than any other subject before the convention. The question had come up for consideration during the last Territorial Legislature. Sen. C. K. Holliday of Topeka, on the 7th of January, introduced a joint resolution into the Senate asking for the annexation of "that portion of Nebraska lying ... south of the Platte River. The resolution was adopted on the 14th by a vote of 8 to 5.¹ The argument advanced in support of it was that it would give Kansas the required population.² In the convention the subject was introduced by T. H. Townshend of Douglas county when he sent the credentials of the delegates from the Territory of Nebraska to the Committee on Credentials. This happened on the 11th of July and the question was considered again, again, and again until the closing days of the convention. The popularity of the question seems to have rested in the fact that it included within its scope questions of sufficiently diverse interest that the Republicans feared that through it the Democrats might win enough votes from the Republican ranks, by log-rolling or otherwise, so as to annex the Platt region to the State and thus gain the political ascendancy in the organization of the State government; for the Republicans feared that the Democrats were supporting the annexation

1. Council Jnl. Kans. Ter., 1859, 70-76. Messrs. Crozier, Challis, Holliday, Harding, Mead, Patrick, Root & Wright voted affirm. and Allen, Learnard, Nash, Libbett & C.W. Babcock voted neg.

2. Ibid., 70f.

project because southern Nebraska was a Democratic stronghold.¹ A few of the Republicans supported the Democrats on this annexation project, among these was S. D. Houston of Riley. He made a strong attempt to retain the western boundary of Kansas at the 27th meridian, as given in the Organic Act.² It was argued that he was motivated by the idea that to annex the Platte River region would enhance the chances of Manhattan for the capitol of the State.³ On the other hand, it was rumored that the reason the delegates of Topeka and Lawrence were opposing the project was because they feared it would endanger the chances of their towns to win in the contest.⁴ Houston thought it was nothing short of folly for the Republicans to refuse to annex the richest agricultural land available when it was offered to them. He was also interested in western gold and the Pacific railroad and thought that Kansas needed the Platte region to make up the 93,000 required population for admission into the Union. Without that, he maintained, Kansas would not tally more than 45,000 inhabitants. He argued that the reasons the Democrats supported the Annexation project was because they knew it was a good proposition and on the strength of it they would be able to "sustain themselves

-
1. Wyandotte Const. Conv., 229-239. Also Jno. A. Martin, Papers & Letters. He writes that Gov. Medary's son and private secretary, had written a letter May 16, 1859, to the Nebr. people urging them to elect delegates to the Wyandotte Convention, but to proceed quietly.
 2. Wyandotte Const. Conv., 232-33.
 3. Ibid., 245.
 4. Geo. W. Martin, "The Boundary Line of Kans." Col. of K.S.H.S. XI, 71. Wyandotte Const. Conv., 236.

before the people."¹ The Democrats denied that they supported the project for political reasons, and challenged the Republicans to name some "reason becoming the dignity and importance of the subject and of the Convention" against the proposition. "Will it benefit materially the interests of the State of Kansas? If it will, I tell you," said Stinson, "you have no other alternative than to vote for it".² But the Republicans refused to be told what to do. Thacher retorted:

"We have been invoked by all the powers of logic and rhetoric to ignore the political aspect of this case ... and look at the question dispassionately. Now, sir, I say they argue an impossibility. Had these gentlemen from Southern Nebraska seen the sky lurid with the flames of their burning homes, the soil of these beautiful prairies crimson with the blood of their brothers and fathers, or their wives and children flying over the land for a place of refuge from crime and outrage ... committed by the party which is substantially in the ascendancy in this portion of the country proposed to be annexed, they would not think of making such an appeal to us. ... Sir, before I would again see the people of Kansas brought beneath the heel of that oppression, I would oppose it until I sank into this floor."³

The proposition was defeated by a vote of 19 - 29.⁴ The western boundary was extended to the 25th meridian. The change was made on the motion of Caleb May, of Atchison on the 28th of July. The convention had agreed, on motion by S. O. Thacher, to the 23rd meridian before May introduced

1. Ibid., 257-58.

2. Ibid., 384-85.

3. Wyandotte Const. Conv., 236-38.

4. Ibid., 395. Messrs. Brown, Foster, Forman, Hipple, Hubbard, Houston, Middleton, Moore, McDowell, McCune, Palmer, Parks, Porter, Slough, Stinson, Stiarwalt, J. Wright, Wrigley, T. S. Wright, voted for annexation. The underlined were Republicans. J. T. Barton, of Johnson county was the only Democrat who voted against it. C. B. McClelland of Jefferson and Wm. Perry of Leavenworth did not vote.

the change.¹ The southern boundary excited no debate. The 37th parallel probably was chosen as the southern boundary because it divided the Osage and Cherokee reservations.² The permanency of the southern boundary line, however, was conditioned by the willingness of the Indian tribes to be included within the Territory of Kansas. Consequently, the 37th parallel remained but a tentative boundary until February 23, 1867, when the Quapaws, the last of the Kansas tribes, ceded their rights to Kansas.³ Some of the Republicans lived to regret that they had opposed the annexation of the Platte region. On July 29, 1882, J. A. Martin wrote that he felt that no Republican delegate of the convention was living who did not deplore that decision of the convention, but it was too late.⁴

Looking at the boundary question today it could be said that anything but facts explain the Kansas State lines. The southern half belongs to the Arkansas river watershed and the northern half to the Missouri river watershed. Even the northern half has no geographic unit. To annex the Platte region, therefore, instead of simplifying, might have merely accentuated the economic problems.

-
1. Wyandotte Const. Conv., 264 & 537.
 2. Martin, "Boundary Lines of Kansas". Col. of K.S.H.S., XI, 55-61. Map of Kans. & Nebr. indorsed Aug. 5, 1854, by Geo. W. Manypenny, Com. of Indian Affairs.
 3. Miller, "Kans. Boundary Line Survey", Kans. Hist. Quarterly, I, 104-5.
 4. Andreas, Hist. of Kans., 175.

of the State.¹

The question that provoked the most heated discussion was that on the location of the capitol. It aroused the convention to action when P. S. Parks of Leavenworth, on July 22, offered a resolution asking for a committee of five to investigate the charge that Wm. Hutchinson of Lawrence had offered a lot to E. M. Hubbard of Doniphan on the condition that he would vote to locate the capitol at Lawrence. The motion to investigate carried 49 to 0.² The resolution was offered for the benefit of Topeka and to cast a shadow on Lawrence. In justice to Lawrence, as Stinson put it, it was decided, on Graham's motion, to vote for the temporary location of the capitol before the committee on "Scullduggery" would report. The motion provided for two ballots. On the first ballot the delegates would vote their choice without limitations; but if the result showed that no place had received a majority of all votes cast, a second ballot should determine this question by confining the choice to the four places that had received the largest number of votes on the first ballot.³ On motion by James G. Blunt the convention agreed that the first Legislature under the Constitution should provide by law to submit the question of the permanent location of the capitol to a popular vote of the people, to be decided on the basis of a majority of all votes

-
1. See map of 1930 showing the type of farming produced by the Kansas State Agricultural College. Bulletin #251, Agric. Experiment Station, Manhattan.
 2. Wyandotte Const. Conv., 396g.
 3. Ibid., 448-454.

cast at the election.¹ Consequently, on July 23, in accordance with Graham's resolution, the convention cast two ballots to decide upon the temporary location of the capitol. The result of the first ballot was as follows: Topeka had received 15 votes, Lawrence 6, Atchison 5, Emporia, Mound City, Manhattan, Olathe and Minneola had received each two votes. Fourteen other votes had been cast at random. A second ballot therefore was necessary. Since only three towns had a leading vote the chair ruled, by common consent, to limit the second ballot to a choice of the three instead of the four highest on the list. On the second ballot Topeka received 26 votes, Lawrence 14, and Atchison 6.² Having received a majority of all votes cast, Topeka was entitled to the temporary location of the Capitol. This ballot shows that the Leavenworth and Doniphan delegates voted for Topeka, except Perry of Leavenworth, who did not vote. In fact the Democrats all voted for Topeka. Lawrence received the seven votes from Douglas county and one each from Lykins, Bourbon, Woodson, Coffee, Anderson, Franklin and Johnson counties.³ The charges of bribery and pooling of votes that were referred to during the discussion would seem to implicate both sides. Mr. Hubbard testified under oath that Wm. Hutchinson had offered him a "good lot if [he] would vote for Lawrence", and accused him further of having said that "he [Hutchinson] would make

1. Ibid., 450.

2. Wyandotte Const. Conv., 454-55.

3. Ibid.

the same offer to any other Democratic member of the Convention",¹ Hutchinson had also testified under oath and he denied the charges.² President Winchell, in reviewing the case, said that Hubbard had protested to the convention that Hutchinson had been allowed to evade the committee's question because they had asked him whether he had offered "lots" to Hubbard, whereas he had only offered a "lot", hence he had denied it. Hubbard maintained that Hutchinson had made him the offer in the presence of Messrs. Barton and Burnett.³ Upon that protest Col. Slough introduced a resolution asking for a second committee of five to investigate the charge of perjury against Hutchinson. The resolution passed and the committee made its investigation and reported, with minority reports. Col. Slough and McCune declared Hutchinson guilty of perjury and asked for his dismissal; G. H. Lillie and James Blood reported Hutchinson not guilty; while Robert Graham declared both Hutchinson and Hubbard guilty.⁴ S. O. Thacher reminded the convention that he could name two other gentlemen who had offered their votes and those of their associates to locate the capitol anywhere in exchange for votes to annex the Platte region. McDowell and Stinson did not deny that they had offered to exchange their votes on the capitol for the annexation question, however, they bitterly resented the inference that it was an act of corruption and bribery,

1. Ibid., 468.

2. Ibid., 467.

3. Ibid., 525.

4. Wyandotte Const. Conv., 508-09.

and demanded that the charge be investigated.¹ At this point of the debate a scene of excitement followed, described by J. A. Martin as follows:

"Mr. McDowell arose, and was proceeding to make a speech, when the President interrupted him by desiring to know if he intended to confine himself to the rules of debate. Mr. McDowell replied that he expected to call things by their right names. The Chairman told him that he could not proceed. McDowell, fairly foaming at the mouth, and trembling with passion, roared out that he 'had a right to call a liar a liar, and a villain a villain.' The President ordered the Sergeant-at-arms to preserve order, and make the gentleman take his seat. The Sergeant was proceeding to enforce the order, when McDowell raised a loaded cane and said 'let the Sergeant-at-Arms try to put me down'. Then ensued a scene of excitement which it would be difficult to describe. The members all over the hall rose to their feet. The President's gavel, commanding order, fell fast and loud. The lobby, which was crowded with spectators, was in a state of intense excitement, and cries of 'go on!' echoed all over the Hall. The Democratic members cried, 'Go on, McDowell.' Slough rose and commenced rolling up his sleeves. Hipple cried 'go on Mc.' and every Democratic member was on his feet. The Sergeant-at-Arms was advancing towards McDowell, when Mr. McCullough, a tall, powerful man and a Republican delegate from the 18th district, who sat on the Democratic side of the House, jumped upon his feet, and shaking his fist at Slough and the Democratic members, said 'We intend to have order. Take your seats, or, by God, we'll make you. Come on, boys.'"2

This happened on July 28. Order was restored and the whole question was tabled, to avoid further implications and contentions.³ That the location of the capitol had involved the convention in corrupt practices is beyond dispute, but what proportion it reached is still an open question. The Wyandotte correspondent of the Herald of Freedom wrote July 31st: "If there has ever been anything in our political

1. Ibid., 526-34.

2. Lawrence Republican, Aug. 11, 1859. Also Kans. Const. Clip. I, 36-7. & Wyandotte Const. Conv., 526ff.

3. Wyandotte Const. Conv., 531 & 534.

history more disgraceful to us as a people than the proceedings of this Convention, I should be sorry to know anything about it."¹ The Topeka Tribune quoted a letter from Topeka dated July 18th, which stated that Lawrence was that day circulating subscription paper asking for contributions in money and property for the purpose of buying up the members of the Constitutional Convention to locate the capitol at Lawrence. Fifty thousand dollars were subscribed, and that several men had entered Wyandotte the following Tuesday with the above named sum to be contributed for that purpose.² On the other hand, Topeka had not been idle. On July 14, C. K. Holliday wrote: "I have now been at this place [Wyandotte] just one week, looking after Capitol matters and my political prospects ..."³ On the 24th, after the vote to locate the capitol, he was still there, and although he was greatly elated over the success, he said: "It kills me politically however, for a time at least, but present pecuniary good is worth more to me than prospective political position ... Tomorrow night we give a supper to the Topeka friends - soon after which I will return to Topeka."⁴ The Wyandotte Constitutional Convention correspondent for the Lawrence Republican, wrote July 14, 1859: "All Topeka is here urging the claims of their beloved town for State capitol with great power. Besides the

1. Kans. Herald of Freed. Aug. 20, 1859.

2. Ibid., Jl. 30, 1859; also Topeka Tribune, Jl. 21, 1859

3. Holliday Papers. Letter written to Mary dated July 14, 1859.

4. Ibid., Letter to Mary, dated July 24, 1859.

delegates from Shawnee County, I notice here Dr. Fletcher, Mr. Murphy, Col. Holliday, and Mr. Cummings of the Tribune.¹ On November 14, 1898, Wm. Hutchinson tried to shift responsibility and wrote the Secretary of the State Historical Society regarding his connection with the question under consideration as follows:

"... Lyman Allen and C. W. Babcock, of Lawrence, came into my room at Wyandotte one evening when the capitol question was pending, and said they had come down to work for Lawrence, and had city lots they were offering to secure the measure. Some time afterward I did mention to Mr. Hubbard in substance what my neighbors had told me, but in no way intimating that I had any lots to offer, for at that time I did not own a lot in Lawrence. I had no thought of any improper action toward Mr. Hubbard, but merely spoke of my neighbors' zeal in the case. ..."²

When the convention had finished the several articles comprising the Constitution and Wm. Hutchinson offered the resolution to adopt and proceed to sign the Constitution for the State of Kansas as completed by the convention; Col. Slough, arose, and with regret gave notice that he, for one could not sign the Constitution, nor vote for its adoption. He said that although "the instrument, in the main, [was] a good one - perhaps ... a model instrument", for he was not aware of ever having "read a State Constitution better framed in most things than this," yet it contained some provisions that were objectionable and had omitted others that ought to be in it, "which being there, and not being there", had compelled him to reach the

1. Lawrence Republican, July 14, 1859.

2. Hutchinson, "Sketches of Kans. Pioneer Experience", Trans. K.S.H.S. VII, 409.

conclusion he had taken. He then proceeded to explain in brief his objections to the provisions of the boundary, to the registry law which he regarded as damnable, to the large legislature which he regarded as extravagant, to the failure to give the Indian suffrage rights, the failure to exclude the negro and mulatto from the State, and his objection to the apportionment clause which he said was based upon no principle whatsoever except to deliver the Territory into the hands of the Republican party.¹ The evening before, July 28, the Democrats had met in a caucus at Wyandotte and voted to refuse to sign the document. The meeting had been a stormy one. Gov. Medary had been present and had made a long and able speech in favor of signing. He had been supported by McDowell and Stinson of Leavenworth, but Slough, Forman, Wrigley and others had stoutly opposed the Governor, and the final vote against signing had been carried by a majority of four.² Consequently the following day Col. Slough was upheld by all the Democrats, and when the Hutchinson resolution was submitted to the convention, the vote stood 34 to 13.³ All the Republicans had voted affirmative except T. S. Wright who was absent because of illness; and all the negative votes were cast by Democrats.

1. Wyandotte Const. Conv., 566-67.

2. Lawrence Republican, Aug. 4, 1859; Aug. 1, 1859, the Leavenworth Daily Times came forth with the statement that Gov. Medary had endorsed the action of the Democrats in refusing to sign the Constitution. The White Cloud Chief, Aug. 11, 1859, says the same thing, but the Lawrence Republican, Aug. 4, said that it had secured its information from "one who was present".

3. Op. Cit., 570-71.

Four Democrats, Hubbard, J. Wright, Perry and Brown, had not voted. Moreover, when the names of the Delegates were called and they were asked to come forward to sign the Constitution, the seventeen Democrats refused to sign the document. Thus the Wyandotte Constitution was signed by only 34 out of the 52 delegates of the convention.¹

S. O. Thacher who answered the protest of the Democrats closed his remarks with the following statement:

"Upon this Constitution we meet our opponents upon the popular arena. It is a better, a nobler issue than even the old Free State issue. They have thrown down the gauntlet, we joyfully take it up. The members of this Convention have richly earned the love and gratitude of their constituents. They have perfected a work that will be enduring. ... We part, sir, from this hall, having discharged our arduous duty. Let us part as friends, transferring the discussion and the analysis of our work to those for whom it has been wrought."²

The Democrats had reasons to object to the Wyandotte Constitution. They had fought valiantly for the admission of the Wyandotte delegates, but had failed. In their effort to annex the Platte region they had left no stone unturned, for they had tried everything short of bribery, and were even accused of it. While in itself the project might have been a worthy one, yet the Republicans were afraid to trust their "friends" on the other side of the House even in what on the face of it appeared to be an innocent project. They had tried again and again to defeat the gerrymandering schemes of the Republicans, but

1. Wyandotte Const. Conv., 571.

2. Ibid., 570.

all exposition and description of it had availed them nothing. Consequently they chose to threaten to stay the rule of the Republicans by protesting the document which they had helped to form. Their protest against the few privileges granted the negro were in accord with Southern views of the time but would at present appear rather obsolete. All in all, it should be regarded as a political stroke rather than an outright opposition to the Constitution.

The cost of framing the Constitution amounted to over \$19,000. The major bills went for printing, reporting debates, for stationery and to pay the officers and delegates. S. M. McDonald of Wyandotte, who had the proceedings of the Wyandotte Constitutional Convention printed, handed in a bill of \$3,625.49; A. E. Draper presented a bill of \$3,618 for reporting the debates; Geo. F. Warren, \$2,054.10 for stationery, and about \$7,000 was due the officers and delegates of the convention.¹ There were other bills of a smaller denomination for printing, hall rent, etc.

In discussing the sources of the Wyandotte Constitution it will be necessary to omit many details for the sake of brevity. A detailed study has already been published on this phase of the question.² The work of tracing the sources of a constitution is so tremendous, however, that further contributions may readily be made.

1. Constitutions, Wyandotte. Vault, K.S.H.S.
 2. Rosa M. Purdue, "Sources of the Wyandotte Constitution." Wyandotte Const. Conv., 676f. Also, another article by Robt. Stone in Ibid., 698f.

It is of interest to note that all State Constitutions framed before 1861 - with the exception of the Wyandotte Constitution, the Constitution of Maryland framed in 1851, the Lecompton Constitution, and the Florida Constitution of 1831 - placed the article on the Legislative Department before that of the Executive Department. However, many of the State Constitutions framed since the Civil War, followed the precedent of the minority and placed the article on the Executive Department before that of the Legislative Department.¹ That would seem to be in accord with the shift in emphasis from the Legislative to the Executive Department. Although the convention voted to use the Ohio Constitution as a model for the Wyandotte Constitution,² it is generally known that there were many deviations from it.

In tracing the sources of the Constitution the author admits that the conclusions reached are those based upon a comparison of the Wyandotte Constitution with other state constitutions in existence at the time of the framing of the Kansas Constitution. The text used as a basis of comparison was Francis Newton Thorpe's seven volumes on The Federal and State Constitutions, etc. This comparison has forced the author to disagree rather frequently with

-
1. Francis Newton Thorpe, The Federal & State Constitutions, Colonial Charters, etc. in 7 volumes.
 2. Wyand. Const. Conv., 39-40. The vote on the 2nd ballot was: Ohio 25, Indiana 23 & Ky. 1. Of the 1st ballot: Ohio 13, Ind. 12, Ky. 6, Leav. 5, Top. 3, Pa., Ia., Wisc., each 2; Mass., Mich., Me., Minn., & Oregon 1 each.

Miss Purdue's conclusions. Often it has been impossible to determine whether a certain section or phrase of a section has been copied from one or the other constitution, because the particular section, found in several constitutions, may bear such close resemblance that either one might have served as a model. In some cases the punctuation, the spelling of words or capitalization of words helped to decide the question. As an example, section 12 in the Bill of Rights is found in both the Leavenworth and the Ohio Constitutions, yet it appears that it was copied from the Leavenworth - instead of the Ohio Constitution, as Miss Purdue has it, because the spelling of the word "offence", the capitalization, and the punctuation, follows that of the Leavenworth - rather than the section in the Ohio Constitution.¹ In explanation of the preceding statement it should be said that the Leavenworth Constitutional Convention had used the Topeka Constitution of 1855 as its model.²

The article on the Preamble and Bill of Rights was introduced by Hutchinson of Vermont. According to Miss Purdue all but the first section of the Bill of Rights was modeled after the Ohio Constitution.³ Yet section 13, relating to Treason, is not found in the Ohio Constitution, but resembles the section on Treason in the United States

1. Thorpe, Fed. & State Const., II & V, 1242 f and 2915 f respectively. Ohio Const. spells offence with an "s".
 2. Andreas, History of Kans. p.167.
 3. Wyandotte Const. Conv., 678.

Constitution, and the section on Treason in the Minnesota Constitution.¹ Moreover, sections 2, 6, 9, 12, 15 and 20, follow the Leavenworth Constitution more closely than the Ohio Constitution, while other sections might have been modeled after either the Leavenworth or the Ohio Constitutions and only sections 3, 4, and 5 follow the Ohio Constitution. Section 10 of the Wyandotte Constitution, which may have been taken from either the Ohio, Leavenworth or Pennsylvania Constitution, has omitted the first sentence relating to the indictment by a grand jury found in the aforementioned constitutions, also in others, leaving the Kansas Constitution silent on the question of indictment by a grand jury. The Convention Journal recorded no mention of this subject, but the Atchison Union criticised the Wyandotte Convention for omitting this provision.² Thus the Kansas Constitution failed to provide for a grand jury. In the preamble, the clause - "in order to insure the full enjoyment of our rights as American citizens", appears to be Stinson's contribution. The rest of the preamble might have been taken from any number of constitutions.³

The Executive article was introduced by Greer of Ohio and follows the "Buckeye" Constitution of 1851 in sections, 1, 3, 11, 12, 13 and 14; the Leavenworth

1. Thorpe, Op. Cit.

2. Atchison Union, Sept. 24, 1859.

3. Thorpe, Fed. & State Const. It might have been taken from the Md. Const. of 1851, the N.J. Const. of 1844, the N.Y. Const. of 1846, the Ohio Const. of 1851, the Minn. Const. of 1857, etc.

Constitution in sections 2, 4 and 6; the Iowa Constitution in section 8, and either the Ohio, Leavenworth or Topeka Constitutions in sections 5, 7, 9, 10, 15 and 16. In section one the Wyandotte Constitution adds the office of the Superintendent of Public Instruction, not found in the Ohio Constitution, but it is found in the Oregon Constitution of 1857, the Indiana Constitution of 1851, the Kentucky Constitution of 1850 and the Wisconsin Constitution of 1848.¹

The Legislative article introduced by Thacher of New York likewise contains provisions taken from many constitutions. The New York Constitution was followed in sections 1, 3, 5, 8 and 10. Section 2 and 23 appear to be original. Section 23 provided that "The Legislature, in providing for the formation and regulation of schools, shall make no distinction between the rights of males and females."² Section 12, which provided for all laws to originate in the House of Representatives, has a precedent in the Virginia Constitutions. Sections 6, 16 and 24 follow the Ohio Constitution of 1851; sections 7 and 21 resemble both the Wisconsin and the New York Constitutions,³ and sections 4, 9, 11, 13, 15, 19, 25, 26, 27 and 28 may have been taken from

1. Ibid.

2. Thacher said section 23 was taken from the Ky. Const., but Miss Purdue denies it, and says it was not in any of the three Ky. Constitutions. Wyandotte Const. Conv., 683.

3. Miss Purdue says that Section 21 was a verbatim copy of the N.Y. Const. It resembles both the N.Y. and the Wisc. Const. but it is not a verbatim copy of the N.Y. Const.

either the Leavenworth or the Topeka Constitutions. Section 22, which protects the legislators from arrest while in session, resembles the section in the Indiana Constitution more than similar sections in the Oregon, Leavenworth and Topeka Constitutions. The sources of the other sections are difficult to determine.¹

The article on the Judiciary was introduced by S. A. Kingman of Massachusetts. Ten out of the eleven committeemen were lawyers,² Blunt was the odd member, he was a physician. In this article, section 5 and a part of 1 and 4 follow the Organic Act of 1854; sections 2, 13, 19 and part of 11 follow the Ohio Constitution; section 18 and a part of 4, the Leavenworth Constitution; section 6, the Iowa Constitution; sections 7 and 8, the Minnesota Constitution; sections 9, 14, 15, 16 and 17, may have been derived from the Wisconsin, Ohio, Leavenworth, Topeka or Michigan Constitutions, and sections 3, 10 and 20 probably were original.³ To this article the lawyers contributed their own experiences, which accounts for the difficulty in trying to trace the origin of most of the sections. Only section 18 comes near being a verbal copy of the Leavenworth Constitution, except for the difference in counties.

The article on County and Township organization,

-
1. Thorpe, Fed. & State Const.
 2. Andreas, Hist. of Kans., 173, makes Lillie a merchant and Blunt a physician, but the Const. Jnl., 14, lists Lillie as a lawyer, including him there would be ten lawyers.
 3. Thorpe, Fed. & State Const.

introduced by J. Ritchie of Ohio, comprised only five sections which appear to have been based on the Ohio, Indiana, Illinois, Minnesota, Iowa, Michigan and the Virginia Constitutions.¹ The idea of a mixed system of government may have been derived from the Indiana, Illinois, Ohio or Michigan Constitutions. Jeremiah E. Greene attributed the origin of the county-township form of government in Illinois to the fact that the early settlers had come largely from the South and had established the county system, but when the new settlers from New York and New England settled Illinois, being used to the township form of government, their influence introduced the change in the new constitution of 1848, by stipulating that the Legislature should pass a law authorizing the majority of the voters in any county to adopt the township system. Under this system the county board was to be made up of supervisors representing the various towns. During the next few years, the northern central counties were generally organized on this plan.² That part which sets the minimum limit of the county at 432 square miles, must have been taken from the Iowa Constitution.³

The article on Education was introduced by Griffith of Indiana. The committee comprised seven members, of which

-
1. Sec. 2 & 5 resemble sec. 1 & 6 of art. X of the Ohio Const. of 1851; Barrows, Leland J., An Outline of County Government in Kansas. MS in Watson Libr., Univ. of Kansas. Mr. Barrows has made an intensive study of the county government in Kansas.
 2. J. E. Greene, The Govt. of Ill., 40-41.
 3. Thorpe, Fed. & State Const.

three, Middleton, Stokes, and Hipple were of Pennsylvania, two, Houston and McClelland, were from Ohio, and May came from Kentucky. The interest in this article lies in the fact that it introduced the office of county superintendent, which was without constitutional precedent. The office was not new, however, as there existed several statutory precedents for it, viz: Two Territorial acts of Kansas, approved February 12, 1858, and February 11, 1859, provided for the office, and defined the duties of the county superintendent;¹ another act passed by the State Legislature of Pennsylvania in 1854, also provided for this office and defined the duties of the county superintendent.² It appears that the functions as defined in the Territorial laws resemble those of the Pennsylvania act, and hence it may be that the latter served as a model for the former. Certainly the committee were acquainted with the Territorial laws and the three Pennsylvania members undoubtedly will have remembered the office in their native State.

The article on Banks and Currency, introduced by Robert Graham of Atchison, was based on the Leavenworth and Topeka Constitutions except section three which followed the Iowa Constitution.³ The article on Corporations followed the Ohio, Leavenworth, Topeka, Michigan and Oregon Constitutions; the section on the Homestead exemption clause had a precedent in the Leavenworth and Michigan Constitutions; and that on

1. Gen. Laws of Kans. Ter. 1857-8, & 1859, 44f & 594 respectively.

2. Laws of the Gen. Assembly of the State of Pa. 1854, 617-630.

3. Thorpe, Fed. & State Const.

Suffrage followed the Illinois, Topeka, Leavenworth, Indiana and Oregon Constitutions.¹

To continue the description on the sources of the Constitution would be but to repeat what is already apparent, namely, that the delegates in the Wyandotte Convention did very little, if any, creative work but gathered from the latest constitutions those sections which experience of judgment warranted them to incorporate into the Kansas State Constitution. Miss Purdue asserted that five of the six original sections in the Wyandotte Constitution had been thoroughly tested as laws of other states before they had been adopted by Kansas, and that the only real experiment in the Kansas Constitution was the provision that all bills should originate in the House of Representatives. It must now be added that even this section was not original, for, as previously mentioned, this limitation had been a part of the Virginia Constitutions for a period of 74 years and was finally discarded by its constitutional convention of 1850.² While it may be true that the Ohio Constitution was used by several committees as a model for a number of their sections,

1. Ibid.

2. Ibid., VII, 3816, 3824 & 3839 & Wyandotte Const. Conv., 694. The six provisions referred to by Miss Purdue are: 1) The provision for equal education for the sexes; 2) For the election by the bar of a judge pro tem. of the district court; 3) The provision for a county superintendent of public instruction; 4) The provision for an outline of the method of distributing the public school funds to the district; 5) The provision for a revaluation and sale of school lands; 6) That all bills should originate in the House of Representatives.

yet before the convention had adopted the article, many changes had been made; moreover, it seems that quite as often, or more so, the Leavenworth or Topeka Constitutions were followed. It is true, however, that the Leavenworth and Topeka Constitutions, in many sections, appear to be based on the Ohio Constitution with changes in phraseology, hence where the wording may be that of the Leavenworth or Topeka Constitutions, nevertheless, the origin of the thought ultimately may reach back to the Ohio Constitution. But in turn the Ohio Constitution was not an original document. Robert Stone of Topeka wrote that "the Ohio Constitution was in the main founded upon that of New York".¹ Hence it does not seem fair to give the credit to the Ohio Constitution where the convention followed the Leavenworth or the Topeka Constitutions. Consequently, it has become necessary to disagree with Miss Purdue in her assertion that the Ohio Constitution "was closely adhered to in all cases where its provisions were adapted to conditions in Kansas."² for quite often the Topeka or Leavenworth Constitutions were adhered to rather than the Ohio Constitution although the meaning of the sections in both constitutions did not vary a great deal, if at all.

The sagacity of the Wyandotte Convention, as Robert Stone so aptly pointed out, consisted in its selection

1. Wyandotte Const. Conv., 697. Here Robert Stone continues: "Two of the older States, New York for the North and Virginia for the South, have furnished the model for most of the Constitutions of the several States."

2. Ibid., 694.

of the best and most progressive provisions from the most recently adopted constitutions and amalgamating them into a consistent and harmonious whole.¹ No attempt was made to centralize executive responsibility in the hands of the Governor by giving him authority to appoint the high executive officers, or to prevent hasty and ill considered legislation by means of a "bifurcated session", or providing for a single chamber Legislature elected by popular vote under a system of proportional representation; although an attempt was made by the Democrats to provide for a small Legislature. These suggestions of reform did not make their appearance until the end of the 19th and the beginning of the 20th centuries. The Constitution was, however, in keeping with the trends of the time. The Governor possessed the veto power, although not the *item veto*,² the power to grant pardons, fill vacancies, convene and adjourn the legislature. Popular control had been introduced. Suffrage was granted to all white male persons who were citizens of the United States or else had declared their intentions of becoming citizens. The long ballot was provided for in the state and county elections, including the judiciary. The power of the legislature had been imposed upon both directly and indirectly. Special laws were not to be passed where a general law was applicable, the debt of the state was

1. *Ibid.*, 698.

2. Dealey, J. O., Growth of American State Const. From 1776-1914. Chap. V, Dealey is wrong when he says Kansas introduced the *item veto* in 1859.

limited and could not be changed except by a direct vote of the people. In conclusion, it could be said that the Wyandotte Convention had provided for the important changes current at the time. On the other hand, it had introduced very few, if any innovations.

CHAPTER V.

Ratification of the Constitution, and Election of
State Officers.

The refusal of the Democrats to sign the Wyandotte Constitution, July 29, at once made the question of ratification a party issue. The Republicans had accepted the challenge of the Democrats, and were prepared to meet them on their own ground. The question was, what attitude Geo. W. Brown and his followers, the hangovers, or die-hards of the Old Free-state Party, would take. But the Herald of Freedom was not slow in announcing to the world its position, and at once came out boldly in denunciation of the Wyandotte Constitution. And the race was on. To the Democrats the campaign amounted to a life and death struggle, for, should they be defeated in the contest the government would change hands, provided Congress would admit the State. That would mean that the Republicans would rule the State instead of the administration Democrats. Defeated in this campaign, the Territorial officers might as well figure that their political career in Kansas would end with ratification, at least for some time to come, unless Congress would come to their rescue and reject the Wyandotte Constitution, or they would declare their readiness to leave their party. To the Republican politicians the campaign meant not only a fight for ratification but also a political scramble for office. The result was that the arguments for and against the Constitution soon crowded the newspapers, while the

politicians flooded the towns.

Geo. W. Brown admitted that the Constitution had many good features of which he approved, but felt that he was compelled to oppose it because of its many omissions and defects. He maintained that to adopt it would involve a "radical change in civil and criminal law", because the clause in section 10 of the Bill of Rights that "no person shall be a witness against himself", had prohibited judgment by confession. The constitution had provided for an extravagant legislature and for a useless Senate. It had provided "for the impeachment of all officers under the Constitution for misdemeanors in office" and thus had made all officers subject to a political tribunal. It disfranchised civilized Indians from the exercise of the right of suffrage and based it on color and sex, in violation of the principle of equal right, which it claimed as the basis of civil government. It had prevented a system of graded schools by providing for a system of common schools, and placing cities on the same level with the most sparsely settled school districts. Representation should be based on population and not on counties, and the scheme of gerrymandering should be corrected. He thought the banking clause would flood the State with notes from other States. Moreover, all persons who favored ex post facto or retroactive laws, would vote for the Constitution, because it had struck "down the prohibition of the passage of ex post facto laws". Furthermore, the Constitution had failed to prohibit the

passage of laws that would impair the obligation of contracts, and had failed to prevent the taking of private property for public use without just compensation. He maintained that it contravened the Constitution of the United States by its failure to provide for the grand jury system. He also maintained, but falsely, that the suffrage qualifications required no age or residence for the election of State and Judicial officers; and contended that section 23 in article two did not confer the right of suffrage in school matters on females even though the Constitution and its defenders maintained that it conferred that right. All in all, said he, "it is an office seeker's Constitution", too expensive, for it would cost the State annually \$100,000 more to run it than the Territorial government.¹ Abelard Guthrie wrote in his diary, that he was opposed to a state government because the people were already oppressed by taxation and only swindlers and demagogues had time to engage in electioneering. He had returned home from Washington just in time to vote against the Constitution, and had done so because the Constitution had withheld the elective franchise from the Indian.²

To these arguments against the Constitution the Democrats added among others, their opposition to the settlement of the boundary, the failure of the Constitution to define the duties and limit the powers of Representatives of

1. Herald of Freedom, Sept. 24, 1859.

2. Diary of Abelard Guthrie, July 7, 1859 & Nov. 4, 1859, in Guthrie Papers.

the people,¹ and to exclude the free negro from the State. They showed that where the Topeka Constitution had contained this restrictive clause, the Wyandotte Convention had voted it down. This, they feared implied a desire, on the part of the Republicans, to invite the negroes and then give them suffrage rights. Thus Kansas would become the asylum of free negroes and runaway slaves. They argued thus in spite of the restricted suffrage clause. They denounced the "infamous" apportionment provision and the Homestead clause.² They also denounced the Constitution because it allowed women to vote in matters of common schools; therein they disagreed with Geo. W. Brown in his interpretation of this section. They denounced the Constitution because it subordinated the Senate to the House;³ because it was the office seeker's scheme to gain possession of the government; because it was monarchical and anti-Republican and destroyed the independent character of the Judiciary.⁴ They maintained that it would make Kansas the place of refuge for all thieves, felons and profligates of every description from every State in the Union. On September 17, the Democrats met in Topeka, and their committee published an address to the people of Kansas in which the party emphatically denounced the "action of the majority of the late Constitutional Convention;" pledged their "opposition to the unfair, unjust, illiberal

1. Lecompton Democrat, Oct. 8, 1859.

2. Kansas Natl. Democrat, Sept. 22, 1859; Atchison Union, Sept. 3 & 24, 1859.

3. Atchison Union, Sept. 3, 1859.

4. Freedom's Champion, Oct. 29, 1859.

instrument framed by said Convention," approved and endorsed "the action of the Democratic members of the late Constitutional Convention"; and reaffirmed the "principles of the Tecumseh Convention".¹

However, it appears that some of the erstwhile Democrats had become lukewarm and were experiencing a change of heart or else saw a greater political future in the opposition camp. Such a character was Ex-governor Stanton. While he had entertained grave objections to the instrument, he was quoted as having said that a candid consideration of all the circumstances had caused him to conclude that the "highest interests of the people of Kansas demanded its adoption". For in so grave and important a matter "as the laying of the fundamental law of the State which was to endure ... as long as time should last", the people should rise "above all party considerations." While his more serious objections included the boundary, the apportionment, the subordination of the Senate to the House, he felt that most of the objections to the Constitution could be remedied by amendment if they were found to work badly in practice. He thought that if the Democrats would have had control of the Convention they might have arranged an apportionment that would have rendered their success in the first Legislature not only probable but certain.² Stanton was working to be elected to the United States Senate, from Kansas, and probably

1. Kans. Natl. Democrat, Sept. 22, 1859.

2. Lawrence Republican, Sept. 8, 1859. The Republican used this speech as propaganda for their cause.

carried a goodly number of Democratic votes with him for the Constitution. McDowell of Leavenworth said, shortly before the fourth of October, that Leavenworth would vote a majority for the Constitution.¹

The Republicans had an array of eminent as well as notorious politicians tramping and stumping the Territory. Among them were Hon. M. J. Parrott, Judge Conway, Col. J. C. Vaughan, Hon. J. M. Winchell, H. P. Johnson, Gen'l. Lane,² Gov. Robinson, James Blood, Col. Leonard, Capt. Montgomery, W. A. Phillips, T. Dwight Thacher, and others less prominent. Moreover, they had at their command such papers as the Lawrence Republican, the Emporia News, the Mound City Herald, the Osawatomie Herald, the Cottonwood Falls Press, the White Cloud Chief, the Manhattan Express, and others.³ These papers often were merciless in their attack on the Democrats. Their most effective weapon was their cry against the "great black dragon".⁴ They would classify all Democrats as "border-ruffians", men without scruples of any kind, whose ultimate aim was to make Kansas a slave State, and then somehow, falsely or otherwise, make it appear that the instructions

1. Freedom's Champion, Oct. 1, 1859.

2. The Top. Tribune said that it was said of Jim Lanã that he had introduced a new method of electioneering in his canvass for the constitution. "He takes his wife and daughter along with him in his 'New Buggy' and in his speeches declares that 'no one shall kiss his gal, unless they agree to vote for the Constitution'. Send him this way, Mr. Press". Tribune, Oct. 1, 1859.

3. The Freedom's Champion, Sept. 24, 1859.

4. Lawrence Republican, July 21, 1859, uses the term.

came from Washington, the Democratic headquarters. Thus wrote the White Cloud Chief:

"The Democrats in the Legislature, last winter, were anxious for a Constitutional Convention; the Governor was keen for it; and the party made a hard fight for Delegates. The first damper upon their ardor was their failure to obtain a majority of the Delegates, as they had expected to do. They then tried to bribe the Republican Delegates, but again failed. Their last resort was to attempt to bully the Republicans into measures; but being beaten at that likewise, they were 'done for'. At this crisis, Gov. Sam Medary made his appearance. He had received his orders from Washington - he told the Democratic Delegates they must not sign the Constitution, and they obeyed the order, to a man. It was unconstitutional, he said, and they believed it! Why was it unconstitutional? Because the Republicans had a majority, and refused to be bribed or bullied into annexing Southern Nebraska, or allowing Indians to vote, so that through rascality, the Democrats could gain control of the new State".¹

Sol Miller, according to one "who was present", was mistaken when he accused Gov. Medary for leading the Democrats against signing the Constitution, it was Col. Slough.² September 29, 1859, a few days before the election, the Lawrence Republican wrote:

"Who opposed the Constitution! The federal office holders to a man. Their bread and butter is involved; and, besides, they act under orders from Washington. The old pro-slavery leaders, Eastin, Abel, Stringfellow, and their clans. They hate a Free State, and want to keep Kansas a Slave Territory as long as possible. The Administration Democrats generally adhere to the English bill, and hate Kansas, because she has so thoroughly and completely disorganized, demoralized, and broken down the administration party. Hence they wish to keep her out of the Union. Here you have the entire opposition to the Constitution summed up: office holders, Buchanan Democrats, old pro-slavery leaders-." ³

-
1. White Cloud Chief, Aug. 11, 1859. We have mentioned in Chap. IV, that Gov. Medary had spoken in favor of signing the Constitution, and this came from "one who was present"; see Lawrence Republican, Aug. 4, 1859. Also White Cloud Chief, Aug. 18, 1859. It carries the same letter.
 2. Lawrence Republican, Aug. 4, 1859.
 3. Ibid., Sept. 29, 1859.

The Republicans made it appear that every vote cast against the Wyandotte Constitution was "a vote against a Free-state and in favor of a Slave Territory". They argued that the Democrats were just trying to deceive the Republicans when they told the people that the contest for a Free-state in Kansas was settled, because they were persistently clinging to the heretical dogma that Kansas was still a Slave Territory and were carrying their "wild and guilty theory into actual practice by holding slaves in the very heart of the strongest Free-state county in the Territory. This question", they argued, "will not be settled in favor of freedom, until we are admitted as a Free State".¹ In the northern counties the Republicans drew the railroad question into the fight. The Wyandotte Commercial Gazette maintained that the success of Wyandotte depended upon the construction of the Kansas Central Railroad. The construction of the railroad was dependent upon the grants of land, which in turn were dependent upon the admission of Kansas into the Union, and it depended upon the ratification of the Constitution.² In the southern counties they were to argue that the defeat of the Constitution would secure the annexation of the South Nebraska territory and thus work a hardship on the South.³ Thus we see that the Republicans did not try to meet the arguments of the Democrats but attempted to

1. Lawrence Republican, Sept. 29, 1859. Also Ibid., Sept. 15, 1859.

2. Wyandotte Com. Gazette, Oct. 1, 1859.

3. Constitutions, Wyandotte, K.S.H.S. Vault.

divert their attention, and then direct it to issues which the people understood, and which would arouse their prejudices and hatreds, already well formed.

On the 12th of September the officers of the Wyandotte Constitutional Convention issued a proclamation directing the attention of the people to the ratification of the Constitution and the Homestead exemption contained therein. Those qualified to vote were: Every white male person of 21 years of age provided he was a citizen of the United States, or if of foreign birth, whether he had declared his intention to become a citizen; and provided he had resided in Kansas six months next preceding election and in the township or ward in which he offered to vote, thirty days, and provided further that he had been duly registered according to the provision of the registry law of the Territory.¹ The county board of canvassers were to make their returns to J. M. Winchell, at Topeka, President of the Wyandotte Constitutional Convention. This proclamation was based on the schedule as found in the Wyandotte Constitution.² However, Acting-Governor Walsh, in Gov. Medary's absence, had also issued a proclamation of election to govern the ratification procedure. This was based on the act which had provided for the Constitutional Convention.³ All qualified voters under the Territorial law were recognized as voters on the Constitution. The differences in

1. Commercial Gazette, Oct. 1, 1859.

2. Wyandotte Const. Conv., 589-90.

3. Lawrence Republ. Sept. 22, 1859.

the two proclamations were: Acting-Gov. Walsh's proclamation included "all male Indians who had been citizens of the United States", and had a ten days residence requirement; while Winchell's proclamation excluded the Indian and had a thirty days residence requirement. Moreover, Acting-Gov. Walsh had dispensed with the registry law, and required that the election returns be sent to Governor Medary at Lecompton, instead of to Winchell at Topeka.¹ Confusion resulted. Whether the discrepancy in the election requirement was ever straightened out is doubtful. To obviate the difficulties over election returns, however, the officers of the Republican Central Committee issued a third proclamation and instructed the county officers to make out two certified copies of the abstract of the election returns for the county and send one to the Governor at Lecompton and the other to Pres. Winchell at Topeka.²

The election was held October 4, 1859, as specified by the Territorial act. And for the first time in the history of Kansas according to Andreas, "all parties cast a full, free and unintimidated vote".³ Nearly 16,000 votes were polled, with a majority of almost two to one in favor of the Constitution. Only Johnson and Morris counties showed a majority against the Constitution. The Homestead exemption clause, although it too was ratified by a large vote, lacked

1. Herald of Freedom, Sept. 17, 1859.
 2. White Cloud Chief, Sept. 22, 1859.
 3. Andreas, Hist. of Kans., 175.

a majority in Atchison, Doniphan, Jackson, Leavenworth and Wyandotte counties, the Democratic strongholds.¹ A comparative study of the elections of 1859 makes it appear that a number of the Democrats probably voted for adoption. In the election of delegates to the Constitutional Convention, held June 7, the Democrats cast 6,155 votes as compared with only 5,530 against the Constitution. On the other hand, the Republicans had cast only 7,374 votes for delegates but 10,421 for the Constitution.² Moreover, a comparison of the vote for the Constitution with that of the Republican vote cast in the State election held in December, 1859, shows that in Bourbon, Breckenridge, Coffee, Doniphan, Douglas, Linn, Lykins and Nemaha counties the vote for the Constitution totaled 4,639, as compared with 2,924 for Gov. Robinson two months later, a difference of 1,715 votes; yet the Democratic vote against the Constitution in the above mentioned counties, was 1869, also a high mark when compared with the vote for Gov. Medary in the State election, which was only 1,409.³ This raises the question where the Republicans had found all their supporters. In Leavenworth county the Democrats probably did rally to the support of the Constitution. This county cast 1,143 votes for and 1,088 against the Constitution; whereas in the State election of 1859, it cast only 878 for M. F. Conway, the Republican candidate for Congressman, but 1,515 for John A. Halderman, the Democratic

1. Wilder, Annals of Kans., 281-2.

2. Lawrence Republ., J1., 14, 1859.

3. Kansas State Record, Jan. 14, 1860 and Wilder, Annals, 281-82

candidate.¹ But the vote for the Constitution in Douglas county was unusually high, viz., 1,412, whereas the vote for J. P. Root, the Republican candidate, who received the highest vote in the State election of December, 1859, was only 1,093.² Thus it is clear that the Republicans must have exerted a strenuous effort in behalf of the Constitution and brought many a dormant Republican citizen back to life, at least temporarily; for it appears that not more than five or six hundred Democratic votes could have been cast for the Constitution, and yet the vote for the Constitution was larger by 2,411 than the highest vote for any one of the Republican candidates in the State election.³

Whether the Central Committee of the Republican party was able to get material aid from the East to help them in the ratification contest is not known. But that it made an attempt to get such aid is revealed in a letter of John A. Martin to Pres. Winchell, dated Sept. 7, 1859:

"The Central Committee have not yet been able to get any 'material aid' from the East, although they have used every exertion to arouse our friends there. We need it very much. The Democrats have plenty of money - they are determined to spare no exertions to defeat us, and will use every means to accomplish their purpose. We shall know in a few days whether the Republicans of the East are disposed to help us".⁴

With the ratification of the Wyandotte Constitution a matter of history, the candidates for State offices increased

1. Ibid.

2. Kans. State Record, Jan. 14, 1860.

3. The conclusion was arrived at by comparing the votes on the Constitution with those cast in the election of State officers in Dec. 1859.

4. Constitutions, Wyandotte. K.S.H.S. Vault.

their efforts. As mentioned before, the politicians who expected to be elected to office had been in the field working for the ratification of the Constitution, or even against it, but had not lost sight of their own personal objectives. Notwithstanding the denunciation of the "infamous" constitution, the Democrats, after ratification, were willing to immolate themselves by running for office under it. Little is known, however, of their party rivalry before the day of the nominating convention held at Lawrence, October 25. The convention was a small one, only 21 counties were represented. Both the Administration and Douglas Democrats were there.¹ Col. Slough called the convention to order, but G.H. Fairchild was elected as chairman of the convention. "The contest between the Administration forces and the Douglas wing clearly manifested itself, but the office holders had the day", for, wrote the Lawrence Republican, "practically all office holders in the Territory except postmasters were delegates to the Convention".² The Medary family was well represented: Gov. Medary from Le-compton; Sam. A. Medary from Riley county, son of the Governor; and C. W. Blair from Bourbon county, a son-in-law of the Governor, whom Tom Corwin had defeated in Ohio in the election for Congress the year before, all were there.³ With the Medary family so well represented it was only to be expected that Samuel Medary should be nominated as Governor.

1. Freedom's Champion, Oct. 29, 1859.

2. Lawrence Republican, Oct. 27, 1859.

3. White Cloud Chief, Nov. 10, 1859.

The vote stood - Medary 43, H. B. Denman, 27, and Col. Holliday 10. Col. John P. Slough was nominated Lieut. Governor with^{out} opposition. Joseph Williams won over Judge Perkins for the office of Chief Justice; John A. Halderman over R. B. Mitchell, and R. S. Stevens for Congressman; O. G. Thurston over W. D. Wood and G. W. Miller for Attorney General; J. K. Goodkin over Chas. Deming for Auditor; Robert L. Pease over J. E. Jones for Treasurer; A. P. Walker over John R. Griffin for Secretary of State; J. S. McGill was nominated Superintendent of Public Instruction; R. T. Mitchell, Associate Judge for the short term; and Samuel A. Stinson for the long term.¹ The White Cloud Chief had it that nearly every candidate had either been a member of the Wyandotte Convention, and had refused to sign the Constitution, or else had been in the caucus where the command was issued.² However, only Slough and Stinson were members of the Wyandotte Convention. Medary was in the caucus, but the names of the other caucus men were not revealed. Probably Sol Miller was correct. The White Cloud Chief also mentioned that "at the close of the convention, some innocent soul, probably forgetting that the delegates were mostly Buchanan's office holders, offered a resolution, indorsing Douglas; but it was hooted and hissed down, without³ even so much as being put to vote". It must be remembered

1. Weekly West. Argus, Oct. 29, 1859; Atchison Union, Nov. 5, 1859.

2. White Cloud Chief, Nov. 10, 1859.

3. Ibid.; The Lawrence Republ. Oct. 27, 1859, states that Douglas was greatly denounced & that the Convention broke over it. The Freedom's Champion, Oct. 29, says

that the Republicans were trying to brand the Democratic ticket as belonging to the old "Border Ruffian" class. It is generally conceded that Douglas was repudiated and Buchanan was endorsed and sustained by the convention.

The Republican Central Committee had issued a call for the State Convention to meet at Topeka, October 12, 1859. In this convention Leavenworth county was to have 9 delegates; Douglas 7; Atchison 5; Doniphan and Shawnee 4 each; Johnson, Wyandotte, Lykins, Linn, Bourbon, Jefferson and Coffee 3 each; Riley, Allen, Anderson, Franklin and Breckenridge 2 each; and the remaining counties one each. More is known about the preliminary work of the Republican candidates than was known of that of the Democrats. On the 18th of August "Oto" of Wyandotte, a correspondent of the New York Times wrote that the approach of the autumnal elections had brought out numerous candidates for official honors. Among the most prominent lights for Governor, he mentioned Col. Holliday of Topeka,² Ex-mayor Adams and Rev. H. P. Johnson of Leavenworth, and Col. Blood and Charles Robinson of Lawrence. For Representative to Congress he mentioned Judge Conway of Lawrence, Col. Learnard of Burlington,

that a Douglas man introduced a resolution to adhere to the Cincinnati platform of 1856 & that the introduction of this resolution was "like a bomb-shell dropping in their midst". He says the "Douglas men were slaughtered, utterly annihilated".

1. White Cloud Chief, Aug. 18, 1859. The call was issued by S. C. Pomeroy and A. C. Wilder, Chairman & Sec'y respectively.
2. His name was used by both parties.

Col. Delahay of Leavenworth, General Pomeroy of Atchison, Dr. Root of Wyandotte, and Dr. Danford of Linn county.¹ on the 15th of August, 1859, H. Wilson of Natick, Massachusetts wrote to Governor Robinson and expressed the interest of the East in the Kansas election:

"Our friends here in the East are not a little anxious about your new State. Don't for God's sake let the Democrats carry it. You must look to the matter. They are stronger than I wish to see them. I think it was a mistake to organize the Republican party before coming into the Union but you decided otherwise and now do not be defeated."²

On April 30, 1859, Gov. Robinson had expressed himself in rather positive terms that he was not going to attend any "political convention, either mass, delegate or constitutional", that he was "not a politician" never had been, and so long as he had his reason, he would never be. His interest was "to procure grants of land from Congress for railroad purposes".³ Probably Gov. Robinson was a statesman rather than a politician. When the Douglas county Republican Convention met at Lawrence on the 10th of October to elect its delegates to the State Convention the Thatcher clique (really the Robinson men) had made a grand onslaught against Lane and Conway. They denounced them for using the funds of the Republican Committee to crush Robinson. But at the proper moment, wrote Geo. W. Brown, "Thatcher showed the white feather by seeking a compromise, and at the opening

1. Kans. Const. Clippings, I, 48-49.

2. Robinson Collection, 1848-60.

3. Gov. Robinson's letter to the editor of the Herald of Freedom written Apr. 30, 1859. It appeared in the May 7, 1859 issue.

of the polls, a written compact was made between Lane and his opponents".¹ The Topeka Tribune pointed out that the agreement had been that "in consideration of the friends of Lane voting for Robinson for Governor the friends of Robinson should go for Lane for United States Senator".² However, Geo. W. Brown said that it had been a "perfect sell" on the part of Lane, that it had not tied Lane and his friends to act for Robinson at Topeka, but merely "to labor in the County Convention for the election of Robinson delegates to Topeka."³ The Lawrence Republican shows that the delegates nominated and approved at first did not include Thacher, but upon subsequent motions made by Lane and Conway, his name was included.⁴ The delegates who finally attended the convention from Douglas county were Lane, Conway, J. Miller, J. T. Ferrill, T. D. Thacher, W. R. Davis and Jesse McPherson.⁵ However, all efforts to adopt resolutions to instruct the delegates failed.⁶ It appears that Robinson did not attend the County Convention.

In Leavenworth county were two aspirants for governor, H. P. Johnson and Ex-mayor Adams. The rivalry was rather pronounced, and since both parties were about equally powerful, neither candidate was willing to yield to the other. The result was that both sides elected a full set of delegates. It also appears that some fraudulent voting

-
1. Herald of Freedom, Oct. 15, 1859.
 2. Topeka Tribune, Oct. 22, 1859.
 3. Herald, Op.Cit., Oct. 15, 1859.
 4. Lawrence Republican, Oct. 13, 1859.
 5. Freedom's Champion, Oct. 22, 1859.
 6. Lawrence Republican, Oct. 13, 1859.

had been carried on by the supporters of H. P. Johnson. The charges fell on Vaughan.¹

The Topeka State Convention opened at precisely 12 o'clock on Wednesday, October 12. General S. C. Pomeroy called the convention to order but Col. W. A. Phillips was elected chairman, by a majority of one, over J. M. Winchell.² Senator Flumb and J. A. Martin were the secretaries. John A. Martin wrote that it "is a moderate estimate to number the people in attendance at over five hundred ... Among the distinguished persons present were Ex-governor Stanton, Gen. Lane, Gen. Pomeroy, Gov. Robinson, Judge Conway, Thos. Ewing Jr., Hon. S. A. Kingman, Hon. J. M. Winchell, Gov., Adams, Col. Phillips, and a number of others".³ The question of the Leavenworth delegation was compromised by the admission of half of each delegation, and each delegation was to select its own members. The Committee on credentials reported 77 delegates as entitled to seats in the convention.⁴ When the time approached for the nomination of candidates, "Lane and Conway made an ineffectual attempt to secure the nomination of Congressman first, but were overruled", and the nominations were made in the order specified in the call. Charles Robinson was nominated by T. D. Thacher, and H. P. Johnson by Champion Vaughan. The vote on the first ballot was, Robinson 43, and Johnson 34. J. P. Root won over Fish,

1. Herald of Freedom, Oct. 15, 1859; also White Cloud Chief, Oct. 20, 1859.

2. Lawrence Republ., Oct. 20, 1859.

3. Freedom's Champion, Oct. 22, 1859.

4. Lawrence Republican, Oct. 20, 1859.

Larzelere over Bare as Lieut. Governor; J. W. Robinson over Fletcher, and Graham as Secretary of State; Geo. S. Hillyer over Asa Hairgrove as Auditor; Wm. Tholen over T. P. Herrick as Treasurer; B. F. Simpson over Douglas, Houston and Lowman as Attorney General; Wm. E. Griffith over Davis and Daniel Foster as Superintendent of Public Instruction; Martin F. Conway over O. E. Leonard as Representative to Congress; Thos. Ewing was nominated Chief Justice by acclamation; Sam A. Kingman, Associate Justice for the long term and L. D. Bailey for the short term.¹ At the conclusion of the nominations H. P. Johnson proposed "three times three" for the ticket, and "such transporting earnest huzzahs", wrote Martin, "we have seldom heard. At about 2 o'clock at night, the Convention adjourned, sine die."² Sol Miller wrote that "before the Convention met, the wire-pullers had conceded the Governoship to Leavenworth; but her greedy belligerents threw it away". He favored a northern Governor for economic reasons.³

The campaign lasted almost two months. The Harpers Ferry incident of October 16 and 17, gave the Democrats a new campaign issue. They had denounced the Republicans as abolitionists, and supporters of John Brown and Montgomery; but now they spared no effort to fix the responsibility of Harper's Ferry upon the Republicans. They showed that John Brown, Gerrit Smith, James Redpath, Wm. Lloyd Garrison and

1. Freedom's Champ., Oct. 22, 1859.

2. Freedom's Champion, Oct. 22, 1859.

3. White Cloud Chief, Oct. 20, 1859.

Wendell Phillips were Republicans and then proceeded to show that the Harper's Ferry incident was but an example of how the Republican party was going to make war upon the South, and substantiated it by quoting James Redpath.¹

On November 5, the Atchison Union wrote:

"A year ago Old John Brown was a Republican hero - sans peur et sans reproche. He had no compeer in the affections and admiration of his Republican brethren. Lane and Montgomery, though ambitious to excel him, had neither of them climbed so high in distinguished consideration and regard, nor nestled so deep in the hearts of our Republican fellow citizens.

"Now mark the change. Brown is denounced as an insane fanatic who ought to be 'hung like a dog', and Montgomery they propose to send to the State Senate, and Lane to the U.S. Senate! Certainly this is mysterious".

In another article entitled "Old John Brown" he wrote that "no man in Kansas has pretended to deny that Old John Brown led that murderous foray which massacred" the Doyles, Wilkinson and Wm. Sherman at Pottawatomie.² The Democrats also published a letter written by Gov. Robinson to "Old John Brown" some three or four years before the incident, to prove that Robinson too was a sympathizer in Brown's Harper's Ferry transaction.

Geo. W. Brown came to the support of Gov. Robinson, Dr. Root, Messrs. Ewing, Kingman and Hillyer, and said that none of them were tinctured in the least with Old John Brownism, that Dr. Robinson had opposed his whole 'Jay-Hawking' movements in Southern Kansas from the first and in

1. Freedom's Champion, Nov. 5, 1859. This paper quotes statements of the Democrats and then tries to refute them.

2. Atchison Union, Nov. 5, 1859.

consequence was under the ban of those who advocated the prolongation of the "Bloody issue" in Kansas. But of the Representative ticket he could not speak so confidently. "Mr. Conway has been on the most intimate terms with Old John Brown," wrote Geo. W. Brown, "and it is said that Mr. Conway was Brown's legal advisor, and that the latter left a quantity of notes, etc. with Conway, either for safe keeping or collection, when in town, in cog., last summer"¹ In another article he explained the "etc." to have been boxes that contained Sharp's rifle cartridges, or Colt's navy revolvers, or both.² The Topeka Tribune warned the people not to elect a "land-grabber" to the office of Governor, but asked them to elect Medary whose record was perfect; for, "he has the reputation of being the best Governor Kansas has ever had, and the Republican press so declares. Then why not continue him in office."³

The attack of the Democrats put the Republicans on the defensive, and they were forced to explain. During the first two weeks of November Gov. Robinson, S. C. Pomeroy, H. J. Adams and H. P. Johnson toured the northern counties of the State while J. P. Root, Wm. A. Phillips, J. W. Robinson and S. C. Smith toured the central and southern counties. The next two weeks the two groups changed sections.⁴ Martin F. Conway denied that John Brown had stopped at his house "when in Lawrence, in cog., last summer". He did not suppose

1. Kansas Herald of Freedom, Nov. 5, 1859.

2. Ibid.

3. Topeka Tribune, Dec. 3, 1859.

4. Manhattan Express, and Kansas State Record, Nov. 12, 1859.

that Brown had been in Lawrence at all at that time. Brown had visited Lawrence, however, in the fall of 1858, when he had stayed at the hotel of Mrs. Killam. At that time he had left certain relief papers with him (Conway), which he still held. Conway said nothing about the ammunition, but said that he had no knowledge of "Old Brown's" plans, either in Kansas or out of it."¹ In answer to the 'Union's' charge of Republican complicity in the raid, the State Record wrote:

"There is not an accredited newspaper in the U.S. which has not condemned, in most emphatic terms, the attempt of John Brown to produce a servile insurrection in Virginia; and while the Republican party is uncompromisingly opposed to the further extension of slavery, and the further submission of the best interests of the Government to its dictation, that party is also just as strenuous in opposing all attempts at interference with it in the States where it legally exists.

"Contrast this position of the Republican party with that of the Democratic party ... When unheard of outrages were being wantonly committed upon the settlers of Kansas, in the name of Slavery, and the most sacred constitutional rights violated, not a single Democratic paper in the country was found to denounce it, or treat the matter otherwise than as a farce. Some four or five citizens of Virginia are killed by John Brown's party, for which he is brought to justice, and the whole people cry amen; but 150 citizens of Kansas are murdered in cold blood, and not a Democratic paper in the Union dared to raise its voice in behalf of outraged justice. John Brown and his surviving comrades are promptly arrested and dealt with according to law for their misdeeds; but thieving bands? The records of Executive appointments will show. A street assassin is appointed to a lucrative position in a Government Land Office; another is appointed purser in the navy."²

The Republican party showed, wherever possible, that the office seekers of the Democratic party were still holdovers

1. Kansas State Record, Nov. 12, 1859.

2. Ibid., Nov. 19, 1859.

of the "Old Border Ruffian" type, and untrustworthy. F. P. Stanton boldly canvassed for the Republican party. He said that there had been a time when he had hoped that the Democratic party would purify itself of every stain of Lecomptonism. But they had failed to do so. He held the Democratic party responsible for all the misrule and outrages in Kansas, but thought the Republican ticket worthy of confidence and therefore he should vote for it.¹ As has been indicated, the campaign was devoted in a large measure to the slavery question, the slinging of mud and waving the bloody shirt. Some attention was given to the question of railroads. John J. Ingalls wrote his father shortly after the Republican State Convention: "The men are rather inefficient generally and would hardly rank third class in New England, but the poorest State Government would be preferable to this condition of none at all."² Sol Miller also expressed his objections to the Republican ticket in his own characteristic manner. He said:

"Three objections we will name here. Firstly, the Convention made a mistake, and selected several of the candidates from Northern Kansas. Secondly, we think there are a few more Robinsons in the Territory, whose claims have been overlooked. Thirdly, we believe the principal part of the ticket was pre-arranged by the wire-pullers, and secured by trading and dickering. A part of the program was understood while the Constitutional Convention was in session, and the arrangement extends to the choice of United States Senators, the Railroad interests, and so forth".³

1. *Ibid.*, Nov. 12, 1859.

2. Ingall's Letters. Vault, K.S.H.S. The letter is dated Oct. 18, 1859, and written to his father. Ingalls was nursing "sour grapes" because he did not get the position he wanted.

3. White Cloud Chief, Oct. 20, 1859.

Yet Ingalls and Miller both supported the ticket.

Several newspapers came into being to assist in the campaign, The Kansas State Record of Topeka, with E. G.- and W. W. Ross as editors, The Neosho Valley Register with S. S. Prouty as editor, the Saline Standard at Marshall in Saline county, Missouri, with D. M. Sandidge as editor. All three were Republican papers. Two Democratic papers were likewise established, viz., the Olathe Herald with Devenny and Giffen as editors, and the American Sentinel with T. C. Hill as editor.¹ The most influential of the five was the Kansas State Record of Topeka. The Topeka Tribune changed hands about the beginning of September, 1859, and supported the Democratic ticket.² Geo. W. Brown used his paper to discredit M. F. Conway, but supported Gov. Robinson. On the 1st of November, 1859, he wrote J. A. Halderman a letter marked "Private & Confidential":

"Our next paper will be an awful one for Conway. It contains a letter which makes all the charges against him to which I alluded, and reprints the Harper's Ferry article, with a number of other very valuable articles. If the paper, as published, could be placed in the hands of the voters generally in the Territory, it would end all of Mr. Conway's hopes which I am extremely sorry to say, are already flogging. Such number as you want must be ordered without delay. Gov. Medary had ordered two hundred copies ... If I hear from you at once the type will remain standing and any number can be supplied."³

On the 19th he wrote again to Halderman as follows: "I

-
1. Ibid.
 2. Topeka Tribune, Sept. 3, 1859.
 3. J. A. Halderman - Papers. Letters of G. W. Brown to Halderman. In this letter Conway asked Stearns for \$500.00 to be used in support of the Leavenworth Constitution.

send you, by this morning's Express, 150 copies of our issue of to-day, and will send you another 150 tomorrow..."¹
 The Lawrence Republican, edited by T. D. & S. O. Thacher, supported Gov. Robinson. They admitted that there had been "honest differences" between them, but explained them as "differences of policy".²

Just where the money to finance political campaigns comes from is always of interest, but as a rule it is also difficult to determine. Among the John Brown papers was a letter of M. F. Conway, addressed to G. L. Stearns of Boston, Mass., in which Conway asked Stearns for money for the campaign. He wanted to have the money by the 1st of June, but did not specify the amount. Conway did not ask for a gift, because he was afraid that that would be asking too much, in view of all that Mr. Stearns had done for him. He promised, therefore, to pay "good interest for the use of the money" if he got it.³ On November 19, 1859, the Topeka Tribune quoted the Herald of Freedom again:

"A few weeks since, we learn, he [Conway] wrote to Gov. Morgan of New York, for money; that it was needed to help carry the election. A draft of one thousand dollars was forwarded him, and cashed by a banker in this place, who marked the notes which were paid out. This money, so far from being used against the democracy, has been paid out to partisan tools, so that by their help Mr. Conway could control the nominations in this county. His game was partially successful on Saturday last, and his success makes him determined to rule or ruin the Republican party in this county and through it, in Kansas".⁴

1. J. A. Halderman Papers.

2. Lawrence Republican, Oct. 20, 1859.

3. John Brown Papers, Corresp., 1855-89. Letter is dated Mar. 16, 1859.

4. Topeka Tribune, Nov. 19, 1859. "Sat. last" evidently refers to Co. election.

On July 5, 1859, Thos. H. Webb of Boston wrote to R. J. Hinton:

"You say that assistance is needed for the right-ful conducting of the campaign. Some considerable, for these hard times, has already gone out - perhaps a little more can be furnished, if absolutely requisite ... I will have another talk with some of our trusty ones, and will also see what can be done in the way of a supply of speeches, and other documents".¹

On January 26, 1860, Sol Miller, in referring back to the campaign wrote: "Money was squandered freely, slanders were circulated unsparingly, and local prejudices were worked upon incessantly".² Just how the money was spent is likewise of interest. On Sept. 9, 1859, Thos. H. Webb warned Conway as to the use of the money:

"Somebody is busily engaged in attempts to create a prejudice against you in this community ... Among other charges, one, which would be the most likely to prove injurious here, is that during the late electioneering groceries were kept open at your expense, where persons might go, and did go and imbibe freely without money and without price, thereby injuring the good name and fame of the place and seriously damaging the cause of temperance. Both Howe and Stearns among others have called on me in relation to the charges. I caution to receive them um grano salis or rather um magna salis ..."³

When the returns of the election of State officers, held December 1, 1859, were all in, the results showed that the entire Republican State ticket had been elected. Martin F. Conway, however, had received the lowest popular vote of any of the State candidates. Where Gov. Robinson had a popular majority of 2,513, and Thos. Ewing 2,709, Conway had

-
1. R. J. Hinton - Collections, Corresp., 1850-79.
 2. White Cloud Chief, Jan. 26, 1860
 3. Emigrant Aid Co. Relief Work, Box # W.X.Y.Z.

only 2,097. His heavy losses came from Leavenworth and Bourbon counties.¹ Sol Miller wrote that Conway had done well in consideration of the fact that the Democracy had made the principal part of the fight against him alone.² Of the 75 representatives elected to the House, the Republicans had elected 64 and the Democrats 11. Nine of the eleven had been elected in Leavenworth county, one in Doniphan and one in the fifth district. Only three Democratic senators were elected, all from Leavenworth county.³ The Republican scheme had worked well. There was a report of fraud in Doniphan county and the election was contested, with the result that all the precincts where any irregular voting had been carried on were thrown out. This had given the Republican party the majority in the county except for Larzelere. Charges of irregular voting were also brought against two of the most populous Republican townships in Shawnee county, but nothing was done about it.⁴ With the Wyandotte Constitution successfully ratified and the State officers elected, the interest as to the Kansas question was immediately shifted to Washington to determine whether Congress would yield to the interests of the Kansas people. This contest will be discussed in the next chapter.

1. Andreas, Hist. of Kans., 177, and Kans. State Record, Jan. 14, 1860.

2. White Cloud Chief, Jan. 26, 1860.

3. Freedom's Champion, Jan. 21, 1860.

4. Topeka Tribune, Dec. 31, 1859. The townships were Republican and the majority ruled.

CHAPTER VI.

The Admission of Kansas, January 29, 1861.

According to section 22 of the Schedule in the Wyandotte Constitution the Board of State Canvassers were to provide for the transmission of authenticated copies of the Constitution "to the President of the United States, the President of the Senate and the Speaker of the House of Representatives".¹ In accordance with this provision W.F.N. Army was sent, with copies of the Wyandotte Constitution, as a special messenger to the President of the United States. He arrived in Washington on December 23, 1859, and presented the copies of the Constitution to Representative elect, Martin F. Conway, who, the following day, asked President Buchanan whether he would communicate the Constitution in a message to Congress as he had done in the case of Oregon. President Buchanan, however, had already delivered his message to Congress on the 19th inst.,² and replied that it would not be necessary for the Constitution to reach Congress through him unless there was but one copy. If there was but one copy he would do so.³ There was more than one copy. In his message of the 19th instant the President had failed to mention the Wyandotte Constitution, its ratification, nor had his message anticipated that the people of Kansas would request admission. He had said, however, that, "Neither Congress nor a Terri-

1. Wyandotte Const. Cony., 591.

2. Messages & Papers of the Pres., V, 552.

3. White Cloud Chief, Jan. 5, 1859.

torial Legislature nor any human power [had] any authority to annul or impair [the] vested right" in slavery; supporting therewith the Dred Scott Decision. And had continued:

"When in the progress of events the inhabitants of any Territory shall have reached the number required to form a State, they will then proceed in a regular manner and in the exercise of the rights of popular sovereignty to form a constitution preparatory to admission into the Union. After this has been done, to employ the language of the Kansas and Nebraska Act, they 'shall be received into the Union with or without slavery, as their constitution may prescribe at the time of their admission.'"1

Conway therefore proceeded to Congress and placed the copies of the Wyandotte Constitution in the hands of Representative Grow of Pennsylvania, who, on February 15, 1860, introduced a bill to admit Kansas under the Wyandotte Constitution.²

The bill was considered in the House intermittently until April 11, 1860, when it passed by a vote of 134 to 73.³

Three members from the Free States, Messrs. English of Indiana, Sickles of New York, and Scott of California, all Democrats, voted against it; and three members from the South, Messrs. Etheridge of Tennessee, Webster of Maryland, and Barrett of Missouri voted for it. Two of them were Americans and one was a Democrat. Thirteen southern and three northern Democrats, and nine Oppositionists had absented themselves.⁴

In the House the bill was supported by Grow of Pennsylvania and Gooch of Massachusetts, and opposed by Clark of Missouri and Maynard of Tennessee. Since the real opposition was in

1. Messages & Papers of the Pres., V, 554-555.

2. Congressional Globe, 1859-60, 795.

3. Ibid., 1662-1672.

4. Atchison Champion, Apr. 21, 1860, & Lawrence Republican, Apr. 19, 1860.

the Senate and the arguments against the bill were much alike in both Houses, the debates will be discussed later.

On the 21st of February, Seward, of the Senate, had introduced his bill No. 194, asking for admission of Kansas.¹ But before he had accomplished anything the clerk of the House knocked at the Senate door with the information that the House had passed bill No. 23, admitting Kansas into the Union. This was April 12, 1860.² The next day the Senate referred the House bill to the Committee on Territory, with Green of Missouri as its chairman. Here the bill remained until the 16th of May, when the chairman reported it back with instructions from the committee to report the bill without recommendations.³ After this the bill was debated back and forth, intermittently, until Hunter of Virginia, on June 5, moved to postpone it and take up the Military Appropriation Bill. The motion to postpone passed 32 to 27.⁴ Two days later Wade of Ohio, called forth the bill oncemore by moving to postpone all prior orders and consider the Kansas Bill, but the motion was lost a second time by a vote of 26 to 32.⁵ While the bill was in the hands of the Committee on Territories, an attempt was made to amend the House Bill by annexing the South Platte Country but the proposition was lost by a tie

1. Globe, 848.

2. Ibid., 1672.

3. Ibid., 1698 & 2117.

4. Globe, 2624.

5. Globe, 2627.

vote. Six members of the committee were present, and but one absent. Mr. Latham of California, contrary to expectations, had voted against annexation.¹ On the motion to postpone the Admission Bill all but two of the Democrats voted affirmative, Pugh of Ohio, and Latham of California. Kennedy voted with the Democrats, whereas Crittenden, Nicholson, Douglas and Clay were absent.² A spirited debate had preceded the vote to postpone, participated in by Sumner, Collamer and Wade in favor, and Green, Chestnut and Wigfall against the bill. Wigfall of Texas had taken occasion to malign the Kansas people. He had criticised and slandered their moral character, and remarked that the Kansans were not respectable enough for Texans to associate with. He had left the impression that in Kansas the outlaws and traitors were in the majority, that the North and Europe had been drained of their vagabonds in order to send emigrants to Kansas.³ Even J. A. Halderman of Leavenworth, a Democrat, had suffered under the smarting indignation of these words, and said that if he had been privileged upon the floor of Congress, he would have denounced these charges in terms warranted by their falsity.⁴ The main arguments, however, centered about the objections to the bill, and the attempt to change the boundary. The opponents of the bill maintained that the people of Kansas had violated the English

1. Kans. St. Record, May 19, 1860.

2. Ibid., June 9, 1860.

3. He evidently had been reading the Kansas newspapers.

4. J. A. Halderman Papers, A newspaper clipping.

Bill by framing and ratifying a constitution before they had taken a census to determine whether the population of the Territory measured up with the requirements of the law, viz., 93,420, the ratio of representation required for a member to the House of Representatives of Congress. They said that the best information, with reference to the population of the Territory, limited it to 69,700. Moreover, they maintained that the boundaries of Kansas provided for in the Wyandotte Constitution included within their limits lands belonging to the Cherokee Indians, with whom the United States had made a treaty in 1835, in which both contracting parties had agreed "that the lands ceded to the Cherokee nation ... [should], in no future time, without their consent, be included within the Territorial limits or jurisdiction of any State or Territory". The restriction had also been incorporated into the Kansas-Nebraska Bill. The way out they maintained, was for Congress to annex the Platte Region on the North, and cut off the Cherokee strip on the South. Green of Missouri therefore proposed an amendment in which he provided for this change in boundaries.¹ Just when the Senate was ready to vote on the amendment, Hunter of Virginia moved to postpone the bill, and it was agreed to. Collamer of Vermont, a member of the Committee on Territories, contended that there was no reason to withhold the admission of Kansas, that the Constitution was Republican in form, and the population, based on the vote

1. Globe, 2617-2622.

on the Constitution would figure about 100,000; even more than the required number for admission. The census taken in June 1859, he maintained, had been imperfectly taken because scrip had been paid to the agents taking it, with the result that they had neglected their work. Instead of a population of 71,770, as reported by the agents, it should be 97,570, according to the corrected account given out by the Committee of the Territorial Legislature. Furthermore, he maintained that Oregon had been admitted with a population of less than 50,000; and only two years ago the opponents had been satisfied to admit Kansas with a population of less than 93,000 and with a boundary which had left unheeded their present objection, viz., the violation of the Indian treaty.¹ Sumner devoted his lengthy argument to the barbarism of slavery.² Yet all arguments failed to soften the hearts of the Democrats, for they were facing a presidential election and were not anxious to add another Republican State to the list of their opponents. Therefore, it was expedient to keep Kansas out of the Union until after the presidential election.

The Washington correspondent of the Lawrence Republican wrote: "the whole squad of Democratic officials from Kansas are in Washington laboring with might and main against our admission into the Union".³ In the

1. Globe, 2462-2464.

2. Ibid., 2590-2603.

3. Lawrence Republican, Feb. 2, 1860.

following issue he named, among others, Pettit, Elmore, Mitchell, Davis, Jones, McDowell, Isaacs and Lumb, who were using their endeavors to induce the Democratic Senators and members of the House "to unite in a refusal for the admission of Kansas under the Wyandotte Constitution, unless the boundaries [would be] so changed as to include the Territory of Nebraska south of the Platte river, and also the Territory west, including Pike's Peak". The Democrats then proposed to the Kansas Republicans in Washington that if they would accept the boundary proposal the Democrats would support the admission of Kansas.¹ They undoubtedly expected that this change would ultimately give the Democrats a popular majority.

When the people of Kansas learned that Congress had tabled the Kansas question and had adjourned, they lost their patience. They began to question who was responsible. Many blamed Stephen A. Douglas. On the 11th of August the Kansas State Record wrote:

"Kansas is still out of the Union, because Douglas refused to raise his voice in her favor, With all his pretended zeal for the will of the people, he had not the moral courage to plead for the Admission of Kansas, lest, in doing so, he should offend the South. He is as bold as a lion, to do wrong; but he hasn't the courage of a mouse in the cause of humanity and justice."²

Others began to think of calling another constitutional

1. Ibid., Feb. 9, 1860. Written by "Milton".

2. Kans. St. Record, Aug. 11, 1860, taken from the Kennebec (Me.) Journal. Evidently there was some truth to this charge, at least, when the time came to vote to postpone the Kans. question, Douglas was absent both times, Globe, 2624-27, nor did he say much, if anything in defence of Kans. before the election.

convention and frame a fifth constitution. This movement seems to have been led by disappointed politicians and those jealous of the success of Topeka in the capitol contest.¹ Even as late as January, 1861, the Territorial Legislature had a resolution pending to ask Congress to pass an act enabling Kansas to form a Constitution preparatory to her admission as a State. The Topeka Tribune was willing to spend \$10,000, if necessary, to defeat this movement.² Still others were thinking of a more dangerous movement, viz., to set up an Independent Government under the Wyandotte Constitution should Congress refuse to admit Kansas under this document.³ The large majority were willing to wait, however, and give Congress another chance. The presidential election would be over with by the time the next Congress would convene and many an obstruction therewith removed. Meanwhile Kansas was experiencing the severe drought, described in another chapter, which lasted almost 16 months. The drought had produced a famine, income had ceased, and people suffered for lack of food and clothing. The time might have been ripe for political agitators, but the people were farmers and their outlet seemed to be to become office seekers, rather than political agitators.

When the second Session of the 36th Congress met it fell to the lot of Jacob Collamer of Vermont to guide the Admission Bill through the Senate. On December 11, 1860,

1. Kans. St. Record, Jl. 14, 1860; Topeka Tribune, Jan. 12, 1861.

2. Topeka Tribune, Jan. 12, 1861.

3. White Cloud Chief, Feb. 16, 1860.

he called forth the House Bill No. 23. Again he had to face the Democratic opposition to the bill under the crafty leadership of James S. Green of Missouri. The bill was considered in the Senate on the 11th, 18th, 24th and the 31st of December, and on the 7th, 14th, 16th, 18th, 19th and 21st of January. It passed the Senate on January 21, was concurred in by the House on the 28th, and approved by the President on the 29th of January.¹ On December 24, Alfred O. P. Nicholson of Tennessee made a powerful speech in behalf of the South. He criticised the North for its failure to abide by the Fugitive Slave law; pointed out the differences in the ethics of the South and North on the question of Slavery and said that the North had incorporated their ethical principles into a political platform, supported by a political organization, "which must, from its principles, be confined to one section, and that the stronger section, with the avowed purpose of so construing and administering the Constitution as finally to extinguish the institution of slavery". He concluded with a plea for peaceful separation, in case no satisfactory agreement could be reached between the two sections.² On the 18th of January Green again started with his amendments, introduced the previous session. The boundary amendment proposed to strike out the constitutional provision and substitute the following:

1. Globe, 2nd Session, 36th Congress, 1860-61, #5-646.
 2. Globe, 184-187.

"Beginning in the main channel of the North Fork of the Platte river, at a point where the twenty-fifth meridian of longitude west from Washington, crosses the same; thence down and along said channel to its junction with the main stream of the Platte; thence down and along the main channel of the Platte to the Missouri river; thence south along said river and the western boundary of the State of Missouri to the northern boundary of the Cherokee neutral land; thence west along said northern boundary, the northern boundary of the Osage lands, and the prolongation of the same, to the twenty-fifth meridian of longitude west from Washington; thence north on said meridian to the place of beginning."

The amendment was defeated, 23 to 31.¹ Douglas said he was willing to approve of the amendment provided it were ratified by a majority of the Kansas people and could be accomplished without delaying the admission of Kansas. As to Green's objection that the boundary as defined in the Wyandotte Constitution, would interfere with the Indian treaty, Douglas corrected Green on the constitutional question involved. He said that the United States Constitution, and all laws and treaties in accordance with it, were the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding. It was unnecessary, therefore, to insert a clause in the bill excepting the Indian reservations or to alter the boundaries because of the treaties. No Kansas constitution or law could impair any of the rights secured in the Indian treaties; consequently, he did not regard Green's objection an insuperable one. He could see no reason why the boundary question should delay the admission of Kansas, especially

1. Journal of the Senate of the U.S., 2nd Session, 36th Cong., 116-17.

when those objections had not existed in the minds of the opposition three years ago when the Lecompton Constitution was under consideration. He thought that they had better "waive the small technical objections".¹ The next day, January 19, Graham N. Fitch of Indiana moved to amend the bill by adding at the end thereof sections 4 and 5, constituting Kansas a judicial district of the United States, "with the like powers and jurisdiction as the district court of the United States for the District of Minnesota". According to Senator Fitch, the object of the amendment was to test the constitutionality of the right of the Territorial Legislature to abolish slavery. The lower court had decided against it and if the amendment would be defeated the case upon appeal would be dropped and there would be no decision on it by the Supreme Court.² The amendment was rejected, however, by a vote of 26 to 27.³ Douglas objected to it because it did not come approved by the Judicial Committee. Moreover, he did not agree with the Senator from Indiana that the admission of Kansas would remove the right of appeal. He said that there was no necessity of delaying the admission of Kansas any longer. Turning to the Senator from Missouri, he said:

"The Senator from Missouri well knows that this Kansas question has been here for years, and no consideration on earth could suffice to stop it in this body three years ago, when it came under the Lecompton Constitution.

1. Globe, 2nd Session, 36th Congress, 444-45.

2. Ibid., p. 467.

3. Ibid., p. 469.

It was not stopped then to be amended for the want of Judiciary or any other clauses; but it was forced through. We are told, first, that Kansas must be kept out because her Northern boundary is not right, when it is the same now as it was then; next that she must be kept out because her Southern boundary is not right, when it is the same now as it was then; again she must be kept out because of the Indian Treaties, though the same objection existed then as now; again she must be kept out because she has not population enough, though she has three times as many people as were there then; and, finally, this bill must be delayed now because it does not contain a judiciary clause. I do not understand why there constant objections are being interposed to the admission of Kansas now, when none of them were present in regard to the Lecompton Constitution, three years ago, nor in regard to the admission of Oregon, which has since taken place. ..."¹

While Douglas' points are well taken, one wonders why he did not think of them in the previous session.

At this time Green offered another amendment, this time it affected the school lands. He proposed to confirm the title of those men who, in good faith, had paid their money for school lands, sections 16 and 36. These lands, said he, had been sold in violation of section sixteen of the Kansas-Nebraska Act, which reads:

"That when the lands in the said Territory shall be surveyed under the direction of the government of the United States preparatory to bringing the same into the market section 16 and 36 in each township ... shall be ... reserved for ... schools ..."

Douglas thought that only one section in Atchison county had been sold in violation of this section, but Green said that he was told that 2/3 of the school sections in the Territory had been sold in violation of the law. Green's amendment would have made it impossible for the State to get any land in place of what had been sold in violation of

1. Globe, 2nd Sess., 36th Cong., 466.

the law. Douglas maintained that the title to these school lands was still in the hands of the United States. The amendment, like those preceding it, was unsuccessful.¹ Pugh of Ohio now moved to reconsider the vote on Green's boundary amendment, but it also failed, 22 to 29.² Green next proposed to add an additional section to the bill which would submit the act of admission to a vote of the Kansas people before the State could be declared admitted. It also failed, 21 to 32.³ On the 21st of December the Senators from Mississippi, Alabama and Florida withdrew. They were Jefferson Davis and Albert G. Brown of Mississippi, Fenj. Fitzpatrick and Clement C. Clay of Alabama and D. L. Yulee and Stephen R. Mallory of Florida.⁴ The South Carolina Senators, J. C. Hammond and Chestnut, had never taken their places in the Senate the second Session of the 36th Congress but had resigned some time in November of 1860, before Congress had convened.⁵ In his farewell address Jefferson Davis, in a mournful and touching strain, had vindicated his belief in the right of secession. He had justified it on the basis of State Sovereignty. He regretted that the situation demanded the withdrawal of Mississippi from the Union and thereby sever the ties of affection established. He entertained no personal feeling

1. Globe, 465-66

2. Journal of Sen., 2nd Sess., 36th Cong., 122.

3. Ibid.

4. Globe, 487.

5. McMaster, Hist. of the People of the U.S., VIII, 477-78. (Foot note). The Representatives of S.C., however, had taken their seats in Congress.

of hostility to the Senators from the North, but "wished them and their people well". He asked forgiveness for any pain he might have inflicted in the heat of the discussions in the Senate, and expressed his willingness to forgive others.¹ Rhodes wrote that the audience was affected to tears by "the plaintive music of his voice" and quoted from the Memoirs of Jefferson Davis that "that night Davis wrestled in prayer offering up more than once the supplications: 'May God have us in his holy keeping, and grant that before it is too late, peaceful councils may prevail.'"²

After the Southern Senators had left the Senate the Vice President called up the unfinished business of the Admission Bill.³ Green of Missouri withdrew the Pikes Peak Territorial amendment, but Fitch of Indiana reintroduced the amendment on the Judiciary, previously lost by a vote of 26 to 27. This time he was successful by one vote, 29 to 28.⁴ A comparison of the votes on the amendment, shows that Crittenden, who had voted affirmative the first time, now voted negative; whereas Latham, Kennedy, Pearce and Slidell, who had not voted the first time, now voted affirmative and the amendment passed.⁵ Since no further amendments were pending the bill was read a third time and it passed the Senate as amended by a vote of 36 to 16, and was sent to the House for its concurrence.⁶

1. Globe, 487.

2. Rhodes, Hist. of U.S. III, 159.

3. Jrnl. of the Senate, 2nd Sess. 36th Cong., 127.

4. Ibid., 128.

5. See Appendix # J.

6. Jrnl. of the Senate, 2nd Sess. 36th Cong., 128.

The question naturally arises, did the admission of Kansas have to await the withdrawal of Southern Senators? That is a doubtful supposition. There were only 33 States in the Union and therefore only 66 votes available in the Senate. Thirty-six votes had been cast for admission, more than a majority of the total number available. It is possible that the withdrawal of the Southern Senators influenced the Northern Democrats to change their votes in favor of admission. On the other hand, the presidential election was over and the motive for withholding admission, on the part of the Northern Democrats, had thereby been removed. In comparing the vote on Hunter's motion to postpone the bill, moved June 5, 1860, with the vote on admission, the following changes appear: On the 5th of June Bright and Fitch of Indiana, Rice of Minnesota and Johnson of Tennessee had voted to postpone the bill, but on Jan. 21, 1861, they voted for admission; Douglas of Illinois, Crittenden of Kentucky, Thompson and Morrill who before the election had not voted at all, now also voted for admission. This gave the affirmative nine additional votes, which, when added to the 27 votes cast in favor of Kansas on June 5, accounts for the 36 votes. The result would have been the same, therefore, even though all the Southern Senators had been present and voted against admission. There were other changes. On the 5th of June, 1860, Bayard and Saulsbury of Delaware, Gwin of California, Lane of Oregon, Pearce of Maryland, and Nicholson of Tennessee had voted to postpone,

on January 21, they did not vote at all. In addition there were the nine Southern Senators, who on the fifth had voted to postpone but had left the Senate by the time the Senate voted to admit.¹ The answer to the query, therefore depends on what motive prompted the Northern Democrats to change their votes. The logical answer might be that both, the presidential election, and the withdrawal of the Southern Senators had influenced the question of admission.

The House received the bill on January 21, and on the 28th, Grow of Pennsylvania, asked for the suspension of the rules in order to take up the Kansas bill. A two-thirds vote was necessary to suspend the rules, but the House yielded graciously, 119 to 41, and the same day the Senate amendment was concurred in and the admission bill had passed Congress.² The following day it was presented to President Buchanan. He signed the bill on the 29th of January, 1861, and notified the House and Senate on the 30th and 31st, respectively.³ At last the long struggle over the admission of Kansas had ended and the Kansas politicians breathed freely. The Free-state party had started the fight for admission on October 23, 1855; and the Republicans had continued it. They finally had won over the Democrats, January 29, 1861. The conflict had lasted five long years, three months and six days.

The reason the ultra-Republicans in Congress had

1. See Appendix #J.

2. Journal of House of Rep. 2nd Cong., 236-37.

3. Ibid., 243 & 259, and Senate Journal, 171.

opposed the Fitch amendment, it was rumored, was because if adopted it would have given President Buchanan the power to appoint the District Judge for the position and they feared that the President would appoint Judge Petit. It was also rumored that the vote on admission might be postponed until after the inauguration of President Lincoln.¹

The news of the admission of Kansas was spread by an Extra of the Leavenworth Daily Conservative, January 29, 1861.² It was an occasion of great rejoicing. The Lawrence Republican described the reception of the news as follows:

"Our whole town was elated. Men ran from place to place proclaiming the glad tidings. Cheering and music and all manner of exultation was heard everywhere through our streets. A deputation was immediately sent to Capt. Bickerton's for that celebrated old piece, the Sacramento, and it was brought to town after dark and thirty-four guns fired at about twelve o'clock and renewed at sunrise this morning. ... never in the history of Kansas was such exultation known amongst our people."³

Judge Simpson of Lawrence said that "toasts were drunk; songs were sung; speeches were made, and - well, the truth is that my recollection is not good after midnight. You must recollect that the main question then was admission, not prohibition."⁴ The Topeka Tribune stated that at last the prayer of Kansas had been answered. And Kansas was no longer a football for partisan demagogues and unscrupulous politicians. "We of Topeka hail the news with a peculiar

-
1. Leavenworth Daily Conserv., Jan. 28, 1861; Debates in Senate, Globe, Op. Cit., p.467f.
 2. Ibid., Jan. 30 & 31, 1861. This was the passage of the bill. The President's signature had not yet been given.
 3. Lawrence Republican, Jan. 31, 1861.
 4. Robinson Collections - "Kansas Conflict" Chap. 17, 14.

feeling of interest and pride. -- Topeka is Capitol of Kansas."¹ The Leavenworth Daily Conservative turned to poetry:

"Jewhiller! what glorious news this is
at any rate,
Which makes us fellow-citizens and lords of a
new State!
'Tis 'Bleeding Kansas' now no more, nor 'Kansas
Territory',
But a 2:40 sovereign nag careering in her glory.
Go 'lang! Stand by! We'll beat the world, against
the which we are pitted,
Since Congress has resigned the reins, and Kansas
is admitted.

"Let South Carolina now secede, if fractious
spirits bind her;
We can without her scud along, and so we needn't
mind her.
Why, all the cotton States might go from Yankee
land to sever,
And blithe, high-mettled Kansas still could make
good time as ever.
Go 'lang! Stand by! etc"²

On the ninth of February, Gov. Robinson, in accordance with section 23 of the Schedule of the State Constitution, proclaimed Kansas a State in the Union and called upon all officers elected under the constitution to enter upon the discharge of their respective duties, and upon the State Legislature to convene at Topeka on Tuesday, March 26, 1861.³

The Act of Congress which conditioned the admission of Kansas into the Union contained five sections. Section one bounded the State and restated the fact that the Indian treaty rights were to remain unaltered until the Tribes

1. Topeka Tribune, Feb. 2, 1861.
2. Leavenworth Daily Conserv., Jan. 31, 1861.
3. Lawrence Republican, Feb. 14, 1861.

should signify a desire to extinguish them. Section two gave the State one representative in Congress, not to be altered until the next general reapportionment of Congress. Section three repealed the Ordinance and Resolutions contained in the Wyandotte Constitution and substituted the following provisions, - it set aside sections 16 and 36 for common schools in each township of the State. If already sold or otherwise disposed of other lands equivalent thereto should be reserved for that purpose. Seventy-two sections should be set aside for a State University. The land was to be selected by the Governor, subject to the approval of the Commissioners of the General Land Office. Ten more sections were to be set aside for Public buildings, and twelve salt springs with six sections of land with each spring, all were given to the State by the Federal Government. In addition to this the State was to get five per cent of the net proceeds of the sale of all public lands within the State when sold by Congress. This money was to be used by the State for public roads and internal improvements. To offset these concessions, Kansas should agree not to tax the lands belonging to the United States located within her limits. Sections four and five comprised the Fitch amendment, and made Kansas a Judicial District of the United States. A District Court was to be established in Kansas and the judge of this court was to hold two regular terms of said court per year.¹ However, not until

1. Kans. St. Record, Feb. 16, 1861.

January 23, 1862, during the second session of the State Legislature, did Kansas ratify and confirm the Ordinance, commonly called the Act of Congress of January 29, 1861. It appears that the first Legislature had passed an ordinance accepting the conditions of admission, but the Commissioners on Public Lands reported, January 14, 1862, that they had examined the records of the State Department and had found no record of the resolution, nor had it been published in the book of laws.¹ Since Congress had given the State only a year within which to ratify the ordinance and pick the salt springs, it became necessary for the second Legislature to speed the action. Consequently, the State Legislature passed a Joint Resolution on the 21st of January, approved by the Governor on the same day, whereby they bound the State never to interfere with the "primary disposal of the soil within the same, by the United States, or with any regulations Congress [might] find necessary for securing the title to said soil to bona fide purchases thereof, and never to impose any tax on lands belonging to the United States."² This done, Kansas had complied with the conditions imposed on her at the time of admission.

On January 14, 1863, Governor Carney submitted a report to the Legislature in which he compared the lands Kansas had received from the Federal Government with the amount other states had received. His statement showed

1. Public Documents of the State of Kansas, 1861, 35-37.
 2. House Journal of Kans., 1862, 19, 40, 42, 64.

that Kansas had received for:

Internal Improvements under the Act of 1861.....	500,000 A.
Common Schools.....	2,891,288 "
Universities, etc.....	46,080 "
Public Buildings.....	6,400 "
Salines.....	46,080 "
Total.....	<u>3,489,848 A.</u>

The Kansas grants as compared with 7,587,507 acres given to Illinois, 12,515,201 to Michigan, 8,729,392 acres to Iowa, 9,652,482 acres to Arkansas, 10,774,878 to Louisiana, and 12,790,637 to Florida, made Governor Carney cry out for justice.¹ These states had received large grants for canal and railroad purposes. Gov. Carney had failed, however, to give the figures for Indiana, Tennessee, and other states which had received no more than Kansas.² Moreover, Samuel Lappin and H. B. Denman of the Legislative Committee who had investigated the proposition of Congress on land grants, had recommended that the Legislature ratify the ordinance as submitted by Congress.³ Furthermore, the Legislature of 1862, had ratified the ordinance without a dissenting vote.⁴ Kansas, therefore, had to be satisfied with what she had accepted.

1. Public Documents of Kans., 1862, 18.

2. Senate Journal of Kans., 1861, 97-8

3. Ibid., 96-97.

4. Senate Journal, 1862, 15. House Journal, 1862, 19 & 40.

CHAPTER VII

Setting the Government in Motion.

The birth of Kansas did not come at a very prosperous time. The season of the year was winter. The sun's rays trembled in the frozen air, and the snow lay deep on the Kansas landscape. The Kansas granaries were empty, caused by the long extended drought. The financial resources were exhausted, and its citizens were subdued by famine. In the words of E. C. Manning, who characterized the birth of Kansas, the child had arrived "bawling" and hungry. So unpropitious had been the season that the child's "nurses" had been unprepared for the event. They had resorted to empty flour sacks marked "W. F. N. Army" for swaddling bands, had improvised Manila bags of the same brand for diapers, and wrapped the shivering form in blankets marked "New England Aid Society". The period of generation had extended over so many years that waiting nature had been exhausted and the bosom of mother earth lay cold and dry. While various professional accouchers had sought to crowd the event, Uncle Sam had connived at a miscarriage. From time to time his dragoons, with drawn sabers, had dispersed the patriotic nurses. It had been a milkless birth, and the child's first sustenance had been donated bean soup.¹ The hardships that had accompanied and enveloped the long generation period, however, had fostered sectional hostility,

1. Manning, E. C., "In at the Birth". Col. K.S.H.S. VII, p.204.

but had also aroused world wide interest in the outcome of the struggle.

It was under very distressful and trying circumstances, therefore, that Gov. Robinson took the oath of office to set the government in motion. The State was beset with ambitious office seekers, border warfare threatened the peace of Southern Kansas, a vicious faction divided the new State, and Civil War was threatening the Union.

After the news of the admission of Kansas reached Gov. Robinson, he immediately took steps to set the State government in motion. On the 9th of February Caleb S. Pratt, County Clerk of Douglas County, administered the oath of office to the Governor. In accord with section 23 of the Schedule of the State Constitution, Gov. Robinson issued an announcement proclaiming the admission of the State and called the Legislature to convene on the 26th of March, 1861. He asked all officers elected under the Constitution to enter upon the discharge of their respective duties in accordance with its provisions. He also directed the attention of the voters to the fact that there were five vacancies in the Assembly which had to be filled by special election before the Legislature could convene.¹ A few days later he went to Topeka to investigate the temporary seat of government. He avoided publicity by evading the

1. Leavenworth Daily Conservative, Feb. 13, 1861; Kans. State Jrnal., Mar. 21, 1861.

reception planned for him.¹ During the last week of February he left for the East. It was reported that he had received a telegram from Washington asking him to come at once.²

Governor Robinson had not been without political ambitions. Although he had been cautious in revealing his aspirations, it is not known that he ever refused a nomination tendered to him. It was reported that he had been interested in a Federal appointment. On the 27th of February, 1861, one of the correspondents from Lawrence wrote: "Gov. Robinson has left for Washington. It is understood here that he is an applicant for a Federal office, in which case he would, I presume, resign his governorship".³ Even Mrs. Sara T. D. Robinson had preferred to picture her future in the Washington society. On the 30th of December, 1860 she wrote the Governor from Belcherton, Massachusetts:

"I have sometimes thought that I may have done wrong in favoring - perhaps urging you to advance your claims for an office in Washington. One can walk as safely there - lead as pure a life as in the most retired place and the light coming from it will be a beacon to many more than in the latter circumstances. - I trust indeed wherever our lot may find us - it will be, doing well and to the best of our ability".⁴

Further evidence points to the conclusion that the Federal office referred to may have been that of Commissioner of Indian Affairs. Concerning this the Topeka Tribune wrote:

-
1. Topeka Tribune, Feb. 16, 1861.
 2. Kansas State Jnl., Feb. 28, 1861.
 3. Kans. Legis. Clippings, Vol. I & II.
 4. Mrs. Robinson to the Governor, Dec. 30, 1860. Robinson Papers, K.S.H.S.

"Suppose that Gov. Robinson found when at Washington, that such men favored his appointment as Chase, Cameron, Smith and Blair, of the Cabinet; Vice President Hamlin; King, Harris, Wilson, Wade, Collamore, Foot, Cowan, Harlan and others, of the Senate; Colfax, Grow, Fenton, Sherman, Thayer, and a score of other members of the House, a large number of the most respectable and distinguished citizens of the Union, including Reeder, Banks, Morgan and Beecher, and nearly all the respectable men in Kansas of any national reputation. Suppose, further, that when he found the President was already committed, and had been for months, to a friend, on personal grounds, the Governor declined to make any application to him for that position, and that he was repeatedly asked by his friends, including the Secretary of the Interior, if he would not take another position more honorable and responsible than the Indian Bureau;"¹

The evidence points to the conclusion that Gov. Robinson would have been willing to sacrifice the position as Governor of Kansas for the Indian office had it not been promised to Dale of Illinois.² This would have tied up with the Governor's interests in Quindaro and his railroad projects.

Gov. Robinson in certain respects was following a well defined political policy. It was the "Fabian policy" suggested to him by A. A. Lawrence in 1856.³ It had been his guide during the Territorial period and he continued it as Governor of the State. When Gen. Lane was busy organizing the Republican party he wrote: "As to the organization of parties, I have but one word to say. I am simply a looker-on, and disposed to let the politicians make their

1. Topoka Tribune, Mar. 23, 1861.

2. Lawrence Republican, Mar. 14, 1861.

3. "The Fabian policy is the true one, i.e. the greatest forbearance, total discouragement of all aggression; a deadly though smiling quiet. This you must adopt, or rather you have only to keep on as you have done," A. A. Lawrence to Robinson, Jan. 31, 1856. Robinson Papers, K.S.H.S.

own bed".¹ When the Harper's Ferry incident threatened the reputation of the Kansas people and the Free-state party he regarded it his duty to protect the reputation of his party and the Territory. His testimony exposed the plans, as he saw them, of the radical abolitionists of Kansas. Robinson regarded the Harper's Ferry insurrection and the Southern Kansas troubles as a part and parcel of the same program. To him it was clear beyond a doubt that the leaders in both events had co-operated in word and deed. He made it clear that the true Free-state party had opposed these lawless and revolutionary proceedings.² The Governor used this issue to discredit the Lane faction. This quickened the hostility of the two opposing factions. As Governor of the state, however, Robinson was determined to restore peace and order. He would administer the State as economically as possible. He favored a small legislature. The Territorial debt he regarded a Federal obligation.³ His attempt to control the political appointments pertaining to the State heaped upon him severe criticism and involved the factions in further disputes.⁴

Governor Robinson's failure to convene the Legislature immediately after the admission of the State had opened a political controversy. It was at once associated

1. Robinson's letter to Herald of Freedom april 30, 1859, in Orig. MS. of The Kansas Conflict. Chap. XVI, 591-3

2. Lawrence Republican, March 1, 22, 1860; White Cloud Chief, Mar. 8, 1860.

3. Wyandotte Commercial Gazette, Apr. 6, 1861.

4. Kansas State Jrnl., Feb. 28, 1861; Topeka Tribune, Mar. 23, 1861.

with the Governor's visit to Washington. The accusation was that the Governor had postponed the convening of the Legislature to give him time to arrange the political patronage of the State before the Senators reached Washington. Lyman Trumbell of Illinois was among the first to voice the complaint. In a letter to Delahay, February 16, 1861 he wrote:

"The Bill to admit Kansas was hurried through for the very purpose of getting the Kansas Senators here before the 4th of March. The fate of the country may depend on two votes. Robinson must have known this. The idea of letting the squabbles between rival candidates deprive us of two votes at this important crisis is preposterous. So far as I have the ability to prevent it neither Robinson nor any other person acting with him shall take anything by this course. The Kansas appointments ought to be kept back till she is represented here in the Senate."¹

The Elwood Free Press reported that its citizens had been so excited over the Governor's failure to convene the Legislature sooner that they had sent a "monster petition" to President Lincoln asking him not to grant any favors to Gov. Robinson because he was "unworthy of the confidence of the government".² The Topeka Tribune informed the people that the petitions circulated in Leavenworth, Topeka and other towns had been started by Gen. Lane.³ On the 15th of March the Washington correspondent of the Leavenworth Conservative wrote that several Kansans had told the President "that it was the desire of the Kansas men that he

1. Trumbell to Delahay, Feb. 16, 1861 Delahay Papers, K.S.H.S.

2. Elwood Free Press, Feb. 23, 1861.

3. Topeka Tribune, March 2, 1861.

should appoint none of them from that State until her Senators were elected and then appoint their selections".¹ The correspondent reported further that the President had acquiesced in the request.² John Speer has related that Gen. Lane had arranged with Representative Conway to see to it that appointments would be withheld until after the Senators were elected.³

The newspapers reported that the Capitol City was crowded with "Kansans" anxious to serve their country and be well served in return. On the 23rd of March the Washington reporter for the Conservative wrote:

"The Kansas men wear the longest faces and look the gruffest. Hutchinson, of Lawrence, I always see waiting in the hall of the State Department. He wears the gloomiest, sourest face of any man in town, and no wonder; for I have seen his card go in four or five different times, and the servant invariably comes back with the answer: 'Mr. Seward is engaged.'"⁴

Hutchinson wanted a consulship. The same reporter continued that at the Department of Interior every other column had a Kansas applicant leaning against it. He expressed surprise to see so many business men, who supposedly were doing well, apply for \$1,000 and \$1,500 agencies.⁵

In making the Federal appointments the results indicate that the President had heeded the requests of the petitioners and appointed the candidates in the majority of

1. Leavenworth Daily Conservative, March 22, 1861.

2. Ibid.

3. Taken from a MS. written by Mrs. Robinson, Robinson Collection. K.S.H.S.; Also Stephenson, Lane, p.101

4. Leavenworth Daily Conservative March 22, 1861. Written by "Capital".

5. Ibid.

cases suggested by Senators Lane and Pomeroy. Among the favored citizens were the following: M. W. Delahay, Surveyor General of Kansas and Nebraska; Judge John T. Burris, United States Attorney for the District of Kansas; John A. Martin, Postmaster of Atchison; C. B. Keith, Agent of the Kickapoo Indians; James B. Abbott, Agent of the Shawnee Indians; W. W. Ross, Agent of the Pottawatomie Indians;¹ J. C. Burnett, Register of the Land Office at Fort Scott; F. G. Adams, Register of the Land Office at Lecompton; A. Law, Register of the Land Office at Kickapoo.² A Mr. Williams of Illinois had been appointed as District Judge for Kansas.³ This appointment was made before the election of the Kansas Senators. To Geo. W. Deitzler had been promised the Pottawatomie Agency, but Lane's arrival in the Senate had effected a change.⁴ Most of the successful candidates had supported Lane, except Keith. He had been recommended by Pomeroy.⁵

It is still an open question whether Governor Robinson had been guilty of the charges brought against him and delayed the election of the United States Senators from Kansas in order that he might control the patronage of the State. The paper that announced the Governor's

1. Abbott, J. B., Papers. Apr. 26, 1861.

2. Daily State Record, Apr. 30, 1861.

3. Lawrence Republican, March 14, 1861.

4. The Topeka Tribune stated that Deitzler had occupied the position and that Lane's influence against him had caused his removal. Tribune June 1, 1861.

5. Kansas Legislative Biography, Rohr to Martin, Feb. 28, 1908.

telegram from Washington added these words: "May be gentlemen who are expecting appointments to the various comfortable Indian guardianship, in this State, would like to know what the nature of that telegram was. We would like to gratify them were it in our power".¹ After reporting on the Governor's personal interest in Washington the Topeka Tribune wrote: "Suppose he was asked, in connection with Mr. Ewing, to name some suitable persons to fill certain offices in Kansas, and suppose that those offices have been filled by appointing the persons so named; ... would the flea he brought home in his ear be very annoying ... I have reason to believe he is very well satisfied with the state of things at Washington, and finds no fault with the President, the Cabinet, or members of Congress".²

Several factors no doubt helped to defeat the Governor at Washington, assuming that the charges against him were true. In the first place it does not appear that the Governor had intended to violate the tradition of "Senatorial Courtesy". The Tribune stated: "Suppose he was asked, in connection with Ewing". Judge Ewing was Gov. Robinson's favorite candidate for the United States Senate. His election was defeated which released the Senators in Washington of any pledges they might have made in connection with Ewing. In the second place, it no doubt was Gen. Lane's persistency that helped him to win out at

1. Kansas State Jrnl., Feb. 28, 1861.

2. Topeka Tribune, March 23, 1861.

Washington.

Newspapers played a very important role in Kansas politics. It was remarked at the time that the Kansas politicians were very "musical" because every prominent member of that fraternity had an "organ". Gov. Robinson was no exception. The Kansas State Journal had been established to devote its attention to promote the interests of Governor Robinson and his supporters.¹ It was edited by Trask and Lowman and was published in Lawrence, Kansas.

On the 26th of March the Kansas State Legislature was to convene at Topeka. Almost a month before its organization this town had been filled to overflowing with members of the Legislature, State officers, candidates for Legislative and Federal appointments and the lobby. The Senatorial candidates had arrived early to establish their headquarters. Gen. Pomeroy had chosen the Chase House, Gen. Lane and Col. Delahay the Garvey House. The Ritchie buildings were used by the Executive and other State officers. A Hotel, hastily constructed, was located near the Chase House. It housed other candidates. Continuous lines of persons would be seen to radiate from the focus of the Chase House, the Hotel and the Ritchie buildings toward the Garvey House. "From early morn to odorous noon and dewy eve", the streets were "dotted with comers and goers, in double and single file, by dozens and by units". One observer reported that with this mass of men there was but

1. Leavenworth Daily Conservative, Feb. 16, 1861.

one business, "that of caucusing on the senatorial question. ... Combinations and ruptures, instructions and appointments, claims and disabilities, are the staples of all conversation, and one would think that the destiny of Kansas is the election of Senators and after that either the deluge or millenium".¹

Under the influence of this intense excitement the Legislature was organized. Sixty-four Republicans and eleven Democrats had been elected to the House and twenty-two Republicans and three Democrats to the Senate.² A Lane and Parrott combination had been arranged for the purpose of electing the United States Senators.³ Under this combination W. W. Updegraph of Osawatomie was elected Speaker of the House. His election came with the seventh ballot.⁴ His strongest opponent was J. W. Scott of Allen county, a Pomeroy supporter.⁵ In the Senate the Lieutenant Governor, J. P. Root, was the presiding officer. John J. Ingalls was elected secretary.⁶ For temporary purposes the State Legislature adopted the joint rules of the last Territorial Legislature.⁷ In their separate organizations each house had adopted the rules and regulations of the Territorial House

1. Kansas State Journal, March 28, 1861.

2. Freedom's Champion, Jan. 21, 1860.

3. Topeka Tribune, March 30, 1861.

4. House and Senate Journal, 1861, pp. 3-13.

5. Leavenworth Daily Conservative, March 27, 1861.

6. Senate Journal, 1861, p. 3f.

7. House Journal, 1861, p. 7; Kans. State Record, March 30, 1861.

and Council, respectively. Both houses ruled to prohibit smoking in the halls and in the lobby.¹ With the Houses organized, the Legislature was ready for business.

Governor Robinson delivered his able message to the Legislature on the 30th of March. In it he summarized the Territorial history of Kansas and made recommendations to the Legislature. He recommended that the Legislature urge the Federal government to assume the losses incurred by the Territory during the period of the Civil War. These losses he estimated at \$500,000. The Territorial indebtedness he estimated at \$100,000 and asked the Legislature to urge Congress to assume it also. After that the Governor proceeded to point out the legislation necessary to execute the provisions of the constitution. It would have to establish a system of State Courts and define the jurisdiction of each, it should improve the system of education, establish benevolent and penal institutions, organize the State militia, apportion the State for the election of Senators and Representatives, assess the taxes, provide for the printing of the public documents, establish the property rights of women, provide for the permanent location of the capitol, remove the suits from the Territorial to the State courts, and provide for a State seal. Since the Territorial laws would remain in force until they expired or were repealed, he did not regard it absolutely essential to attend to all those things immediately. The legislation that

1. *Ibid.*, p. 44; Kans. State Record, March 30, 1861. The motions to prohibit chewing were lost in both Houses.

should be attended to at once was provision for a system of State courts, for the location of the capitol, and for the apportionment of the State. He also asked the Legislature to provide for a codifying committee and authorize it to change the Territorial laws so as to make them harmonize with the provisions of the State constitution. He recommended to the Legislature that it reduce the size of the House of Representatives to forty-five and the Senate to fifteen members. His argument was that it would make for efficiency and economy. He thought that it "would subserve the public interest quite as well as the present number and reduce the per diem aggregate nearly one-half". As to the threatening danger of Civil War he wrote:

"If it is true that the continued existence of slavery requires the destruction of the Union, it is time to ask if the existence of the Union does not require the destruction of slavery. If such an issue be forced on the Union it must be met, and met promptly. ... Kansas, though last and least of the States in the Union, will ever be ready to answer the call of her country."¹

The message had at heart the welfare of the new State and was well received.

The Legislature at once proceeded to the election of United States Senators. The candidates for the position were Thomas Ewing, F. P. Stanton, M. W. Delahay, M. J. Parrott, S. C. Pomeroy and James H. Lane. There were some Democratic aspirants like Judge Williams and P. T. Abell,² but it was evident that the party had no chance in the

1. Wyandotte Commercial Gazette, Apr. 6, 1861.

2. White Cloud Chief, Feb. 14, 1861.

contest. Thomas Ewing had been elected chief justice of the State Supreme Court but he had nevertheless entered his name in the race. He was supported by Gov. Robinson.¹ A day or so before the election, however, he withdrew his name in favor of Mr. Parrott. The reason for this is obscure. In 1898 O. E. Learnard wrote that before the framing of the Wyandotte Constitution Parrott and Ewing had agreed that if a state constitution were framed which provided for the office of Chief Justice, and Ewing were elected to the position he would withdraw from the Senatorial race.² The Truth-Teller of March, 1862, however, explained Ewing's withdrawal as due to financial reasons. The author wrote that Ewing had placed \$3,000 in the hands of his lieutenants to help win the election. When he discovered, however, that Pomeroy "had \$5,000 up and plenty more in reserve 'he drew out'".³ Ewing was considered a candidate from the north side of the Kansas river, competing with Pomeroy and Parrott.⁴

E. P. Stanton and Col. Delahay were much less in the limelight than Parrott, Pomeroy and Lane, and less is known about their methods and their political strength. It appears that Delahay never seriously entertained the thought of winning in the contest. His hopes lay in Washington.

1. Ibid., March 14, 1861; also Sol. Miller to Gov. Robinson, Feb. 28, 1861. Sol. Miller Papers.

2. Learnard, "Organization of the Republican Party". Trans. K.S.H.S. VI, 313-14.

3. Truth-Teller, Mar. 1, 1862.

4. Kans. State Record, Apr. 6, 1861.

Frederick P. Stanton, however, was deeply interested in winning the election. He had served in the popular branch of the Federal Legislature in 1854, and had voted for the Kansas-Nebraska Bill. He had come to Kansas an Administration Democrat, as secretary of the Territory, but had changed parties at the time of the State election under the Wyandotte Constitution. It was Stanton's victory in the state senate over Parrott and Lane April 1, that broke up the Lane-Parrott combination and led to the Lane-Pomeroy combination.¹

Hon. M. J. Parrott of Leavenworth had been the Territorial delegate and representative in Congress for the past three years. An Anti-Parrott paper said of him that if his past action in Congress was to be taken as an indication of his future course there was no necessity for electing him to the senate.² The Leavenworth Times pointed out that the twelve Republican candidates to the state legislature from Leavenworth county, who had been defeated in the election by the Democrats, all had opposed Parrott.³ He was supported, however, by the White Cloud Chief, the Leavenworth Daily Conservative, the Western Kansas Express, and the Elwood Free Press. The White Cloud Chief and the Western Kansas Express supported him because he would represent their

1. Senate Journal, 1861, pp. 33-34.

2. Topeka Tribune, Mar. 16, 1861.

3. Kans. State Record, Apr. 6, 1861, quotes the Leavenworth Times.

railroad interests in Congress.¹ His two "borders" were Babcock and Wilder of Leavenworth. If he was elected, Wilder was to control the patronage north of the Kansas river and Babcock south of it. Furthermore, it was said that Wilder had been promised the position of Surveyor General and Babcock the Superintendency of Indian Affairs at St. Joseph, Missouri.² As early as the 15th of February, Lane and Parrott had effected a combination which was supposed to win the election of both candidates.³ This agreement, however, was broken by the Lane men when Lane's election appeared to be in danger.

S. C. Pomeroy was a native of Massachusetts, and the blood of Bunker Hill patriots was said to course in his veins. Born at Northampton, Massachusetts, in the year 1816, he was now in his forty-fifth year. He had served two terms in the Massachusetts Legislature and in 1854 had come to Kansas as an agent of the New England Emigrant Aid Society.⁴ He was an active promoter of the Atchison and St. Joseph railroad. His relief work in connection with the Kansas drought and famine of 1860-61 has been discussed in another place. Suffice it to say that it was generally understood at the time that his connection with this work was prompted by a political motive.⁵ Just before the State

-
1. White Cloud Chief, Mar. 14, 1861 & Western Kansas Express, Mar. 9, 1861.
 2. Lawrence Republ. Feb. 21, 1861.
 3. Ibid.
 4. Kans. State Record, Apr. 6, 1861.
 5. Jno. Brown Papers. E. B. Whitman to Sanborn. Feb. 11, 1861
The papers were filled with it, of course.

Legislature convened Pomeroy had rented and furnished a "Senatorial residence" in Topeka. The opposition papers expressed their fear that the money used on this residence would greatly affect the "relief supplies".¹ Shortly before the election Pomeroy made an appeal to Hyatt for money to help him win the election. A part of the letter is here reproduced:

"I am preparing to go to Topeka upon the 20th. I shall 'sink or swim'; I don't know which - I shall be obliged to be at considerable expense - I may want to draw upon you for \$500. Tell me, if I may! Telegraph me - I shall not invest in myself only so much as is necessary to win! If I do win - I am your humble servant forever afterwards. ... Indignation meetings against Leavenworth are now the order of the Day all over Kansas. The people are at last moving. ..."²

Pomeroy had decided to win the election at any cost. The newspapers that supported him were the Kansas State Record, the Mound City Report and the Freedom's Champion. The M. E. Conference, which convened at Atchison the week before the senatorial election, had "passed resolutions endorsing Pomeroy and Co. in full".³ The Leavenworth papers and Western Kansas Express actively opposed him. The citizens of Manhattan had met on the 13th of March and instructed their representatives of the State Legislature "to elect two U. S. senators whose interests [would be] identified with the Kansas Valley, and who [would] cooperate with each other in Congress to obtain a grant of land to aid in the construction

1. Leavenworth Daily Conserv., Mar. 12, 1861.

2. Pomeroy to Hyatt, Mar. 14, 1861. Hyatt Papers.

3. Elwood Free Press, Apr. 6, 1861.

of the Leavenworth, Pawnee and Western R.R." It was well understood that on the railroad question the people of Riley county were opposed to the election of Gen. Pomeroy.¹ In order to win the support of the legislators from this county it was said that Pomeroy had executed a "written pledge" to work for a grant of land for the Leavenworth, Pawnee and Western Railroad Company.²

James H. Lane, whose political ambitions have been referred to in other places, will from now on occupy a leading part in the Kansas drama. In 1858 he had committed an act of violence which had temporarily checked his political activities. Lane had been a potential candidate for the United States senate ever since his arrival in Kansas. He had been chosen to this position in March of 1856, under the Topeka Constitution, and since then he had watched every opportunity that presented itself to be available for the position, should the occasion come. When in 1859 the Wyandotte Constitution was ratified and the chances for the admission of Kansas were good, he again got busy. At a secret meeting at the Miller's Hall in Lawrence, October 17, 1859, he was nominated.³ The committee that nominated him was composed of Judge Miller, Judge Conway,

1. Western Kansas Express, Apr. 13, 1861.

2. Western Kansas Express, Apr. 13, 1861.

3. Manhattan Express, Oct. 29, 1859. "Broad Axe" of Lawrence reported that the Lawrence meeting that had nominated Lane, which purported to have been a public meeting had been unknown even to the Lawrence citizens, except the Lane men. The nomination was therefore not representative of the Republican party.

J. B. Abbott, A. J. Totten and J. A. Finley.¹ Judge Conway and Gen. Lane had agreed that Lane would work for Conway's nomination and election to Congress and Conway would reciprocate the favor.² Lane left no stone unturned to win the election. He had almost a year and a half to cultivate the field. In March and April of 1860 he spent his time in denouncing Governor Robinson and the "Bond Swindle". The Governor had connected him with the Harper's Ferry insurrection, consequently he reciprocated by connecting the Governor with spurious claims. It appears that bonds to the amount of \$97,000 had been issued on the strength of the warrants granted for losses incurred before Nov. 1, 1859; \$45,000 worth of bonds were reported issued to Shaler W. Eldridge, \$24,000 to Gov. Robinson, \$10,000 to Anna M. Jenkins and \$16,000 were scattered among various claimants.³ The claimants all belonged to the Robinson faction.⁴ Gen. Lane was in need of a campaign issue. When he realized that the movement was unpopular and would make good campaign powder, he took to the stump, denounced it as a "Bond Swindle", and

1. Atchison Union, Nov. 5, 1859.

2. ^{M.} F. Conway to S. N. Wood, Feb. 24, 1861. See S. N. Wood Papers. Judge Conway said: "Gen'l Lane gave me his support, when I was a candidate for Congress, with understanding that I would be in favor of his election to the United States Senate..." The same understanding existed between Pomeroy and Conway. Ibid.

3. Connelley, Kansas and Kansans. pp. 598-99

4. It is known, however, that Gen. Lane also had attempted to profit by the Funding Act. Kans. State Record, Apr. 7, 1860, contains Lane's letter of explanation. See also Topeka Tribune, Apr. 21, 1860.

hurled terrific onslaughts on his arch enemy, Robinson.

As an example of what he could do, a part of his Leavenworth speech is quoted:

" I have said that name should never profane my lips or disgrace my pen. I regard him as the Benedict Arnold of his age, and pray God that he may feel the just indignation of an outraged people; but if the resurrection horn should reach the dark abyss of crime into which he has plunged himself, may he not rise with perjury on his lips or Kansas bonds in his pockets."1

Probably Lane's most successful bait for attracting votes was to farm out the offices, which he would have at his disposal if elected. It was charged against him that he had promised the same office to several men. In criticising Lane on this point the Lawrence correspondent of the Tribune wrote:

"Lane's promises of appointments for office are beginning to leak out, and it frequently happens that half a dozen are promised the same office. Thus Sam Walker, of Douglas, McDowell, of Leavenworth, Williams, of Osawatomie, and your John Ritchie, are all promised the Marshalship of Kansas; three or four gentlemen in this city with, I presume, as many more in your place, are promised the Pottawatomie Indian Agency, and so we go, ad infinitum. Scarcely a day passes but some of Lane's friends discover his double dealing and treachery, and are leaving him by scores."2

When Sol Miller heard that Lane had promised even the congressional nomination to Speaker Updegraff, he remarked:

"Lane has no more right to bargain off that nomination than his distinguished ancestor had to promise the world to Christ."3 In order to catch the attention of the people

-
1. Atchison Union, Mar. 24, 1860. Sol Miller said that Lane was the last man that ought to go around howling about the bond swindle: "Perhaps one-fourth of the claims are for losses caused directly or indirectly by himself and his pilfering band." White Cloud Chief, Apr. 19, 1860.
 2. Topeka Tribune, Feb. 16, 1861.
 3. White Cloud Chief, Apr. 25, 1861.

Lane would circulate petitions of one kind or another. In August 1860, he circulated petitions asking Gov. Medary to call an extra session of the legislature to pass a stay law for the Territory.¹

General Lane was charged with inconsistency. On this point the Tribune wrote:

"If he praised Capt. Montgomery at Osawatomie, he swore he would hang him at Fort Scott. If at Mound City he was a radical Republican, believing the declaration to be the Golden Rule of politics; at Barnsville, he cursed the 'nigger' and declared that he would not have him in the State, whether bond or free. ... To 'cap the climax', in one of his speeches, with his lips fresh from repeating an abominable lie, he raised himself to an erect attitude, lowered his voice, wrinkled his brow, stuck his hand upon his heart, and said: 'If there is one thing above another that the people of Kansas know, it is that Jim Lane is an honest man!'"²

Like Gen. Pomeroy, he too would win at any cost. His letter to Col. Delahay best illustrates this point. It is labeled "Strictly Confidential":

"Lawrence, Kansas, Dec. 18th, 1860.

Dr. Delahay

I have at last arranged for John Speer one of my tru[e]st and most faithful friends to get hold of the Republican provided I can raise for him 500\$ on twelve months - I will be over on Thursday certain in the stage to raise that amount for that time - For days and weeks I have been laboring night and day to accomplish this result - and now there must be no failure in this - I scarcely know where to go but raise it - I must and will $\frac{1}{2}$ Think and keep thinking until I come over - Delahay with the Republican Times and Record we can accomplish almost anything.

I have written to Buell that he must get together 5000\$ and the moment he hears of our admission he must start with it to Kansas. I have strong hopes he will do so. I do not believe the whole batch of our opponents can raise as much. Delahay they shall not beat me by corruption. The

1. R. S. Stevens to S. N. Wood, Aug. 6, 1860. S. N. Wood Papers.

2. Topeka Tribune, Mar. 23, 1861.

people are for me the members are for me & by God they shall not defraud me out of my election. I rec'd a letter from Conway this morning, he says we are coming in & no mistake. I have written him that he must be on hand when the Legislature meets.

I have written to Abbott one of the members from this County now in Pikes Peak to hold himself in readiness to come home at a moments notice.

I am ready for the fight completely perfectly prepared if we can close the Republican arrangement that must be done if we barter everything in doing it.

Delahay I will have the Stage drop me at your house, perhaps Speer will be with me. Say not one word but think how the 500 is to be raised. I fully appreciate that it is a mammoth task likened unto the moving of a mountain but it must be done & that too at Leavenworth - God helps those who help themselves. The purchase of the Republican makes everything smooth & certain. The men from several Districts are all favorable.

Respects to all

Yours truly Lane¹

The papers that actively supported Lane, as he mentioned in the letter, were the Lawrence Republican, the Topeka State Record and the Leavenworth Daily Conservative. John Speer and Nicholas Smith purchased the Lawrence Republican from T. D. and S. O. Thatcher.² In John Speer, Lane had found another man who would act according to his bidding, hence the change. The Kansas State Record was a Topeka paper as well as a Lane "organ" and came into being in October, 1859. Its editors were Edmund G. and Wm. W. Ross, both active Lane men. This support was not based on mere love and loyalty for Lane. The State Journal reported

-
1. Delahay Papers. The letter needs punctuation but I have tried to reproduce the original as near as possible. Also Stephenson, "Political Career of J. H. Lane". Publ. of K.S.H.S. III, 99-100. Stephenson says he got the money, but he fails to say or mention the \$5,000 he asked of Buell. Probably he did not know about it.
 2. Stephenson, Political Career of J. H. Lane, pp. 99-100.

that, "Not only the editors of the Record, but the whole tremendous energies of the town site of Topeka were exerted to determine the legislative fight in favor of Lane.¹ Topeka wanted the capitol and the land office. They got both, and Lane was elected to the senate and also became the owner of 81 city lots in Topeka.² How the matter had been arranged is not clear. The suspicion, however, remains, and was voiced at the time. The Leavenworth Daily Conservative was controlled by D. R. Anthony and D. W. Wilder. They supported the Lane-Parrott combination. The votes in the State Legislature from Leavenworth county, however, were controlled by the Democrats.

On the first of April, E. P. Bancroft of Emporia, a Parrott man, introduced the motion to elect United States senators. It asked the Senate to elect one U.S. senator from Kansas south of the Kaw river, and demanded the previous question. The motion prevailed. This came as a surprise. Thomas A. Osborn, of the Lane-Parrott combination, had nominated Marcus J. Parrott. O. B. Gunn of Wyandotte, a Parrott but anti-Lane man, nominated Fred. P. Stanton. John H. McDowell of Leavenworth nominated A. J. Isacks. James H. Lane had also been nominated; at least his name appeared on the ballot.³ The result of the vote was the election of Frederick P. Stanton. The vote stood Parrott 5,

1. Kans. State Jrnl., Aug. 29, 1861.

2. Feb. 22, 1862, C. K. Holliday sent Lane a notice of the taxes due on these city lots. See Holliday Papers. Also Kans. State Jrnl., Aug. 29, 1861.

3. Lane's nomination is not recorded.

Lane 7, and Stanton 13. The three Democrats from Leavenworth, however, had first indicated for Isacks but had changed to Stanton before the vote was recorded. This gave Stanton the majority vote.¹ The whole procedure had the appearance of a prearranged affair. Thirty-two years later P. P. Elder, who had been state senator of Franklin county in 1861, recalled that the night before the election, the Parrott-, Pomeroy-, Stanton- and Ewing men had combined with the three Leavenworth Democrats to pass the resolution to elect Stanton, and that this had been unknown to Lane. He tells the story as follows:

"The writer (Elder) nominated J. J. Parrott, and being a Lane man first, supposed the positive Lane man would follow and by the Lane and Parrott vote could defeat Stanton. But Governor Osborn, Burnett and Houston thought different, and having no time to consult, Gov. Osborn nominated J. H. Lane. In this vote the Parrott men all voted solid for Stanton and against Parrott and Lane both. This was their trade and sealed the down of M. J. Parrott."²

If the Senate Journal may be relied upon, P. P. Elder was mistaken. It was not Elder but Osborn that nominated Parrott, nor is it likely that Osborn would have nominated both Parrott and Lane. He blamed Osborn for having split the vote by nominating Lane. The Journal did not record Lane's nomination. Elder is correct in saying, however, that the Parrott, but anti-Lane men, had voted for Stanton. Bancroft, Dutton, Hoffman and Lappin were Parrott, but anti-Lane men, and had supported Stanton.³ What happened was

1. Senate Journal, 1861, pp. 33-34. For vote see Appendix #K.

2. Topeka Capital, Feb. 5, 1893.

3. Leavenworth Daily Conserv., Apr. 5, 1861. See also Append. #K.

that some of the Parrott-, Ewing- and Stanton men had united with the Democrats to elect Stanton. This election had put the Lane and Pomeroy men in a quandary and led to the Lane-Pomeroy combination. This combination led to a joint session. It is not known who originated the idea. P. P. Elder claimed that it was first suggested by Col. H. P. Johnson of Leavenworth in a caucus meeting of the Lane men held immediately following the election of Stanton.¹ In this meeting Gen. Lane is supposed to have selected H. P. Johnson and P. P. Elder to arrange a trade of votes with Pomeroy. The agreement, he reported, was made at Pomeroy's headquarters, the "Fort Sumptuous House". The Lane men are said to have agreed to give Pomeroy the names of seven positive Lane men who would vote for Pomeroy in joint session and Pomeroy agreed to furnish Lane with one man in the Senate who would vote with the Lane and Parrott men in favor of a joint session. John A. Martin had been selected as the betrayer. They agreed upon strict secrecy. The pledge was drawn up in writing and signed by thirteen senators.² Among the Governor's correspondence is a copy of this pledge, but it bears the date of April 15, 1861. By this time the election was over.³ The agreement is here reproduced:

-
1. He made this statement 32 yrs. later. See Topeka Capital, Feb. 5, 1893.
 2. Topeka Capital, Feb. 5, 1893. The paper contains P. P. Elder's story.
 3. It is possible that the date does not belong with the agreement. See footnote No. 1. p.265.

"Topeka, Kansas, April 15th, 1861.

We the undersigned, Members of the State Senate, do hereby agree to vote for a resolution to go into a joint convention for the purpose of electing two United States Senators, or agree to vote to concur in any such resolution coming from the House of Representatives for the same purpose; and also agree to vote for such resolutions as are necessary to attain that purpose.

Josiah Miller
H. S. Sleeper
S. D. Houston
T. A. Osborn
J. A. Phillips
John Lockhart

J. C. Burnett
W. Spriggs
P. P. Elder
H. W. Farnsworth
H. N. Seaver
Jno. A. Martin

Ed. Lynde

Endorsements:

Agreement of Kansas State Senators at the time of the election of J. H. Lane to the U.S. Senate, in April, A. D. 1861.

Dr. Grimes, Chairman
J. C. Burnett, Secretary

19 members of House, two senators present."¹

The endorsement reads as though it had been written after the election.

In 1893 Prof. Isaac T. Goodnow gave his version of the bargain between Lane and Pomeroy. It does not agree with Elder's explanation. He wrote that at a caucus called by S. D. Houston at the Miller House,² Goodnow, in a speech had proposed a Lane-Pomeroy combination. Later he had been instrumental in effecting the combination by seeing both leaders personally. "That night" wrote Goodnow, "they

-
1. Gov. Robinson's Corresp. Archives, Dept. #8, Sec. 375. Stephenson, J. H. Lane, pp. 102-3, gives the pledge as taken from Life of Gen. Lane, by Jno. Speer, 229. The two agree except as to date. The latter is dated Apr. 1, as it should be, and does not have the endorsement, which must have been written after the election.
 2. The meeting was made up of members from Riley and neighboring counties, plus lobby members from the "Honorable Third House". Several strong Parrott men had been represented.

slept together at the 'Bean House', but not till after 1 o'clock."¹ The writer is not in a position to say whether Goodnow or Elder should get the blame for having assisted the movement to defraud the people of Kansas in the senatorial election.² That the bargain between the Lane and Pomeroy men was made is the important fact and it was known to contemporary observers.

On the 2nd of April the Topeka correspondent of the Lawrence Journal described the effect of the election of Stanton on Lane and the subsequent combination as follows:

"Consternation at once seized upon Lane, his councils and his forces. He commenced that vigorous work, however, for which he is noted, to retrieve the disaster he had met with, and sought for a new alliance or combination in the direction of Gen'l. Pomeroy and his friends, with what result the sequel will show."³

The Leavenworth Herald also referred to the "unholy alliance between the murderer of Jenkins and the Padre of the Mendicants" as having spoiled the election of Parrott.⁴

With the alliance perfected the House voted to go into joint session with the Senate to elect the United States senators. It was Tuesday, April 2, 1861. The date set for the election was April 4.⁵ The next day the joint resolution came up for consideration in the Senate. Here a

-
1. Top. Daily Capital, Jan. 29, 1893.
 2. Sept. 3, 1893, Elder wrote to Geo. W. Martin that he wrote up the whole story to Adams, Sec. of Historical Soc. years ago but never saw it in print. See Legis. MSS. 1861-69, Vault. It seems that there is more proof back of Elder than Goodnow.
 3. The Kans. State Journal, Apr. 4, 1861.
 4. Leav. Daily Herald, Apr. 9, 1861. See Delahay Papers.
 5. House Jrnl. 1861, pp. 51-52.

desperate fight was waged by the Stanton and the true Parrott men, to kill the resolution. Motion after motion was made to delay action, amend or kill the resolution, but each in turn was voted down and usually by a vote of 12 to 13. Finally Lynde of Grasshopper Falls, who led the Lane forces, moved to concur in the House resolution and demanded the previous question. The call was sustained and after some more fillibustering the resolution was adopted 13 to 12.¹ The thirteen senators who had signed the pledge on the first of April carried the resolution. John A. Martin had left his former position and voted for the joint session, in accordance with the pledge.² Parrott appears to have been ignorant of the intrigue and favored the joint session, but four of his supporters believed it unwise and voted against it.³

When the 4th of April arrived the Legislature met in joint session to elect the U. S. senators. Lynde offered a substitute resolution which prescribed the manner of electing the senators. It provided that the secretary of the Senate should call the roll of the Senate and as each member's name was called he would arise and announce his choice viva voce for two U. S. senators. Following this the clerk of the House would repeat the process for the House of Representatives. After the roll of both Houses had been

1. Senate Jrnl., 1861, pp. 41-45. For details see Appendix #K.

2. Compare the names of the senators on the pledge with the vote on the resolution.

3. Leav. Daily Conserv., Apr. 5, 1861. The names of the men - Bancroft, Dutton, Hoffman and Lappin.

announced and all members had voted, the secretary and the clerk of the respective Houses should "foot up the rolls". The speaker of the House together with the president of the Senate should then announce the results of the election. Lynde's resolution was a substitute for Martin's rule and it was adopted.¹

It was 2:30 P.M. when the secretary of the Senate started to call the roll and for two long hours the process continued. One eye witness wrote that "the wildest confusion and excitement prevailed, and changing votes was the order of the day".² Another correspondent remarked: "Of the ninety-eight members, fifty-eight changed their votes from one to six times; the record shows two hundred and ninety-seven votes, of which seventy-six occurred in the Senate, and two hundred and twenty-one in the House, being an average of a little more than three to each member; but as forty gentlemen remained steadfast to the end, these eccentricities must be distributed accordingly".³ "No mortal could keep the run of the voting"; remarked Sol Miller, "and when it was completed, it is asserted, the result was obtained by a sharp practice of Clerks and eavesdroppers".⁴ "The unholy alliance between the murderer of Jenkins and the Padre of the Mendicants was for a time broken and Parrott was elected by six or seven votes", wrote the Leavenworth

1. House Jrnal, 1861, pp. 73-4.

2. Leavenworth Daily Herald, Apr. 9, 1861. Delahay Papers.

3. Leavenworth Daily Conservative, Apr. 11, 1861.

4. White Cloud Chief, Apr. 11, 1861.

Herald. "One of the Clerks refused to return the result to the Speaker and President of the Convention", continued the Herald, "pretending that he could not get the thing straight- whilst all the time mysterious little strips of paper were telegraphed to and fro about the room".¹ The vote for Gen. Lane is said to have fluctuated between 49 and 64 votes, that of Parrott between 49 and 60.² When the result was finally announced the vote stood, Lane 55, Pomeroy 52, Parrott 49, Stanton 21, Isacks 11, Kingman 3, Delahay 2, Conway 1 and Houston 1.³

In 1878 J. J. Ingalls wrote that he had sent the original tally list kept by him as Secretary of the joint convention, to F. G. Adams, Secretary of the State Historical Society. The list seems to have disappeared. Mr. Ingalls wrote:

"I enclose the original tally list kept by me as Secretary of the Joint Convention that elected the first United States Senators from the State of Kansas at Topeka, in April, 1861. The paper marked (1) shows the vote with the changes made by each member of the Legislature during the progress of the ballot. The paper marked (2) shows the state of the vote when the balloting closed, and is the sheet from which the result was announced.

"The whole number of votes in the Legislature was 100. There were two absentees in the House of the day of the Convention, making the total present 98. During the progress of the balloting the highest number of votes received by Lane was 64; by Parrott, 60; by Pomeroy, 52; by Stanton 20; Kingman, 4; Delahay, 2; Isaacs, 11; Conway, 1;

1. Leavenworth Herald, Apr. 9, 1860.

2. Topeka Tribune, April 6, 1861 & footnote #1, p. 270.

3. House Jrnal, 1861, pp. 74-76. The votes given in the contemporary reports differ from this.

Houston, 1."¹

The comments on the election were incriminating. The Conservative wrote: "Are Senators elected by clerks and eavesdroppers? ... Every man who tried to keep the record will agree with us that it is mere guesswork to tell who was elected".² The Leavenworth Herald referred to bribery: "Some of the traitors to Parrott who flew the track at Topeka, complain bitterly of an imposition practiced on them. They openly charged that they were paid for their votes in Illinois money, the holder knowing it to be at a discount".³ The Rev. Werter R. Davis was reported to have promised Parrott in the morning and voted for Pomeroy in the afternoon.⁴ On the 23rd of October, 1862 Sol Miller wrote:

"It is well known that during the Senatorial contest, Mr. Ingalls professed to be a warm friend of Mr. Parrott, in opposition to Gen. Pomeroy. This was recently put at him, and seemed likely to injure his popularity at home, when he arose and made a startling confession. He said it was through his 'manoeuvring' as secretary of the Senate, during the voting that Parrott was defeated. ... A few months since (the election), we were told that it was strongly suspected that one of the clerks was bribed, during the confusion and changing of votes, to make false entries in order to defeat Parrott. Now Mr. Ingalls unblushingly acknowledges that it was through his 'manoeuvring' that Parrott was defeated!"⁵

Positions were also promised. A month after the

-
1. Published in Western Progress, Olathe, Sept. 19, 1878. The letter is dated Atchison, Sept. 7, 1878. His last sentence is: "Thinking these papers may have some interest hereafter, and that they will be safer with the Historical Society than with me, I enclose them for custody in your archives. Respectively, John J. Ingalls".
 2. Leavenworth Daily Conservative, Apr. 7, 1861.
 3. Leavenworth Herald of Freedom, Apr. 9, 1861.
 4. White Cloud Chief, Jan. 16, 1862.
 5. *Ibid.*, Oct. 23, 1862.

election the Kansas State Journal observed:

"Who are these numerous appointees, upon whom the Senators have hastened to pour down the copious showers of their favor? Of nine appointments recently announced to us, eight have been conferred upon members of the Legislature which elected those Senators. We refer to the appointments of Messrs. Burnett, Elder, Martin, and Farnsworth of the Senate, and Messrs. Colton, Lowe, Keith and Ira Smith of the House. . . . Were those men elected to the Legislature to buy their way into Federal offices by the corrupt disposition of their votes for Senators?"¹

Gov. Robinson wrote that "at this election every appliance was used ever brought into requisition in the older States".² It is no wonder Geo. W. Brown lowered his flag to half mast when he heard the results of the election.³

In May of 1861 a dispute had arisen as to the qualification of the State Treasurer, William Tholan. Gov. Robinson had refused to recognize him. The ostensible reason was his inability to procure the \$200,000 bond. The bond was to bear the signature of five or more guarantors who would meet with the approval of the Governor.⁴ These requirements had been set by the State Legislature.⁵ Tholan had supported Gen. Lane during the Senatorial election. In his place the Governor appointed Hon. H. R. Dutton of Brown county. The appointment was made at the beginning of June.

-
1. Kansas State Jrnl., May 2, 1861. The writer continues: "Eight members of the Legislature, of diverse views and preferences at the outstart of the Senatorial content in the Legislature, but who were providentially brought, doubtless by persuasive arguments and honest convictions of public duty, to vote together for the two winning men, are speedily appointed to lucrative offices by the efforts of those winning men, and their seats in the Legislature thereby vacated."
 2. Robinson, Kans. Conflict. pp. 431-2.
 3. Lawrence Republican, April 25, 1861.
 4. Daily State Record June 5, 1861; Topeka Tribune Je. 8, 1861
 5. Compiled Laws of 1862. pp.892-4. The act was approved Apr. 26, 1861.

After the election the Legislature settled down for business. Among other questions the location of the State Institutions awaited their attention. On the 12th of April Charles Starns of Leavenworth introduced the Penitentiary bill in the House. It was referred to a select committee of five who considered and approved it. The bill located the penitentiary at Leavenworth but the site was to be determined by three commissioners.¹ McGrew of Kansas City made an unsuccessful attempt to substitute Wyandotte for Leavenworth.² On the 8th of May, on Eaton's motion, the bill passed the House, 46 to 8. The Senate made an unsuccessful attempt to change the commissioners to Elder of Franklin, Connell of Leavenworth and Lynde of Jefferson.³ It concurred in the House amendment to give Leavenworth two men on the commission, M. S. Adams and Charles Starns.⁴ The bill was passed and signed by the Governor.

On the 27th of July, 1861 the commissioners contracted with the board of County Commissioners to make the Leavenworth county jail the temporary penitentiary of Kansas.⁵ Their first contract to locate the institution was cancelled. The second contract was made with Abel Whitney of Delaware township. It comprised a tract of forty acres situated on

1. House Jrnl., 1861, p. 113.

2. Ibid., pp. 350-1.

3. Senate Jrnl., 1861, pp. 224-5. F. M. Gable in "The Kansas Penitentiary", Col. K. S. H. S., XIV, 379ff. wrote that the Governor had appointed the commissioners. This is a mistake.

4. Senate Jrnl. 1861, pp. 394-5; Leavenworth Daily Conservative Je. 6, 1861.

5. Public Documents of State of Kansas, 1861, pp. 40-42.

Seven Mile Creek, five miles south of Leavenworth.¹ The land was surveyed, a warranty deed was executed to the State by Almira M. Budlong, and on the 23rd of January 1862 the Governor transmitted the report of the commissioners to the Legislature.² Not until 1863, however, did the State Legislature provide for the erection, regulation and appropriation of the penitentiary. In 1862 the Legislature had passed an act which provided for the regulation of the State Penitentiary but the Governor had vetoed it.

On the 13th of January 1864 in his report to the Legislature Gov. Carney reported that the plan to establish the penitentiary at Leavenworth had been objected to because of the site. It was four miles from Leavenworth, lacked water supply, and was "ill chosen on sanitary grounds".³ The Legislature of 1863, therefore, had passed another bill locating the penitentiary at Lansing. A board of three directors visited the state prisons in New York, Ohio, Michigan and Illinois to decide on the plan. They agreed upon the Joliet plan as a model for the penal institution of Kansas. In the summer of 1864 Messrs. Carely and Adams began work on the building.⁴

F. M. Gable reported that Gov. Robinson would have preferred the State Penitentiary to the State University

1. Gable, Op.Cit. pp. 379f.

2. Public Documents of Kansas, 1861, pp. 40-42; House Jrnl. 1862, p. 62.

3. Andreas, History of Kansas, p. 282. The Gov. in his message of Jan. 1863 approved of the site at Leavenworth and asked that the contract be executed.

4. Gable, Op. Cit. pp. 379-84.

at Lawrence.¹ No evidence has been discovered to substantiate this view. On the contrary, the Governor's interest in the State University would indicate that the opposite was true.

The State Capitol had been only temporarily located at Topeka. The constitution had stipulated that the first State Legislature should "provide by law for submitting the question of the permanent location of the Capitol to a popular vote, and a majority of all the votes cast at some general election should be necessary for such location".² Topeka and Lawrence were still the strongest contenders for the capitol. To determine the method of deciding the question, two bills were introduced in the House. James M. Calvert of Kickapoo introduced his bill on the 13th of April and Ed. W. Thompson of Lawrence on the 17th. Both bills were referred to the committee on elections.³ It was composed of Oliver Barker of Douglas, I. E. Eaton, W. E. Bowker of Topeka, G. A. Cotton of Osawatomie and E. E. Ballard of Brown county.⁴ It reported on the 2nd of May. Oliver Barber, representing the majority of the committee, proposed a substitute for the Thompson bill. The Journal failed to give the provisions but the newspapers reported that it had proposed to submit the capitol question at the June and again at the Fall elections. At the second election the

1. Ibid.

2. Wyandotte Const. Conv. Jnl. p. 588.

3. House Jnl. 1861. pp. 126, 139, 161, 188.

4. Ibid., p. 45; "Biog. of Members of Leg. of 1861." Trans. K.S.H.S. X, p.305f.

choice was limited to the two places that had received the highest number of votes in the first election.¹ On the same day Andrew Stark of Linn county introduced another substitute for the Thompson bill.² It was sponsored by the friends of Topeka, and was finally adopted by the Legislature.³ It was defeated once by a vote of 30 to 26, was reconsidered and finally passed the House on the 20th of May by a vote of 47 to 4.⁴

In the Senate, while in Committee of the Whole, the bill was considered in conjunction with the Penitentiary and State University bills. It was amended so as to limit the second vote to the two places receiving the highest number of votes at the first election, provided no place had received a majority of votes in the first election.⁵ All other attempts to amend the bill failed. On motion of P. P. Elder the Senate rules were suspended and the University, the Penitentiary and the Capitol bills were taken up consecutively and read a third time. The bill to locate the State University at Manhattan was considered first, and was adopted 17 to 8; then the Capitol bill passed the Senate 18 to 7, and finally the State Penitentiary bill, 19 to 6.⁶

-
1. Leaven. Daily Conservative, May 9, 1861. W. E. Bowker of Topeka was the minority member of the Committee.
 2. House Jrnl. 1861. p. 305f.
 3. Daily State Record, June 1, 1861.
 4. House Jrnl. 1861. pp. 357-68; 421-2. The first vote failed for want of a majority.
 5. Leavenworth Daily Conservative, Je. 2, 1861.
 6. Senate Jrnl. 1861. pp. 288-293.

When the Capitol bill reached the House it refused to concur in the Senate amendment. A conference committee was appointed but a deadlock had been reached. Senator Wood's motion for a second conference committee was entertained. When it became known, however, that if it failed to reach a settlement the bill would automatically be killed, by virtue of the rules of the Senate; the motion was dropped. Rather than to give the Capitol to Topeka by default the Senate receded from its position and withdrew the amendment 15 to 5.¹ Governor Robinson signed the bill on the 3rd of June and it became law. The act now provided for an election to be held on the 6th of November, 1861 and annually thereafter until some place had received a majority of all the votes cast.² In the Legislature the friends of Topeka had won over Lawrence.³

Five months intervened between the signing of the bill and the November election. In the meantime the radicals had tried to oust Gov. Robinson and the State officers on the ground that their term had expired two years after their election to office, rather than two years after the admission of the State. Although the matter does not seem apropos, nevertheless it may have been connected with the Capitol question. Both Lawrence and Topeka carried on a spirited campaign to become the Capitol City of the State.

1. Senate Jrnal, 1861. pp. 276-337; Leav. D. Conserv. Je. 2, 1861; Daily State Record, Je. 1, 1861.
 2. Daily State Record, Je. 1, 1861.
 3. Ibid, June 1 & Aug. 31, 1861.

Money was again freely spent and bargains sought. Newspapers were used to advantage. The Topeka State Record claimed the support of Grasshopper Falls, Pottawatomie, Rock Creek, Junction City, Smoky Hill Union, Elwood Free Press, Wyandotte Gazette, the Manhattan Express, and the Atchison Union. Lawrence was supported by the Council Grove Press, the Olathe Mirror, the Leavenworth Times, the White Cloud Chief and others. The Leavenworth Daily Conservative reported it was working for Leavenworth, but in fact it was exposing the action of Lawrence.¹

Before the election open favoritism was shown.

On the 19th of October the Western Kansas Express wrote:

"We want the State University in our midst. We cannot expect to have the capital and this too, and as we do not stand a flattering chance to get the former, let us do nothing to jeopardize the latter. Now it is of importance that we co-operate with those who will help us. ... By helping Topeka against Lawrence, we are at the same time promoting indirectly our own interests and forming the only combination which is possible to sustain the claims of the west."²

In the November election Riley county cast 144 votes for Topeka and none for Lawrence.³

The Lawrence Journal also referred to an agreement between Topeka and the Leavenworth bankers:

"The Leavenworth bankers have one aspiration, one interest, one idea: Monopoly, aptly stands for all. Topeka wants votes for the capital. The bankers of Leavenworth want most of anything at present, to crush the Lawrence bank. The Topeka committee meet the bankers, and articles of reciprocity and amity, touching these prime interests of

-
1. Leavenworth Daily Conservative Oct. 15, 31 and Nov. 1, 2 and 5, 1861.
 2. Western Kansas Express, Oct. 19, 1861.
 3. Ibid., Nov. 9, 1861.

the high contracting parties, are entered into. Topeka, agreeing to join the heroic and public spirited efforts of the bankers, in crushing the Lawrence Bank: The bankers in consideration, agreeing to transfer the franchises of the people of Leavenworth to the Topeka side of the capital question."¹

The Topeka Record, in quoting the accusation of the Lawrence Journal, did not deny the agreement. It reported that Gen. Stone, President McDowell and Judge Johnson of Leavenworth, and Principal Eiler of the Pleasant College at Western had stopped to call in Topeka. Stone and Johnson were closely identified with the Leavenworth Pawnee and Western Railroad.²

The election was held on the 5th of November, 1861. The newspapers had predicted a victory for Topeka. The results vindicated their predictions, Topeka had been made the Capitol of Kansas. Out of a total of 14,288 votes cast Topeka had received 7,859, a majority of all votes cast. The remaining votes were distributed as follows: Lawrence 5,334, Leavenworth 95, Huporia 158, Baldwin City 400, and 442 votes distributed among other towns.³ Leavenworth county had divided between Lawrence and Topeka with 1,042 votes for Lawrence and 905 for Topeka. Shawnee, Wyandotte, Riley, Morris, Jefferson, Jackson, Franklin, Davis, Atchison, Doniphan, Nemaha, Pottawatomie and Marshal counties had cast large majorities for Topeka; whereas, Douglas, Anderson, Bourbon, Breckenridge, Johnson and Allen

1. Kansas State Record, Aug. 17, 1861.

2. Ibid.

3. Executive Correspondence. Archives Dept. #9, Sec. 592.
K.S.H.S.

counties had voted for Lawrence.¹

Whether the results of the election could be taken as a criterion of the popular will is questionable. Various methods had been used to influence voters. On the 27th of March, 1862 the White Cloud Chief wrote:

"We observe that they have recently been holding a municipal election in Topeka, in which the issue was upon the payment of debts incurred in securing the Capitol. One party is accused of attempting to swindle the city, by charging it with expenses which were never made - the Committee who had the management of affairs in their hands, not having fulfilled their promises to newspapers and influential men, in consideration of their support of Topeka. ... We did advertising and printing for Topeka, upon certain conditions. The Committee performed their part of the contract with scrupulous honesty."²

This led to an investigation of the "Council Proceedings" of Topeka.³ It revealed a surprising amount of activity, beginning with the 5th of August, 1861 and ending in February of 1862. The city council was divided on the question as to the amount of money that should be spent to help locate the Capitol and to whom to entrust it. On the 5th of August Messrs. C. K. Holliday, Hamel H. Home, James Fletcher, Edmund G. Ross and J. C. Bartlett appeared before the Council and asked for \$20,000 to be used to help secure the permanent location of the Capitol at Topeka.⁴ On the 7th of August the Council moved to appropriate \$10,000 for this purpose.⁵ The following day they voted "that if

1. State Election Returns of Nov. 5, 1861. Vote on Capitol.
K.S.H.S.

2. White Cloud Chief, Mar. 27, 1862.

3. Thanks to the City officers in charge for the permission granted.

4. Council Proceedings, City of Topeka, Jan. 11 to March 22, 1862. pp. 92-94.

5. Ibid. p. 95.

it is ascertained that we can use to good advantage, and if it is necessary, we will appropriate ten thousand dollars in addition to that already voted" on the 7th of August.¹ The second ten thousand resulted in much debate and threats of resignation. Added to it was the question of whether it should be paid to Mr. Farnsworth or to Edmund G. Ross. The disputes over these questions finally led to the resignation of the Mayor, Mills, whose veto had been over-ruled by the Council.² On the 2nd of December, 1861 the Council voted to appropriate \$9,500 in addition to the \$10,000 already provided for, and on the following day it authorized Ed. G. Ross and James Fletcher to pay all debts contracted "for printing and all other purposes", out of the fund created for that purpose, and repealed all ordinances or parts of ordinances in conflict with this section.³ This had reference, no doubt, to the resolutions adopted on the 17th of September which had entrusted the money into the hands of Mr. Farnsworth.⁴ On the 2nd of December Ross had appeared before the Council in person and given a report of his service in behalf of the capitol. On that same day Mr. Giles of the Auditing Committee appeared before the Council and reported that the Executive Committee of Topeka had pledged \$20,250 to secure the location of the capitol, but that it might be reduced by \$200.⁵ The money was paid out in

1. Ibid., p. 97.

2. Council Proceedings, Op.Cit. p.119f. He resigned Feb. 11, 1862.

3. Ibid. pp. 115f.

4. Ibid. pp. 100-103.

5. Ibid. p. 111.

denominations varying in size from one to hundred dollars. The first payments on record were made on the 20th of September 1861 and the last entries appeared on the 4th of March, 1862.¹

Topeka was not the only town that had been accused of bribery. The Lawrence Republican, in its quarrel with the Journal, reported: "The Journal is bolstering up the Lawrence Bank in order that its worthless shinplasters may be used in taking the capitol to Lawrence". The Journal in turn accused the Republican of using improper methods for the same purpose.² On the 24th of January 1862 the Kansas State Record accused Lawrence of having imported "hundreds of voters" from the Delaware lands for the election at the very low rate of 25 cents per head.³ The Leavenworth Daily Conservative reported that the Leavenworth Times had first sold out to Topeka on the capitol question, but had changed over to Lawrence when it had outbid Topeka.⁴ Even the town of Minneola had again distributed certificates of shares as a bid for the capitol.⁵ These observations point to the conclusion that the results of the November election on the location of the capitol had been influenced by pecuniary rewards rather than determined by the wishes of the people.

1. Ibid., pp. 150-252.

2. Kansas State Record, Aug. 31, 1861. Quoted the quarrel between the Republican and the Journal.

3. Kans. State Record, Jan. 24, 1862.

4. Leavenworth Daily Conservative, Nov. 5, 1861.

5. Ibid., Nov. 5, 1861. The Conserv. said they had printed 400,000 certificates of these shares which were being distributed.

In January of 1862 C. K. Holliday as President and Special Trustee of the Topeka Association, donated 20 acres of land to the State as the ground on which to locate the capitol buildings.¹ The title had been transferred from its original holder, Isaiah Walker, to the Topeka Association in July of 1859. The State Legislature accepted the gift in February of 1862.² Four years later the State Legislature provided for the construction of the East Wing of the State House. Additions were made from time to time, including the dome. The building was finally completed in 1903 and had cost the State \$3,200,588.92.³

On the 10th of April, Wm. H. Smyth of Manhattan introduced House Bill #65, to permanently locate the State University at Manhattan. The bill was sent to the Committee on Instructions with John W. Scott of Allen county as chairman. It reported April 17, 1861, and asked that a joint committee be appointed, one man from each House, to visit Blue Mount College at Manhattan and examine into the condition of the offer made by that city. The resolution was adopted by both Houses of the Legislature. On the 29th inst., the investigating committee, composed of W. H. Grimes (Atchison) of the House and O. B. Gunn (Wyandotte) of the Senate made its report. The Trustees of Blue Mount College had offered to donate to the State, Blue Mount College, the Library and apparatus together with 120 acres of land. The gift was

1. House Journal, 1862, p. 49.

2. C. K. Holliday Papers.

3. Adams, F. G. "The Capitals of Kansas." Transactions of K.S.H.S., VIII, pp. 348-49.

made on the condition that the State Legislature should permanently locate the State University at Manhattan. Although the report of the committee approved the offer, it made no recommendations.¹ The substitute bills were now introduced, one by W. H. Grimes and the other by Samuel J. Crawford of Garnett.² The Manhattan bill, however, prevailed in the House, 43 to 19.³ The Senate also passed the bill, 17 to 8, but Gov. Robinson returned the bill without his approval, May 28. His reasons were, first, that the Manhattan bill was unfair. It was based on a proposed donation of land. The other portions of the State had not yet had this opportunity. They too should have this change. His second reason was that the bill was premature, the State had as yet no available funds for the University. An attempt was made to pass the bill over the Governor's veto, but it failed of its two-third vote in the House, 38 to 20.⁴ On the 21st of January, 1902, Professor J. D. Walters of the Kansas State Agricultural College reported that in 1861 Gov. Robinson had been willing to barter with the delegates from Manhattan and their friends, by trading the University for the Capitol. The Manhattan delegates, however, had already promised Topeka, and had refused to make the change.⁵

1. House Journal, 1861, pp.95, 151, 170-72, 178-79.

2. Ibid., p. 274.

3. Ibid., pp. 354-55.

4. Ibid., pp. 509-510.

5. Walters, Prof. J. D., "The Kansas State Agricultural College". Trans. of K.S.H.S. VII, p. 170. Prof. Walters does not mention the source of information.

Isaac E. Eaton introduced House bill number 330, to locate the University at Lawrence, but it failed to pass. The vote stood 35 to 21.¹ It lacked the necessary 38 majority. Smyth of Lawrence moved successfully to reconsider the vote by which the bill was lost, and then withdrew the bill. It was June 4, 1861, and the first State Legislature adjourned without having located the State University.²

When the second Legislature met in January of 1862, Mr. Wilson of the House, introduced a bill to locate the State University at Manhattan.³ On the 30th inst., P. B. Plumb of Emporia introduced a bill to locate it at Emporia.⁴ The Manhattan bill was taken up first. While it was considered in committee of the whole, Sidney Clark of Lawrence offered a substitute bill in favor of Lawrence, but it was rejected. The Manhattan bill now passed the House, 45 to 16.⁵ In the Senate the bill became entangled with the Lane-Robinson quarrel. Lane was packing the Senate for the impeachment proceedings. He had been unable to get enough votes to oust the so-called military men, so he held up the vote on the University bill as a trade. The Manhattan man promised on condition that the incoming senators would vote for Manhattan on the University bill. Lane promised, but the Lane men failed in their promises, and the University

1. House Journal, 1861, pp. 591-93.

2. Ibid., p. 610.

3. House Jnl., 1862, p. 36, and Leavenworth Daily Conserv., Sept. 11, 1862.

4. House Jnl., 1862, p. 119.

5. Ibid., pp. 107, 271, 276.

bill was lost in the Senate by one vote, 11 to 12.¹ In September of 1862, the editor of the Manhattan Express explained the trade as follows:

"The bill was introduced into the House at an early stage of the session. It had a large majority of friends, and could undoubtedly have passed soon after its introduction. Our Senator, Mr. Essick, urged (so we are informed), upon the members, its speedy passage in the House, so that it would reach the Senate before other questions arose to complicate it. It was however, allowed to linger in the House until a question arose in the Senate bringing into dispute the capacity of several gentlemen to legally hold seats in that body. A majority of these gentlemen were the steadfast friends of the University bill. As the Senate then stood we had a majority in favor, with a Gov. also favorably disposed. The Sen. from this Dist. took the ground that the gentlemen in question could hold their seats. At this juncture Gen. Lane arrived at Topeka, and threatened the Universe with destruction if these gentlemen, who were obnoxious to him were not removed. The Univ. bill was suspended by order of Gen. Lane in the Senate. It was held over the head of our Senator to induce him to vote against his proclaimed convictions, and Mr. Goodnow fell into the schemes and became the instrument of Gen. Lane in locking up the wheels of legislation. After a lengthy contest our Senator changed his vote. The military men were expelled the Senate men took their places who were hostile to Manhattan interests, and the Univ. bill was lost. - Lost by the votes of the very men Mr. Goodnow had sought to instate. This is the version of the affair as we learn it from members of the last Legislature."²

James Humphrey reported that Lane had promised that the new Senators would vote for the Manhattan bill.³ It appears therefore, that Gen. Lane was responsible for the failure of the second Manhattan bill.⁴

-
1. Senate Jnl., 1862, pp. 155, 191-2. Manhattan Express, Sept. 23, 1862; Leavenworth Daily Conserv., Sept. 11, 1862.
 2. Manhattan Express, Sept. 2, 1862.
 3. Manhattan Express, Sept. 23, 1862. Humphrey wrote that one or two of these new Senators had been Methodist preachers; he is inclined to think that Lane rather than the preachers had falsified.
 4. See Appendix #L.

Having failed to locate the State University in the second session, the question carried over to the third Legislature. The three rivals had now been reduced to two, by the agreement to locate the State Agricultural College at Manhattan. This in turn had been made possible by the Morrill Act of July 2, 1862. The State University bill had been introduced into the Legislature by C. Y. Eskridge of Emporia. Before the bill passed the danger line, however, the town of Lawrence was substituted for Emporia. The question had come to a vote on the 12th of February, 1863, while in committee of the whole. The vote between Lawrence and Emporia had been 33 to 33. E. Russell of Doniphan who was in the chair, had decided for Lawrence.¹ Again the question had been complicated by other interests and had invited logrolling. This time it was the railroad question, more particularly the Henderson amendment. The northern tier of counties were interested in securing a northern railroad line and it appears that "the entire Douglas tier of counties including Jefferson county, north of the Kansas river", had been pledged. "By some enchantment", wrote the Conservative, "every member from Johnson, Miami and Linn counties, (except Mr. Christie, who lies dangerously ill, and Mr. Campbell) was induced to support Lawrence", Leavenworth divided evenly, four to four.² The vote in the Senate was taken on the 11th of February and it stood 18 to 5 in favor of Lawrence.³

1. Leavenworth Daily Conservative, Feb. 12, 1863.

2. Ibid.

3. Ibid., Feb. 22, 1863.

The location of the University had been made conditional upon the city's promise to give \$15,000 to the University endowment fund and to donate 40 acres of land to give the University a campus. To fulfill a part of this promise the city council of Lawrence had accepted Charles Robinson's proposition that the Governor would give 40 acres of land to the school and the city would deed to him a half block of land on the east face of Mt. Oread. The endowment fund of \$15,000 was made up of the \$10,000 gift of Amos A. Lawrence, originally pledged to the Free State College, plus a \$5,000 note given by leading citizens of Lawrence as a "substitute for the interest obligations of the Lawrence University".¹ Governor Carney was able to cash the note just in time to fulfill the condition of the contract and thus prevented the University from being located at Emporia. On the 2nd of November, 1863, the Governor's proclamation declared the State University permanently located at Lawrence.²

Kansas was among the first of the States to accept the proffered endowment of the Federal Government for a State Agricultural College. On the 3rd of February, 1863, the State Legislature agreed to comply with the provisions of the Morrill Act and on the 16th inst. the Legislature accepted the offer of the Trustees of Bluemont Central College in "fee simple".³ This still left Emporia without an

1. Snow, F. H., "Beginnings of the University of Kansas".
Trans. K.S.H.S., VI, pp. 70-75.

2. Ibid.

3. Walters, J. D., "The Kansas State Agricultural College",
Trans. K.S.H.S., VII, p. 170

institution. It has been reported that Judge L. D. Bailey had suggested to Mr. Eskridge that he should ask the State Legislature to establish a Normal School at Emporia. Judge Bailey hailed from Massachusetts where they had such an institution. When he finished explaining to Mr. Eskridge what a Normal School was the latter is said to have supported the idea. Judge Bailey then drew up the bill, "copied largely from the Normal School law of Massachusetts", and the day following the defeat of his University bill, Mr. Eskridge introduced the bill locating the Normal School at Emporia. Lyman Kellog has reported that the bill passed the Legislature with^{out} opposition.¹ Gov. Carney approved the bill on the 3rd of March, 1863 and appointed H. W. Fitch and Le Roy Crandall to select the land site for the institution. The commissioners completed their work on the 17th of August and Emporia too was granted a State institution.² Other State institutions were added from time to time. Seneca asked for the Deaf and Dumb Asylum and Wyandotte for the Insane Asylum.³ The Legislature of 1863, however, located the first State Insane Asylum at Osawatomie, and the following Legislature located the State Deaf and Dumb Asylum at Olathe. The Blind Asylum was located at Wyandotte.⁴

The Judicial Courts of the State were provided for in a series of six or more acts. On the 25th of April,

-
1. Kellog, Lyman B., "The Founding of the State Normal School" Collections of the K.S.H.S. XII, p. 95.
 2. Exec. Correspondence, 1863. Box #9. K.S.H.S.
 3. White Cloud Chief, Feb. 19, 1863.
 4. Prentis, N. L., History of Kansas. pp. 140-1.

1861 Governor Robinson approved the act that established the district courts of the State and defined their powers and duties. They were made courts of record and given jurisdiction in all cases above the justices. They were clothed, therefore, with original and appellate jurisdiction. Section three authorized the judges to exercise all judicial functions allowed or required under the statutes of the Territory; in addition said judges could hear and decide motions in vacations. Section five provided that all Territorial acts applicable and not inconsistent with the State laws and the constitution should remain in force.¹ The act of May 8 defined the duties and prescribed the qualifications of the clerk of the district court.² A subsequent act of the 22nd of May divided the State into five judicial districts and provided a district court for each district. The law prescribed the terms of the court for the various counties in the district. The court was to be held at the county seat. Counties for which no term had been provided were attached to other counties.³

On the 21st of May the Governor approved the act which organized and defined the jurisdiction of the State Supreme Court. It was to be a court of record. In addition to the original jurisdiction conferred upon it by the constitution it was vested with authority to issue writs of error and certiorari in criminal cases and supersedeas in any case.

1. Compiled Laws of Kansas, 1862, pp. 454-5.

2. Ibid., pp. 463-5.

3. Ibid., pp. 456-60.

The rules of the Supreme Court under the laws of the Territory were to govern under the State. It was to hold court annually at the seat of government opening the term on the first Tuesday of January each year. No provision was made to nullify acts of the State in conflict with the constitution.¹

On the 22nd of May the Governor approved the act which provided for the organization of the justices' courts and defined their powers and duties. The justice of peace under the State was to have the same powers as under the Territory. The act, however, was not to be construed so as to interfere with the jurisdiction of municipal officers, or officers exercising police jurisdiction in incorporated cities.²

The probate courts were last in order. The Governor signed the act providing for these courts on the 3rd of June, 1861. They were made courts of record but the judge was to be his own clerk. The court was vested with original jurisdiction in all matters relating to the probate of last wills and testaments, relating to descents and distributions, in all cases affecting minors, persons of unsound mind, and habitual drunkards. It was given concurrent jurisdiction with the Supreme and District courts in cases of habeas corpus. All records were to be open for inspection without charge. The judge was to hold four terms a year and was paid in fees.³

1. Compiled Laws of Kansas, 1862, pp. 449-51.

2. Ibid. pp. 612-13.

3. Ibid. pp. 465-66.

The State Legislature had retained the civil and criminal codes adopted by the Territorial Legislature of 1859 with the subsequent amendments added in 1860. The civil code of 1859 was substantially like that of 1858, with some modifications and a few additions.¹ The criminal code of 1858 was quite different, however, from that of 1859. In bulk, for example, the act of 1858 covered only 26 pages, whereas, that of 1859 covered 46 pages.² A comparison of the Territorial civil code of 1859 with those of other states points to the conclusion that the Territorial Legislature borrowed the code of civil procedure from the Ohio statute of 1853. It was almost a verbal adoption. Ohio had a court of common pleas instead of a district court, and in some instances the Territorial Legislature had combined several sections into one, but had retained the wording. The Ohio statute had 612 sections and the Territorial act had 623.³ The criminal code and the statute of crimes and punishments of 1859 resemble the Missouri statutes of 1845 and 1855, respectively.⁴ Kansas retained the Missouri provision for Grand Juries until 1864, when it passed an act, approved

-
1. For example the code of civil procedure of 1858 had 614 sections, that of 1859 had 624. Gen. Laws of Kans. Ter. 1858 and 1859. pp. 65f, and 82f, respectively.
 2. Ibid., pp. 169f and 185f, respectively.
 3. Compiled Laws of Kans. 1862. pp. 125f, Swan's Revised Statutes of Ohio 1854. pp. 625f, Note that the Ohio statute had 612 secs, and the Ter. act of 1858 had 614.
 4. Compiled Laws of Kans. 1862, pp. 237 & 287 and Revised Statutes of Mo. 1845 and 1855 - Vol. I, pp. 854f. & 555f., respectively. Art. 14 of Indiana Revised Statutes of 1852 labeled "Appeal" is like the art. in the Kansas Ter. Statute, i.e., Kans. follows it almost verbally. Ind. Rev. Statutes 1852, II, p. 391f.

February 12, which abolished them. It provided that, "grand juries shall not hereafter be drawn, summoned or required to attend at the sittings of any courts of this State, as provided by law, unless the Judge thereof shall so direct by writing, under his hand and filed with the clerk of the court". Hereafter trial of offenses was to be "upon information".¹ This provision was incorporated into the Code for Criminal Procedures of 1868.² These conclusions are based on a comparison of the statutes. In 1858 the Kansas Weekly Herald, in commenting on the new laws adopted, wrote: "They have based their laws on civil and criminal procedure on the Ohio Statutes".³ This probably was true of the laws of 1858, but the following year the Codifying Committee must have changed the criminal code and the statute of crimes and punishment to that of Missouri.⁴ In reporting the results to the Legislature in 1859 the Codifying Committee said: "The code of civil procedure remains substantially the same. The code of criminal procedure of 1858, is materially altered, and, it is to be hoped, materially improved."⁵

The State Legislatures of 1861 and 1862 contributed but little to the civil and criminal codes except in

1. Laws of Kansas 1864, pp. 111-113.

2. See Gen. Statutes of Kansas, 1876, p. 821. The test case was State of Kansas v. Peter Marsh, 1874. See, 13, Kansas 599.

3. Kans. Weekly Herald of Leav. Feb. 13, 1858. Mitchell, a native of Ohio introduced the Civil Code in 1858.

4. The comparison between the criminal code of 1858 and that of Ohio was not made.

5. House Jrnl. 1859, pp. 359-60.

the form of amendments.¹ The Legislature of 1861 defined treason, misprison of treason and misdemeanor. It made treason punishable by death.² The act adopting the Common Law as a rule of action had been passed by the Territorial Legislature in 1859 and was retained by the State Codifying Commission of 1862.³ The act regulating trials of impeachment was passed by the second State Legislature shortly before the trial of the State officers and became a law without Governor Robinson's signature.⁴

The first State Legislature had done nothing to incorporate the Territorial laws into the State statutes. It had asked the Attorney General, B. F. Simpson as to the legality of the Territorial laws. He had referred them to section 4 of the Schedule of the Constitution which provided: "All laws and parts of laws in force in the Territory, at the time of the acceptance of the Constitution by Congress, not inconsistent with the Constitution, shall continue and remain in full force until they expire, or shall be repealed".⁵ The Legislature of 1862 had, however, appointed a commission of three, S. E. Hoffman of the Senate, F. P. Baker and Davies Wilson of the House, to compile the laws applicable to the State. The report of the commission

1. The Legislature of 1862 made several amendments pertaining to pleadings of facts, garnishee, taking of property and summoning of jurors. Compiled Laws, Kans. 1862, pp. 235-7, 237-8.

2. Ibid., pp. 346f.

3. Ibid., p. 678.

4. Ibid., pp. 598f.

5. Senate Journal, 1861. p. 144.

was adopted by the Legislature and approved by the Governor the 6th of March, 1862.¹ In later years Baker made the statement that "Of all the valuable work performed by the Kansas Legislature of 1862, none was relatively more important to the people of the State than the labor that resulted in the Compiled Laws of 1862".²

The Supreme Court of Kansas was organized in a special session on the 28th of October, 1861. Hon. Thomas Ewing, Jr., Hon. Samuel A. Kingman, and Hon. Lawrence D. Bailey constituted the personnel of the court.³ It adopted rules of practice, admitted attorneys and then adjourned to hold its first regular session in January of 1862. The Supreme Court of the Territory had ceased to function after January 29, 1861, despite the provision in the Schedule of the Constitution that the judges of the Territory as well as all other officers should continue "in the exercise of their respective departments until the said officers are superceded under the authority of the Constitution".⁴ Its journal and appearance dockets were transferred into the hands of the State Supreme Court officers. As originally constituted, the Supreme court continued only one year. During this time it had heard nine cases. The first case was that of George A. Crawford v. Gov. Robinson. It

1. House Journal, 1862, pp. 383-487.

2. Baker, F. P., "Kansas Legislature in 1862". Trans. K.S.H.S., III, 107-108.

3. Leavenworth Daily Conservative, Oct. 30, 1861.

4. See Schedule of Kans. Const. #265, Sec. 3.

involved the question of the validity of the election of State officers in November of 1861. The case will be treated later. The resignation of Chief Justice Ewing shortly before the November election led to a dispute between Nelson Cobb and John H. Watson. Since Chief Justice Ewing's resignation had been dated October 20, less than a month before the election, Governor Robinson, in accordance with the Constitution, had appointed Cobb to fill the vacancy. The Republicans had, however nominated and elected Watson. The case came before the Supreme Court. It decided for Cobb, and ruled the election of Watson a nullity.¹

The United States District Court under Archibald Williams was organized in April of 1861. In the month of April an order was issued directing the clerks of the first, second and third Judicial Districts of the late Territory to transmit "to the clerk of the United States District Court the records and papers in all causes of federal character and jurisdiction, pending in time, or in which judgments or decrees had been rendered".²

The powers and duties of the State officers were set forth in three statutes. On the 26th of April 1861 the Governor had approved the "Act prescribing the duties and liabilities of the Treasurer of State". He was placed under a \$200,000 bond to be signed by five or more securities and approved by the governor. He was required to make annual

1. Austin, Ed. A., "Supreme Court of State of Kansas",
Col. K. S. H. S. XIII, 95-98.

2. Compiled Laws of Kansas 1862, pp. 892-4.

reports to the Legislature and also submit his books to them for inspection.¹ In 1862 the Legislature made it unlawful for the State and county treasurer to deal in State or county scrip.² On the 3rd of June the Governor approved the act defining the powers and duties of the Governor, Secretary of State, Auditor of State, and Attorney General. The Auditor was also required to make annual reports to the Legislature; making him, like the Treasurer, responsible to the Legislature instead of to the Governor. The Auditor was also made ex-officio Librarian of the State. The accounts of the Secretary of State were to be open to the inspection of the Governor or the Legislature. The Attorney General was required to prosecute any official bond at the request of the Governor, Secretary of State, Auditor, Treasurer and Superintendent of Public Instruction. He was to advise and consult with the district attorneys.³ The duties of the State Superintendent of Public Instruction were given in Article I of "An act for the regulation and support of common schools". This act placed the common schools of the State under the supervision of the State Superintendent. He too was requested to make annual reports to the Legislature. The act also set forth the duties of the county superintendents, provided for school districts and the establishment of graded schools. Each district was to report its delinquent taxes to the county superinten-

1. Compiled Laws of Kansas 1862, pp. 892-4.

2. Ibid. The Act was approved March 5, 1862.

3. Ibid., pp. 826-37.

dent.¹ The Governor was left, therefore, without the assistance necessary to enforce the laws of the State, except in so far as he could command the respect and cooperation of the State officers through the magnanimity of his personality and the attraction of his policy.

On the 22nd of May, 1861, the State Legislature passed an act to regulate elections and prescribed the qualifications of voters, and the method of preventing illegal voting. The immediate significance of this act was in that it set the date for the election of the second Governor in November of 1862. The Lane faction contested the legality of this part of the Act. The Act resembles, in part, the Ohio Statutes of 1854 and 1860.² The Act of June 3, 1861 which prescribed the manner of contesting the elections of State and county officers, members of the Legislature and other officers, resembles in part the Iowa Act of 1860, especially the part prescribing the manner of contesting county elections.³

On the 20th of May 1861 the Governor approved the act establishing the salaries of the State officers, justices of the Supreme Court, judges of the district

-
1. General Laws of Kansas, 1861, pp. 256-73. This act resembles the "Act for the Public Instruction of the State of Iowa", approved March 12, 1858. Acts and Resol. Passed at the Regular Session of the Seventh Gen. Assembly of the State of Iowa, 1858, pp. 57-88. See also Ore. Ter. Statutes of 1855, pp. 457f.
 2. Compiled Laws of Kansas 1862 and Ohio, Revised Statutes of 1854 and 1860.
 3. Compiled Laws of Wis. Cit., Iowa Statutes of 1860, pp. 91f.

courts and members of the Legislature. The compensation varied from wages of \$3.00 per day for the Legislators to \$2,000 a year to the Governor. The Attorney General received \$1,000 a year, the State Treasurer and Superintendent of Public Instruction \$1,200 each, the Auditor and Secretary of State \$1,500, the Associate Justices and Judges of the District Courts \$1,500 each and the Chief Justice \$1,800.¹

The Act providing for the organization of new counties was approved by the Governor on the 4th of June, 1861. The initiative to effect the organization was left with the resident free-holders of the unorganized counties. The population requirement necessary to start it was 600. After that twenty free-holders could start the movement by petitioning the Governor to approve their action. The petition was to contain the names of three persons who would act as special county commissioners, one to be a clerk, and also designate the temporary seat of government. The commissioners were to divide the county into convenient townships. Each township would constitute an election district.²

The Territorial acts of 1860 relating to township and township officers³ and that of 1859 providing for the incorporation of towns and villages were retained by the State. In the latter act the probate court of the county had the power to declare the town or village incorporated.⁴

1. Compiled Laws of Kansas, 1862, pp. 800-802.

2. Gen. Statutes of Kansas, 1868. Chap. 24, p. 249.

3. Compiled Laws of Kansas, 1862, pp. 884-9.

4. Ibid., pp. 398f.

The Attorney General, B. F. Simpson, upon request, informed the Senate that municipal corporations could be created only by general laws.¹ The Act providing for the compensation of county and township officers was approved by the Governor June 4, 1861.²

To help the State out of its financial difficulties and to enable it to defray its current expenses the State Legislature had authorized bond issues. Two issues were voted, the "seven percent" and the "ten percent" or so-called "war bonds". According to an act approved May 1st, 1861, Austin M. Clark and James C. Stone were authorized to negotiate a \$150,000 loan within 70 days. No final action, however, was to be taken by this committee on the sale of bonds until they had received the consent of the Governor, Auditor and Secretary of State or a majority of them. The bonds were to bear seven percent interest per annum and were to mature in fifteen years. The interest was to be paid semi-annually and taxes were to be levied to provide a sinking fund and to pay the interest on the loan. Clark and Stone were asked to give \$300,000 in bond as security for the faithful execution of their work.³ Because Messrs. Clark and Stone reported a failure to negotiate the bonds, a supplementary act became necessary. It was passed June 3,

-
1. Senate Journal, Ks. 1861. p. 172. He referred them to sections one and five of article one of the Constitution.
 2. Senate Journal, 1861, p. 613.
 3. Proceedings in the Cases of Impeachment, etc., Lawrence, Kans. pp. 317-19. Also House Journal, 1861. pp. 86, 96, 137, 147, 173 and ff.

1861. It authorized the Governor, Auditor and Secretary of State, or a majority of them to sell a \$100,000 worth of these seven percent bonds at not less than seventy percent of their par value.¹ Senator Josiah Miller of Douglas county protested the bill. He regarded it as unconstitutional, and maintained that it gave the agents authorized to negotiate the loan the power to "perpetuate a magnificent swindle upon the people of the State and legislated into the pockets of these men from twenty-five to thirty thousand dollars of the people's money".²

The War Bond Act passed the Legislature early in June and was approved on the 7th of June, 1861. It provided for the issuance of \$20,000 of the bonds of the State bearing 10% interest. The bonds were to mature in two years.³ These bond issues were productive of much mischief and anxiety. These problems will be discussed in the chapter on "Impeachment of the State Officers".

The question of the Territorial claims and the debt were also considered by the first and second Legislatures. The Territorial Legislature of 1859 had passed three acts pertaining to the claims question. The acts of February 7, 1859 plus its supplementary act of Feb. 11, had provided for a commission of three to investigate the losses of the people in the Territory incurred during the

1. Impeachment Proceedings, pp. 328f.

2. Senate Journal, 1861, pp. 132-33. A similar protest was introduced into the House by W. W. Lawrence and W. W. Updegraff. See House Journal, 1861, pp. 523-24.

3. Daily State Record, Feb. 12, 1862.

period of the Civil War and had transformed the claims into Territorial debts. The third act, also of February 11, 1859 called the Funding Act, had provided for the payment of \$100,000 worth of these claims. It has been stated elsewhere that these Territorial bonds were held by the Robinson men.¹ The first Legislature passed a bill which prevented the payment of these bonds, purporting to have been issued under the provisions of the Funding Act, approved February 11, 1859. The bill was introduced by Samuel J. Crawford of Garnett county. It passed both Houses with but one dissenting vote, the House vote was 38-0,² and the Senate vote 20-1,³ The Governor, however, vetoed it.⁴

The question of assuming the Territorial debt was introduced by John W. Scott of Allen county. Both Houses passed the bill but Gov. Robinson also vetoed it. He argued that the State Legislature had passed several acts asking the State to issue \$150,000 in State bonds. To assume the Territorial debt in addition to this would have the effect of depreciating the value of the State bonds for which the credit of the State had been pledged. Furthermore, he regarded the act as unconstitutional because the Legislature had failed to comply with Art. 11, sec. 6, of the State Constitution which provided that such an act should first be

1. See pp. 258.

2. House Jrnl. 1861, pp. 402-3

3. Senate Jrnl. 1861, p. 184.

4. Exec. Minutes Memorandum 1861-65. The bills returned by the Gov. May 16, 1861.

submitted to a direct vote of the electors of the State at some general election.¹ The question of assuming the Territorial debt came up again in the second Legislature. The House asked the Attorney General, S. A. Stinson whether the State was liable for the debts of the Territory. Judge Stinson replied that the State was liable for the debts of the Territory to the same extent that it was liable for debts contracted since the admission of the State into the Union. He based his opinion on the decision of the State Supreme Court of Wisconsin, decided in the case of Baxter vs. the State, 9 Wisconsin Reports 38.² All attempts made by the State Legislature during Robinson's administration, however, failed to settle the question of the Territorial debt.

The Legislature of 1861 had retained in force the Territorial act of 1860 providing for the assessment of taxes. It had provided for exemptions, stipulated the duties of the county assessors, provided for a county board of equalization, permitted the township trustees to determine the rate or amount of taxes to be levied and made the county treasurer the collector of the taxes.³ The Legislature of 1862 amended the Territorial act in several important respects. Where the act of 1860 had divided the exemptions into six divisions and in the sixth had exempted

1. House Jrnal, 1861, pp. 103, 459, 480-82. This was necessary because it increased the indebtedness of the State not provided for in the Constitution.

2. Ibid., 1862, pp. 160-62.

3. Compiled Laws of 1862, pp. 857-74.

only the property of widows up to \$500, the act of 1862 had retained the first five exemptions with slight changes, changed the sixth to include an exemption on all personal property to the value of \$200 and added to it two other divisions. In the 7th division it placed "2 horses or 2 yoke of cattle or one of each, 2 cows, 10 sheep, 10 hogs, and live stock to the value of \$100". In the 8th division it included all wagons and harness used for teaming, all mechanics' tools and agricultural implements. It also reduced the period of grace for the delinquent taxpayer in which to redeem his property from three to two years and increased the rate of interest on the purchase money 50 percent. Assessments after 1865 were to be made only once in three years.¹

The expenditures of the State for the fiscal year ending March 1862 were estimated by the Secretary of State at \$85,570.² On the 28th of February, 1862 the State Treasurer reported to the House of Representatives that the Treasury had received \$45,750.60 since the commencement of the fiscal year. This money had come from four sources: \$11,415.31 from county treasuries, \$261.36 had been received from the sale of capital materials, \$353.93 from school funds and \$33,720.00 from R. S. Stevens for the sale of State bonds.³ In December of 1862 the State Board estimated the total value of all taxable property of the State at \$19,285,749.00.

1. Compiled Laws of 1862, pp. 874-81. The interest rate had been 25%.

2. House Journal of 1861, p. 183.

3. Ibid., 1862. pp. 401-2.

Out of this sum it expected to derive in taxation \$121,656.46.¹ Of this sum \$5,915.50 was to be capitation tax, and \$19,289.43 school tax. The revenue act of 1862, therefore, provided a tax levy of 5 mills on the dollar upon all taxable property in the State and an additional tax of 50 cents upon every white male person between the ages of 21 and 50 years.² In 1863 Auditor D. L. Lakin reported the delinquent taxes for the year 1861 still at \$36,771.88.³

The Lawrence Bank was used as a depository for the State funds. The bank had been organized in the spring of 1859. S. W. Eldridge, James Blood, Gov. Robinson and Robert Morrow were the directors of the bank. After the admission of the State the bank was reorganized under the State laws and the Kansas State bonds were deposited in the bank as security for its circulation. Robert Stevens had been voted in as one of the directors of the bank.⁴

The question of a State Seal was considered by the first State Legislature and a design was agreed upon in May of 1861. It was considered in separate committees of both Houses. When they failed to come to an agreement,

1. Public Documents of Kansas, 1862, p. 168.

2. Compiled Laws of Kansas, 1862, p. 778.

3. Public Doc. 1862, pp. 27-28.

4. Martin, Geo. W. "A Chapter from the Archives". Col. K.S.H.S. XII, 368; Kansas State Jrnl., Jl. 4, 1861 reported that the State bonds had replaced the Territorial bonds in the Lawrence bank; House Jrnl. 1862, pp. 327-8.

however, a conference committee was provided for.¹ Numerous designs had been submitted to the committee for approval. It appears that among those submitted the designs of John J. Ingalls and McDowell of the State Library Committee had stood out above others. No one design, however, was copied in toto. The committee selected from the different designs. The credit for the motto "Ad Astra per Aspera" belongs to Mr. Ingalls. The Landscape, according to Andreas, was "substantially the one submitted by Mr. McDowell". The historic part of the seal was the motto, the date, the bison hunt, and the log cabin.²

1. Senate Journal, 1861, pp. 252-265.

2. Andreas, History of Kansas. p. 212. Also Toneka Capital, Jan. 1885.

CHAPTER VIII.

The Political and Military Conflicts:

An Attempt to Oust Governor Robinson.

The Robinson-Lane feud was fast dividing the new State into two bitter factions. The enmity was of long standing. Gen. Lane's temperament and Gov. Robinson's biting argument did not make for cooperation, especially since both were aspiring to win the honors and direct the forces of the State. This rivalry had been steadily nursed by both leaders and their supporters during the Territorial period and was now threatening to paralyse the new State.

The argument became so heated that the Wyandotte Commercial Gazette referred to the language used by them as "very undignified specimens of English Literature", and wrote that if one-fourth of what either one said of the other was true then "they were both unfit for the positions they held."¹ A democratic paper remarked: "Of course we do not know who is right; but Robinson is Governor, and Lane a would-be Senator. They are both good Republicans, both great men, both are mixed up in the bond question, both love the dear people; but unlike Brutus, they love Rome less and Caesar more. The fight is among the Republicans". He suggested to his Democratic contemporaries "to let them fight."² By May of 1861, however, the feud had become so pervasive that the Leavenworth Daily Conservative wrote: "On all public

1. Commercial Gazette. Oct. 19, 1861; See Herald of Freedom, Mar. 26, 59; Lawrence Republican, Mar. 22, 1860 contains Gov. Robinson's letter.

2. Topeka Tribune, Mar. 10, 1860.

question there is a Robinson version and a Lane version, and neither is the truth. Men anxious to know what to do, and how to act, in disgust strike a balance and wish to heaven that there could be some cessation to this all blighting feud".¹

The historian today stands in bewilderment before the incriminating charges and wonders where the truth lies. The conflict was carried into the political and military departments of the State and affected the publications pertaining thereto. The political conflict will receive first consideration.

On the 23rd of April, 1861, Gov. Robinson had approved the act of the Legislature which provided for the election of a representative to Congress. It was held the second Tuesday in June, 1861.² Martin F. Conway had served only about thirty days at the time Congress adjourned and asked to be re-elected.³ He was again supported by Eastern capital. George L. Stearns of Boston had asked James Montgomery of Mound City to work for Conway's nomination and had authorized him to draw upon him for this purpose.⁴ Mont-

1. Ibid., June 1, 1861.

2. General Laws of Kansas, 1861. Each State still decided the time of congressional elections. The Governor announced the time of the election in the papers on the 20th of May. The change came with the act of Congress of 1873. White Cloud Chief, May 30, 1861.

3. Topeka Tribune. May 4, 1861.

4. Montgomery to Stearns April 22, 1861. Stearns Papers.

gomery had managed to get himself elected to the Republican nominating convention held at Topeka the 22nd of May, 1861, but not without difficulties.¹ Stearns had authorized Montgomery to draw on him up to \$500. It is not known, however, that he spent more than \$150.²

The Topeka Convention had nominated Conway on the first ballot. His opponents were R. M. Williams and William Lynde. The convention had voted 38 for Conway and 8 and 6 for Williams and Lynde, respectively. On Anthony's motion the nomination was made unanimous. Gen. Lane had been present, but the convention had created no excitement. The papers made no mention of a Democratic nominee, and the congressional campaign passed off very quietly,³ Conway being re-elected with practically no opposition.

The November election of 1861, however, had been much more exciting. The interests of both factions were again involved. It represented an attempt by Gen. Lane and his faction to remove Gov. Robinson from office. Gen. Lane's military ambitions were being foiled by Gov. Robinson. Lane had neglected his erstwhile coveted position as United States Senator, for which he had paid so dearly, both financially and morally, and was seeking military honors. He wanted to control the military patronage of the State, and sought the office as Brigadier General of the Southern

1. Ibid. May 15, 1861. Bourbon county was for Conway but according to Montgomery he had to work to get Linn and Aleen counties. Ibid.

2. Collamore to Stearns, May 25, 1861. Stearns Papers.

3. Leavenworth Daily Conservative, May 23 & 24, 1861; Kansas State Record, Je. 22, 1861.

Expedition. Gov. Robinson wished to retain the military power that rightly belonged to him as Governor of Kansas. When Lane noticed that the Governor was trying to thwart his military ambitions, he retaliated by seizing upon the disputed question, the expiration of the State officers' term, as a means to remove the man who was trying to check him.¹ The opportunity to strike was the election of November 5, 1861.

The question of the time of the expiration of the State officers' term had been debated previous to this by the State Legislature, which had decided that the State officers should serve their terms beginning with the time of the admission of the State. The Legislature had not provided, therefore, for an election of State officers in November, 1861.² At the time the question was discussed in the Legislature there had been a faction which held that the two-year term of the State officers expired on the second Monday in January, 1861. Among these was John Pettit of Leavenworth, whose opinion was quoted in the Kansas State Record of Topeka.³ The Attorney General of the State, B. F. Simpson, however, had taken the opposite view that the State officers held their positions for two years from the

1. White Cloud Chief, October 24, 1861.

2. Ibid, Oct. 24, 1861; General Laws of Kansas, 1861. The Act was approved May 22, 1861. Some vacancies, however, were to be filled.

3. Kansas State Record, Apr. 20, 1861.

date of the admission of the State. He had based his decision on the contention that there had been no State government until Congress had admitted Kansas. Therefore, the terms of office could not commence until there was a government to act under.¹ After this preliminary spurt the papers had remained silent of the question until after the Governor's election proclamation. This was announced September 30th, 1861. The proclamation provided for an election to be held on the 5th day of November, 1861. At this time they were to elect representatives to the State Legislature; fill the vacancies in the Senate, viz: in districts numbers 2, 4, 8 and 10; elect a State Treasurer in place of Wm. Tholan, who had failed to qualify; elect an Attorney General of the State, in place of B. F. Simpson who had resigned; fill vacancies in the Judicial Department, a district judge and attorney; elect county officers; vote on the location of the Capitol; vote on the proposed amendment to the State Constitution, section 7, article 13, and vote on the Banking Law.²

The events now followed in rapid succession. In a letter dated October 4, 1861, Charles Robinson had preferred charges of plunder, robbery, and arson against the Kansas Brigade, then in the field under the command of Gen. J. H. Lane.³ On the 5th the newspapers came out with the

1. Topeka Tribune, Apr. 20, 1861; also Kansas State Record, Apr. 20, 1861.
 2. Kansas State Record, Oct. 5, 1861.
 3. Leavenworth Daily Conserv. Oct. 15 & 18, 1861.

Governor's election proclamation. On the 6th of October, Gov. Robinson and Mr. Prince had met at Fort Leavenworth and had "desecrated the Sabbath", as Lane put it, by conspiring to destroy the Kansas Brigade.¹ Two days later, Lane spoke to a crowded hojse in Leavenworth and in an impulsive speech denounced Gov. Robinson and Prince as traitors to the country. His feelings had been hurt by the Governor's unsparing criticism of his military exploits. He vindicated his actions and demanded from the Kansas people a new military department.² This speech was capitalized by the Lane-Leavenworth faction. It was read before two of his regiments, and the Leavenworth Daily Conservative distributed 10,000 copies of it, and made sure that it was published in the Kansas newspapers. The Conservative estimated that it had been read by at least a "million and a half people".³ Immediately following this, on the 10th of October, A. C. Wilder, chairman of the Republican Central Committee announced that there would be a meeting of the members of the State committee to nominate candidates to fill vacancies in the November election. The Committee was to meet at Topeka on the 16th of October.⁴ Already the day before the Committee met, the Conservative announced that a petition had been circulated and signed by more than 3,000

1. Ibid., Oct. 9, 1861.

2. Leavenworth Daily Conservative, Jan. 17, 1862; but especially Kansas State Record, Oct. 12, 1861.

3. Leavenworth Daily Conservative. Oct. 25, 1861.

4. Ibid., Oct. 10, 1861.

Republicans and Democrats, voters of Kansas, demanding an election of State officers. The petition had been presented to A. C. Wilder, chairman of the Nominating Committee for consideration. It read as follows:

"Sir: We, the undersigned citizens, suffering, in common with others, from the impotency or malice of the present State Executive, and earnestly desiring a State Government that will in a patriotic and energetic manner defend our people from invasion - knowing that by the plain and emphatic provisions of the State Constitution the term of our State Officers expires on the first day of January, and that the Legislative enactment continuing the State Officers beyond that time is null and void, and that there is not sufficient time, before the election, to hold a nominating convention, do respectfully pray your Honorable Body to nominate a full State Ticket, of efficient Union men, without reference to their political antecedents - men who will conduct the State Government with reference to the good of the whole country and not upon mere personal grounds".¹

The following day the Republican Central Committee met and in response to the petition nominated a full "State Union Ticket". The candidates nominated were: George A. Crawford of Bourbon county, Governor; Joseph L. Speer of Jefferson county, Lieut. Governor; J. W. Robinson of Riley county, Secretary of State; Samuel A. Stinson of Leavenworth, Attorney General; H. R. Dutton of Brown county, Treasurer; James R. McClure of Davis county, Auditor; H. D. Preston of Osage county, Supt. of Public Instruction.² What appeared to be an attempt to weaken Gen. Lane's military career, he turned into a scheme to remove the Governor from office and to kill him politically. The plan showed the earmarks of the crafty Lane's handiwork, but it had some serious loopholes. These

1. Leavenworth Daily Conservative, Oct. 15, 1861.
 2. Leavenworth Daily Conservative, Oct. 19, 1861.

the sharp mind of the Governor would detect and thereby circumvent the scheme.

The Republican Central Committee, headed by A. C. Wilder, had used good judgment in nominating the candidates for the Union Ticket. They had selected important men from the Democratic party and placed them on the ticket. Geo. A. Crawford and Samuel A. Stinson were prominent Democrats. In his campaign speech at Leavenworth, Crawford had said that he had been selected by the Republicans because a "Democrat would better harmonize the conflicting elements in the State; that to nominate one of their own party would only be to perpetuate the old war between Gen. Lane and Gov. Robinson."¹ He had made an appeal for the union of parties for the sake of the Union. This was a noble plea. Its purpose, however, was to win votes and oust Gov. Robinson. No doubt the Republican Central Committee thought it wiser to let the Democrats "pull the chestnuts out of the fire" than to burn their own fingers. Should the attempt to remove Gov. Robinson fail, the odium of the sting could be shifted. If they won they could attribute it to the magnanimity of the party as having done it for the sake of the Union, and the Lane-Leavenworth combination could have their way. It seems that back of this combination were several motives; first, to oust Gov. Robinson, who opposed and thwarted the aims of the ambitious Lane, and secondly, to make Leavenworth the business center of the military machine.²

1. Ibid., Oct. 22, 1861.

2. Leav. Daily Conservative, Nov. 6, 1861.

Gov. Robinson did not participate in the campaign. He did the only sane thing he could rightly do, viz: to rest his case on the law and its proper interpretation. The opposition held that the State officers term expired in January, 1862. They based their argument upon the State Constitution, Article 1, section 1, which reads:

"The Executive Department shall consist of a Governor, ... who shall be chosen by the electors of the State at the time and place of voting for members of the Legislature, and shall hold their office for the term of two years from the second Monday of January, after the election, and until their successors are elected and qualified."

They maintained, therefore, that the date of that election fixed the terms of the executive offices. To fix the date of election they quoted the 11th section of the Schedule of the Constitution. It reads as follows:

"If a majority of all the votes cast at such election [i.e. for or against the Constitution] shall be in favor of the Constitution, then there shall be an election held at the several voting precincts on the first Tuesday of December, A.D., 1859, for the election of members of the first Legislature, of all State, District and County officers provided for in this Constitution, and for a Representative in Congress".

The Lane men maintained that the first state election had been held in December, 1859, and that the "Second Monday of January, next after the first election was the Second Monday of January, 1860. The State officers' term, therefore, would expire on the second Monday of January, 1862.¹

1. Ibid., Oct. 23, 1861. Thos. Mean's interpretation of when the Governor's term expired. He had been requested by the persons of the Union ticket to give his interpretation on the question. It was accepted by the party and upon it they rested their case.

Sol Miller, Editor of the White Cloud Chief, called it the "veriest quibble, trumped up for the occasion". He maintained, and one would think correctly so, that the "framers of the Constitution had had no other thought than that Kansas would be admitted at the ensuing session of Congress; and no one honestly doubts", he continued, "that their intent was that the State officers should serve for two years from the admission of Kansas. ... If the version of the Revolutionists be correct", he continued, "then, upon the same principle, the terms of all the Representatives elect expired on the first of January last, before the admission of Kansas; their meeting was illegal; all their enactments are void; our United States Senators (Lane included) are not entitled to their seats; and we are here in a complete jumble, without any laws or power to make them."

He went on to criticise the Republican Central Committee for having exceeded its authority:

"If an entire State ticket was to be nominated", he wrote, "then why were the people not notified to send delegates to a convention to do it? ... The Committee were advertised to meet for the purpose of filling two vacancies, ... but upon the eve of their meeting, a secret cabal concocted a new programme, and sent their agents with the Committee to Topeka, where they succeeded in accomplishing their ends. The Committee, we learn, met in secret, took it into their hands to set aside a decision of the Legislature, declared the State Officers' terms at an end in January next, and have sent out to the people an entire ticket."

He warned the people not to "touch it".¹ In a later issue he wrote:

"Suppose Kansas were not yet admitted as a State, would the 'New Lights' still insist upon electing another set of State Officers? And if she should still be out in the cold two years hence, would they go about it and elect another set?"²

1. White Cloud Chief, Oct. 24, 1861.

2. Ibid., Oct. 31, 1861.

The campaign continued nevertheless. Geo. A. Crawford traveled from town to town and delivered his campaign speeches and gave dinner parties. Sol. Miller warned Crawford not to depend too much on the assumption that victuals would purchase success. "Let us give you one little fact": remarked Miller, "By some physiological arrangement, fodder won't remain inside of a person more than a day or so, at farthest; and poor human nature is such, that a man will forget these little kindnesses as soon as his stomach is empty. And you know you are not able to board the whole State"¹

The election was held Nov. 5, 1861. The results showed that the largest number of votes had been cast for Samuel A. Stinson, Attorney General, having received 11,971 votes. H. R. Dutton had been elected State Treasurer with 11,748 votes.² The State Board of Canvassers, however, had refused to report the results for those offices not mentioned in the Governor's proclamation. Most counties, however, had sent in a complete report of the election returns. On the bases of these reports G. A. Crawford had received 5,152 votes, not even half the total number of votes cast at the election.³ The explanation is that many

1. Ibid., July 24, 1862. He referred back to the election.

2. Kansas Election Returns, 1861-68. I, 174-182.

3. The State Election Returns, 1861. Archives Dept. They are still in their original envelopes. Gov. Robinson, H. R. Dutton and Chas. Chadwick constituted the State Board of Canvassers.

people had refused to vote the Union Ticket, for example, in Breckenridge county the vote for Crawford was only 55, whereas Dutton had polled 492 votes. Similar, although smaller differences existed in Morris, Chase, Doniphan and Nemaha counties. In Leavenworth, Jefferson, Butler, Atchison and Douglas counties the county Board of Canvassers had disregarded the Union Ticket entirely and had sent in only the returns for the offices provided for in the Governor's proclamation.¹ Thus the people of Kansas had repudiated Lane's scheme to oust Governor Robinson.

Other questions had been voted on. The vote on the constitutional amendment was 3,733 for and 3,343 against the amendment. This gave the banks a right to issue circulating notes of a denomination as small as one dollar. The capitol had been permanently located at Topeka, as discussed in a previous chapter. The vote on the banking law was 4,655 for, and 2,087 against it.² Since the constitution required that the law must be approved by a majority of all the votes cast at such an election, the act failed to become a law.³ If the Kansas Supreme Court, in the case of Pape v. Capitol Bank, (20 K. 442), had decided that no banking law had ever been submitted to a proper vote, it was mistaken.⁴

When the State Board of Canvassers, which included

-
1. Ibid., The county Board of Canvassers for Leav. county were E. J. Stevenson & M. Gallagher; for Atchison, Jacob Laqui & Wm. Noel; for Douglas, Gleason and Hayden.
 2. Kansas Election Returns, 1861-68. I, 174-182.
 3. Constitution of the State of Kansas, issued by L. J. Pattijohn. 1919. p. 61.
 4. Ibid., See Art. 13, Sec. 249, note below.

the Governor, refused to count the votes for Governor, Mr. Crawford's only legal recourse was to bring the case before the State Supreme Court. This he did. Already on the 16th of November he wrote a letter to the Governor in which he expressed himself as follows:

"Sir: An examination of the returns of the late election demonstrates that I have received a majority of all the votes cast for Governor. My term of office commences, according to the interpretation of those who voted for me, on the Second Monday of January, A.D., 1862. You claim, as I understand, to hold until the Second Monday of January, A.D., 1863. Thus, you perceive, an issue will be presented between us, involving the title to the office of Governor of Kansas. A question of such magnitude should be settled speedily and beyond any future controversy. The peace, prosperity and quiet of the State demand a prompt and legal determination of the question at issue.

"To effect this I propose that we submit our case to the Supreme Court of the State, at its next term in January, A.D., 1862, upon an agreed statement of the facts. By the decision of the highest judicial tribunal of the State I will cheerfully abide, and I presume you, with equal cheerfulness, will do the same.

"I will be pleased to hear from you at your earliest convenience.

George A. Crawford."¹

The Governor's response, while not available, must have been in the affirmative, at least the Supreme Court started the case on Monday, January 13, 1862. Judge S. W. Johnston, Hon. S. A. Stinson and R. Crozier, Esq. appeared on behalf of Mr. Crawford, and Gov. Wilson Shannon represented Governor Robinson. Mr. Crawford had made application for a writ of mandamus, to compel the State Board of Canvassers to count the votes cast for State officers, in the election of November 5, 1861. The case was ably argued on both sides and lasted a week. The application for the

1. Leavenworth Daily Conservative, Dec. 24, 1861.

writ, however, was unanimously overruled by the Supreme Court on Saturday, January 18. Chief Justice Ewing delivered the opinion of the court.¹ He argued that the only statute fixing the year for choosing the State officers was that approved May 22, 1861. It had provided for an election of a Governor at the general election in 1862 and each second year thereafter. He next considered the constitutionality of the election law and found nothing in the constitution that would render it null and void. He argued that the persons elected on the first Tuesday of December, 1859, designated in the Schedule as "Members of the first Legislature" had constituted the first Legislature and that their term of office had commenced at the time the State was admitted into the Union. To hold that their term of office commenced on the second Monday of January following their election to office, would complicate matters; for to reason thus would be to admit that the terms of the members of the House of Representatives had expired before the admission of the State. All laws passed by the first Legislature would, therefore, be null and void for want of the operative existence of one branch of that body; for, unlike the officers of the Executive Department, "the members of the Legislature may not continue in office beyond the regular measure of their term, until their successors are elected and qualified." He concluded his argument by saying:

1. White Cloud Chief, Jan. 22, 1862.

"There are no provisions in the Constitution that can possibly be construed as fixing a date for the commencement of the terms of members of the Legislature, except Sec. 2, Art. 2, and Sec. 1 of Art. 1. ... From these sections, no date for the commencement can be inferred except the date when the members are declared elected, or the 2nd Monday in January next after their election; both which, resting as they do on inferences not necessarily to be drawn from the text, and being irreconcilable with other express provisions of the Constitution, must be rejected. Hence, as no date is fixed in that instrument from which those terms begin, and as the whole subject is within the defined powers of the Legislature, it was competent for that body to fix it. This was done in effect by that clause of the law above referred to, ... [The election law of May 22, 1861]. And as the officers of the Executive Department are to be chosen at the time of voting for members of both branches of the Legislature, it follows that 1862, and not 1861, is the year prescribed for electing the second Governor of Kansas. ... Confirmed in our conclusion by this salutary rule (that no statute should be declared unconstitutional unless its infringement of the superior law is clear beyond substantial doubt) of interpretation, we hold that the provisions of the act approved May 22nd 1861, for the election of Governor in 1862, is valid, and therefore that the election for Governor in 1861 was illegal. The motion is overruled, at the cost of the Relator."1

Thus the first Lane scheme concocted to remove the Governor from office collapsed. In his sarcastic manner Sol Miller summarized it as follows:

"Viewing the matter in another light, is not the Supreme Court an obtuse and hard-hearted institution? Did not all the great legal lights of the State advise them to decide otherwise? Didn't Judge Means publish a decision in the matter, long ago? Didn't Att'y Gen. Stinson set the question at rest, even before the election? Didn't the Conservative make the matter as plain as mud, every day, for two or three months past? Why, but a short time since, the Conservative published a lengthy argument of the question, expressly for the enlightenment of the Court, and the Judges were furnished with copies of the paper. But that was not enough. The Stuff was put in pamphlet form, and distributed throughout this city, and probably throughout the State, with as great profusion as - as - the signs of billiard and beer saloons in Topeka? This prodigal distribution was for a two-fold purpose, to wit, namely: To instruct the Court

1. Daily State Record, Topeka, Kansas. Jan. 14-9, 1862.
The Governor had approved the act on the 23rd of May, 1861.

how to do it, and to inform the people how it was done. . . ."1
 Sol. Miller added that Crawford had already appointed his private secretary, that preparations had been made for a big oyster and champagne supper and a regular "bust" to be held at the Chase House on Saturday evening. Judge Ewing's decision, however, had spoiled it all. "After the adjournment of the Court", said Miller, "we saw one sorrowful looking individual have Judge Ewing by the buttonhole, out in the snow, for a long time, trying to convince him that he had decided wrongly, and to reason him into reversing the decision!"2 But it was useless, Judge Ewing had decided for Robinson. Gen. Lane, however, had not given up the fight. In the meantime the Civil War had continued and it is necessary to take up the Kansas side of the military conflict.

A few months after the admission of Kansas into the Union the United States was plunged into a Civil War. The conflict had drawn all the States with it, including the new State of Kansas. This had created new problems for the administration and enhanced others. In the first place the attitude of the people within the State, was divided. Some were radical Republicans and supported the radical abolitionists in their attempt to crush the secessionists,³ others preferred to let the "erring brothers go

1. White Cloud Chief, Jan. 22, 1862.

2. Ibid.

3. Senate Journal, Kans. 1861, pp. 108-109. A resolution introduced by Broadhead to support the Union, tabled on Hoffman's motion. Ibid. pp. 62-3, 74; also Wyandotte Commercial Gazette, May 4, 1861.

in peace",¹ while still others looked at the war as a conflict for supremacy between the industrial North and the agricultural South, and sympathized with the South. Thus wrote the editor of the Wyandotte Weekly Western Argus:

"We are convinced that before the experiment of self-government will be successful, practical statesmen must devise some plan which shall prevent one section of the country combining simply for the purpose of warring upon and crushing out some interest of another section. ...

"Let us suppose the tables turned, and that a Northern instead of a Southern interest is exciting the popular frenzy. Suppose the South and West were thoroughly aroused by their orators and politicians to the belief that the only impediments to their prosperity is the manufactories of New England and the iron works of New York and Pennsylvania. Let every election in the South and West be fought on these hobbies. ... Suppose before the frenzy had run its course, an anti-manufacturing President should be elected by the South and West, not a single vote being cast for him in the manufacturing States, and that he is backed by an anti-manufacturing Congress. Suppose that the platform which these officers are pledged to carry out contains resolutions which as explained and upheld by them, are utterly hostile to, and incompatible with the existence of Northern manufactures; what would New England do, what would New York and Pennsylvania do, if it was their local interest in controversy? Would devotion to the Union keep them true to a government which was preying upon and destroying them? ... We believe that honest Abe will prefer to destroy party and repudiate his platform than violate his oath of office. But Southerners do not so believe. ..."²

A second problem was that of the impotency of the State. In 1883, Gov. Robinson wrote, "At the admission of the State into the Union not a dollar was found in the treasury, nor a gun or round of ammunition in its armory. A few private arms were among the people, and there had been public arms, but they were scattered beyond recovery."³

-
1. Wyandotte Commercial Gazette, April 13, 1861; also S. J. Reeder's Diary, Vol. V, Mar. 25, 1861.
 2. The Weekly Western Argus, Dec. 29, 1860.
 3. "The Kans. Herald of Freedom, Nov. 30, 1883", in Kansas Scrap Book, IV, 74.

To make conditions worse, the people in Kansas were still suffering from the famine. This and the outbreak of the war, doubtless had increased the number of thieves and robbers in the State. To quote the Governor again:

"During the conflict in the Territory over the question of free and slave State a class of thieves had sprung up who preyed indiscriminately upon the people. Some claimed to be free State and some proslavery. Their politics depended upon the politics of the men to be robbed. If the victim was proslavery the robbers would profess to be free State, and vice versa. As soon as war broke out these men gathered on the border and no property was safe that could be driven or carried away. The citizens along the whole line from Elwood to Fort Scott were in assent and unfortunate in their calls for protection from these marauders. ..."¹

In addition to these internal problems there were external dangers. On the eastern border was a slave state, uncertain whether to go with the South or the North. Secessionists were holding conventions along the border in Missouri, threatening to invade, and subdue Kansas; while on the West and South were hostile Indians, or such as were liable to become so. In addition the Federal Government came with its demand for soldiers. Moreover, what complicated both the internal and external problems was the quarrel between Senator Lane and Governor Robinson.

To help solve the internal problems the State government had issued war bonds and organized the State Militia. Under an act of May 7, 1861, the administration had approved war bonds to the amount of \$20,000.² Since the bonds held for less than fifty cents on the dollar the

-
1. Robinson Collection. Tablets and Old Note-books containing pencilled copies of letters and speeches.
 2. Kansas Statutes, 1861, pp. 205, 206.

Governor, the Secretary of State, and Auditor had interpreted the act to mean that the State Treasury should realize \$20,000 from the sale of the war bonds and had signed bonds to the par value of \$40,000. Thirty-one thousand dollars' worth of these bonds were sold to Robert S. Stevens at forty cent par value.¹ This gave the Governor \$18,600 to organize, discipline and service the State militia and muster into service the regiments called for by the War Department. According to the Governor nearly 200 militia companies were organized at once.² On the 25th of April, 1861, he ordered that the militia of Kansas should organize into regiments and brigades. The Northern division of the State was to organize two brigades and five regiments and the Southern division, two brigades and six regiments. The regiments of the Northern division were to be located at Leavenworth, Atchison, Holton, Vermillion and Junction City; the regiments of the Southern division were to locate at Lawrence, Paola, Barnsville, Auburn, Le Roy and Emporia.³ The Governor appointed James C. Stone of Leavenworth to the office of Major General for the Northern division and Samuel Walker of Lawrence for the Southern division. The Senate approved both appointments without a dissenting vote, April 22, 1861.⁴ On the 25th of April,

-
1. Ewing, "Early Kansas Impeachments", The Kansas Hist. Qrtly, I, #4, p. 322.
 2. "Kansas Herald of Freedom, Nov. 30, 1883." in Kansas Scrap Book, IV, '74.
 3. The Lawrence Republican, May 2, 1861.
 4. Senate Jrnl., 1861, p. 120.

however, the Daily State Record reported that the Senate had asked to reconsider the vote on the ground that the men appointed were but "eleventh hour Union men".¹ It appears, however, that their attempt failed. R. B. Mitchell was appointed Adjutant General; Geo. W. Collamore, Quartermaster General; Wm. Mitchel, Paymaster General and J. P. Greer Judge Advocate General.²

The military mania even penetrated the Halls of the State Legislature. Fifty members of the Legislature had organized and formed the "Capitol Guard" under the leadership of Sergeant-at-Arms, Col. Clarkson.³

The peace and safety of Kansas and western Missouri was frequently disturbed by freebooters and plundering bands. The Jayhawkers of Territorial days continued their depredations. On the 21st of January, 1861, Geo. A. Crawford wrote that the peace of Linn and Bourbon counties would be disturbed if Montgomery would be permitted to make a raid into Missouri.⁴ On the 8th of April, 1861, the notorious Quantrill had been captured by Captain Sneider for horse-stealing and imprisoned at Osawatomie. His pro-slavery friends, however, had come to his rescue, secured a writ of habeas corpus from the judge, who had released him from prison and Quantrell escaped.⁵ That same year,

1. The Daily State Record, April. 25, 1861.

2. Ibid., May 9, 1861.

3. Daily State Record, May 17, 1861.

4. Robinson Papers. Crawford to Smith, Jan. 21, 1861.

5. Leavenworth Daily Conservative., Apr. 12, 1861.

on the 26th of July, a certain Mr. Zulavsky of Mound City wrote to Stearns:

"I am rather glad that I am not in Stewart's Company, as nearly all of S.- included have turned into horse thieves. They go to the Borders, and take Union men's stock, as the southern rebels have left the borders. Their being in Missouri is reason sufficient for taking their horses."¹

These acts were avenged. On the 3rd of August a correspondent of the Wyandotte Gazette described the scene along the Kansas border around Barnsville, Trading Post, and West Point as critical. The citizens were leaving the border. West Point was entirely deserted.² Ten days later E. S. Lowman wrote the Governor that he had found Olathe in utmost confusion and alarm. His interpretation was, that,

"A secret organization had been formed for the purpose of plundering the people, ostensibly to operate against those who [were] reputed as lukewarm on the Union question but really to rob every man of property. The plan was disclosed by a man who had gone into the organization for the purpose of finding out its object and the parties concerned in it."

Lowman wrote that the people were in danger of being robbed by "Jayhawkers from both sides of the line".³ On the same date J. E. Hayes of Olathe, Captain of the 4th Regiment of Kansas Volunteers issued a proclamation "to the citizens of Southern Kansas" in which he warned "all who [were] engaged in any marauding expeditions, whether against the citizens

1. Stearns Papers. Zulavsky to Stearns, July 26, 1861.

2. Wyandotte Gazette, Aug. 3, 1861.

3. Gov. Robinson Papers. Lowman to Robinson. Aug. 13, 1861.

of [Kansas] or of the State of Missouri" that he had a force under his command that would not only be used to put down traitors but all who were engaged in disturbing peaceful citizens".¹ The plundering bands, however, became so dangerous "stealing horses, destroying crops, burning houses, driving off stock and committing murders" that Sol Miller thought "Jayhawking was the only system that could reach the villains who were causing all these troubles... the sufferers must avenge their own wrongs, the punishment must be swift, sure and terrible."² On the 14th of January, 1862, in his message to the Legislature, the Governor described the conditions on the border as chaotic:

"The rebellion upon our border, and the manner in which the war was conducted during the summer has caused the State to be overrun with thieves and highway robbers. So numerous have these criminals become, in some localities, that they have the Community under complete subjection and control. Citizens of property and influence have been cowed into silence, lest they should become the next victims of the spoilers. Even many have endorsed robbery, that they might be able to retain their own property. ... The government undoubtedly has a right, and it is highly proper to confiscate the property of a traitor; but that gives no shadow of right to a private citizen to plunder his neighbor. The thief is as much at war with the government as the secessionist, and should be treated with no more leniency...."³

He asked that the criminal laws be amended so as to make it possible to punish these criminals. He recommended a speedy trial of criminals in any court within the State.⁴

On the 17th of January, 1862, Mr. Van Winkle of

1. Kansas State Record, August 31, 1861.

2. White Cloud Chief, Sept. 5, 1861. He meant that the settlers should organize and defend themselves. Ibid., Nov. 7, 1861.

3. Public Documents, 1861, pp. 6-7.

4. Public Document, 1861, pp. 6-7.

the House offered a resolution instructing the Committee on Judiciary to report a bill to suppress "Jayhawking" in Kansas. The next day Mr. Russell of the Committee introduced a joint resolution petitioning Major General Hunter to suppress Jayhawking. The resolution was referred to a special committee of five, composed of Messrs. Russell, Lamb, Potter, Van Winkle and O. Gwartney. On the 20th the committee reported progress in the form of a concurrent resolution. The resolution as adopted asked Gov. Robinson to inform the Legislature what military protection, if any, he had at his disposal to protect the Kansas inhabitants. It also authorized him to appeal to Major General Hunter for military assistance to suppress Jayhawking.¹ On the 12th of February the Governor informed the Legislature that he could not use the militia without any appropriation of money. He had, however, referred the matter to Major General Hunter. The latter, in charge of the Commanding Department of Kansas, had declared his willingness to cooperate with the Governor and had offered the Governor the use of the 8th Kansas regiment.²

Meanwhile the depredations had continued. A band of about thirty horse thieves had entered Buchanan county, Missouri and robbed a Mr. W. L. Irvine. The freebooters were pursued by some fifty persons who had overtaken

1. House Journal, 1862, pp. 27-39. Leav. D. Conserv. Jan. 19, 1862.
2. Ibid., pp. 232-234.

the villains at Geary City, in Doniphan county. Here a severe skirmish had been fought in which seven of the Jayhawkers and three Missourians had been killed and others severely wounded. On the 21st of January, Capt. Williams of Atchison had been ordered out to Geary "to protect the citizens and clean out the Jayhawkers"¹ This had helped to check the movement. On the 7th of September, however, Gov. Robinson found it necessary to call on the citizens of Kansas to reorganize the State militia. The enlistments into the service of the United States had destroyed this organization. He therefore, requested all able bodied citizens not connected with a volunteer company to organize themselves in accordance with the militia law.² He appointed John A. Halderman as Major General of the Northern Division of the State Militia.³ The freebooters, however, continued their depredations even into Governor Carney's administration.

Governor Carney had raised a force of 150 men and employed them as a patrol along the border. This patrol was paid, it was reported, out of the Governor's personal funds, costing him more than \$10,000. As long as it was protecting the border the Kansas citizens lived in peace. When he withdrew the patrol, however, Quantrill swooped down into Kansas, sacked Lawrence, and murdered 180 persons.⁴

1. Leavenworth Daily Conservative, Jan. 25, 1862.

2. Big Blue Union, Sept. 20, 1862.

3. Ibid., Oct. 18, 1862.

4. Topeka D. Capital, Aug. 25, 1929; contemporary account had it 150.

The Democrats that were accused of disloyalty were preyed upon. Among them were newspaper men. Sol Miller pointed out that the Atchison Bulletin, the Marysville Platform and the Junction City Frontier were "out and out traitor papers".¹ Later he added the Leavenworth Inquirer to the list.² Kansas City also had a number of Southern sympathizers. At one time it was reported that "not less than a dozen Palmetto flags (were) waving over Kansas City."³ The Leavenworth Inquirer became so outspoken that Gen. Jas. G. Blunt gave orders to arrest B. B. Taylor and his associates, the editors and proprietors of the paper. On the 29th of May, 1862, the Inquirer had criticised the Republicans too severely to be comfortable:

"The Black Republican papers are very generally urging the prosecution of the war, not for the purpose of restoring the Constitution and the Union, but for the purpose of driving out the owners of Southern plantations to enable northern men to take possession of, and enjoy them. It is exactly equivalent to a proposition to convert the Union Army into a band of Jayhawkers, to steal not only personal property but farms also. The army was sent into the field for the avowed purpose of enforcing the Constitution and the Laws; but the papers now propose that, instead of enforcing the Constitution and the laws, our volunteers shall be converted into organized bandits and thieves. Is this the way to restore the Union?"⁴

The arrest was made June 15, 1862.⁵ A few days later, however, they were all released except Taylor.⁶

1. White Cloud Chief, Aug. 15, 1861.

2. Ibid., April 3, 1862.

3. Daily State Record, Apr. 21, 1861.

4. Leavenworth Inquirer, May 29, 1862.

5. Leavenworth Daily Conservative, June 17, 1862.

6. Ibid., June 22, 1862.

Some of the so-called secessionists left Kansas. On the 12th of September the Leavenworth Conservative wrote that eight of the "most ultra secessionists" of Atchison had left town. They had feared an attack from the Jayhawkers.¹ Gen. Stringfellow, however, had remained in Atchison. He had satisfied the citizens of the town by donating 25 bu. of potatoes to the Union volunteers and promised as many more as soon as they would be dug.² That much of the property of the secessionists had been confiscated is evidenced from newspaper reports. Thus wrote the Leavenworth Daily Conservative: "Our Jayhawkers are out every day in the county, and make their expeditions pay. They have captured over 100 stand of arms, some ammunition, several beeves, etc. So long as a secessionist in this part of the country has anything in the shape of beef, I am confident no one here will starve."³

At one time there was danger of war between Kansas and Missouri. The occasion grew out of the President's proclamation calling for volunteers to help suppress the rebellion. Gov. C. F. Jackson of Missouri had replied to the President's proclamation as follows:

"Sir- your dispatch of the 15th inst., making a call on Missouri for four regiments of men for immediate service has been received. There can be, I apprehend, no doubt but these men are intended to form a part of the President's army to make war upon the people of the seceded States. Your requisition, in my judgment, is illegal, unconstitutional and revolutionary in its object, inhuman and diabolical, and cannot be complied with. Not one man will

1. Ibid., Sept. 14, 1861.

2. Ibid.

3. Ibid., written by "F.A.R."

the State of Missouri furnish to carry on any such unholy crusade.

C. F. Jackson, Gov. of Missouri."¹

Soon after this response Gov. Jackson issued a negative proclamation calling the militia of the State to the number of 50,000 men for the purpose of "repelling invasion, and for the protection of the lives, liberty and property of the citizens of the State." He told the citizens of Missouri that they owed their first allegiance to their own State and that they were under "no obligations whatever to obey the unconstitutional edicts of the military despotism which [had] enthroned itself at Washington, nor to submit to the infamous and degrading sway of its wicked minions in [Missouri]. No brave and true-hearted Missourian will obey the one or submit to the other. Rise, then," he exclaimed, "and drive out ignominiously the invaders who have dared to desecrate the soil which your labors have made fruitful, and which is consecrated by your homes."²

Gov. Robinson at once sensed the seriousness of the situation and issued a counter proclamation of war against Missouri. He wrote:

"The Governor of Missouri having declared war against the Government of the United States, and called for 50,000 State troops to be used in its overthrow, war is virtually declared against the State of Kansas also. The relations of Kansas to the Federal Government and the State of Missouri are such that all must, sooner or later, be involved in the contest. Should the Government of Missouri succeed against the United States forces, Kansas cannot hope to escape invasion. Indeed it is to be feared the invasion of the State will be one of the first acts of

1. Topeka Tribune, Apr. 20, 1861.

2. The Lawrence Republican, June 20, 1861.

the rebel army. In view of these facts, by virtue of the authority vested in me by the Constitution of the State, and in compliance with the desire of the commanding officer of the United States forces within the State, I as Governor of Kansas call upon all good citizens to organize themselves into military companies of not less than 83, not more than 101 men rank and file, and hold themselves in readiness to enter upon active service at call. . . ."1

The proclamation was issued June 17, 1861. In order to keep informed as to the dangers that threatened the State, Gov. Robinson employed the services of a certain George F. Earl, who hailed from Fitchburg, Massachusetts. He had come to Kansas in August of 1854, and had taken an active part in the Free-state movement. He was a favorite of Gov. Robinson. In the spring of 1861, the Governor sent Earl to the Missouri border to see how matters were shaping.²

On the 17th of August, 1861, the Wyandotte Commercial Gazette described the fear on the border as follows:

"Most of the neighbors sleep in corn fields - men, women and children - not daring to remain in their houses for fear of an attack by the prowling bands of Secessionists. If you call at a house, a little child or woman is sent to the door; the head of the family is not 'at home', unless the caller is known to be a friend. Men watch by daylight with glasses for the approach of the enemy, and by night pickets are sent as far as possible toward the Missouri line. Almost every house in the vicinity has Union refugees from Missouri in it. There are rumors of an attack every day, and the men are nearly exhausted by their ceaseless watchings."³

On the 30th of August the Hannibal and St. Joseph Railroad, headed for the west, was fired at by secessionists about six

1. Ibid.

2. Robinson Collection, Undated Letters, etc. Written to the editor of the Capital.

3. Wyandotte Commercial Gazette, Aug. 17, 1861.

miles west of Palmyra and eighteen miles from Quincy. One man was fatally wounded.¹ That same day Major Gen. John C. Fremont established martial law throughout the State of Missouri.² On the 1st of September Gov. Robinson informed Major Gen. J. G. Fremont of conditions on the eastern border:

"An effort is being made to set up a panic in our State, and I am told messengers have been sent to you representing a fearful state of things on our border - As some parties are interested to have war on our border, and consequently may not be impartial in their reports, I desire to say that we are in no danger of invasion, provided the government stores at Fort Scott are sent back to Leavenworth, and the Lane Brigade is removed from the border - It is true small parties of Secessionists are to be found in Missouri, but we have good reason to know that they do not intend to molest Kansas, in fact, until Jackson shall be reinstated as Governor of Missouri. Indeed, when a short time since a guerilla party came over and stole some property from our citizens, the officers in command of the Confederates compelled a return of the property and offered to give up the leader of the gang to our people for punishment. But what we have to fear, and do fear, is that Lane's 'Brigade' will get up a war by going over the line, committing depredations and then returning into the State -, This course might force the Secessionists to put down any force we may have, for their own protection and in this way will be joined by nearly all the Union men of Missouri.

"If you will remove the supplies at Fort Scott to the interior, and relieve us of the Lane Brigade, I will guarantee Kansas from invasion from Missouri until Jackson shall drive you out of St. Louis."³

The ink on Robinson's letter was barely dry when the news spread that Osceola, Missouri was burning. Lane's Brigade had invaded the State. Wherever it went it had spread terror and left ruin in its wake. Osceola, the county seat of St. Clair county, had a population of about 2,500

1. Leavenworth Daily Conservative, Sept. 1 & 3, 1861.

2. Kansas State Record, Sept. 7, 1861.

3. Robinson Papers. Robinson to Fremont, Sept. 1, 1861.

and was reported a wealthy place. Lane had saved the court records but had destroyed the building. Dr. J. Wade Gardner has reported that they "burned all the stores, shops and dwelling-houses in the town, except eleven dwelling-houses and one livery stable." Thomas H. Hicks, a leading business man who witnessed the scene reported that Lane destroyed "fully 100 houses, the larger business houses of all kinds, stores, offices, etc." The ostensible motive of Lane's movements was said to have been "to check Price's advance upon Kansas by cutting off his sources of supply."¹ It was reported that Gen. and Senator Lane had added to his store a \$1,000, a fine carriage, silks and broadcloths and supplies of all kind.² Several days later, October 5, 1861, as commander of the Kansas Brigade, Gen. Lane had issued a proclamation to the citizens of Western Missouri admonishing them of their patriotic duty. Among other things he wrote:

"Let every man now in arms return to his home and resume his business. ... Reopen your courts, your schools, your churches. Restore the arts of peace. ... Run up the American Flag before your doors. Let this be done by a concerted movement of each neighborhood, and here in the face of the world and before High Heaven I promise you that the flag which has protected American citizens on every sea, shall be your protection; that this patriotic army of mine, which you so much fear, shall be to you what the strong-hearted man is to the delicate woman by his side, a shield and a support. I will protect you against lawless plunderers and marauders from your own State, from Kansas, from anywhere. ... Should you, however, disregard my advice, the

1. John Speer, "The Burning of Osceola, Missouri and the Quantrill Massacre contrasted." Trans. K.S.H.S., VI, 305-309.

2. Robinson Collections - Undated Letters.

stern visitation of war will be meted out to the rebels and their allies. . . . The cup of mercy has been exhausted. Treason, hereafter, will be treated as treason."¹

On the 15th of October, Lane's Brigade had visited Pleasant Hill, Missouri, where they took the property of two stores, and distributed it among the Union families who had been robbed by the rebels.² Shortly after, the town of Humboldt in Allen county, Kansas, was burned to ashes "by Secessionists from the Indian country". About a month before this it had been sacked by the Pro-slavery men. In no case, however, were the invaders apprehended.

In January of 1862, Gov. Robinson explained to the Legislature his failure to preserve the peace:

"Although invasions have been inconsiderable in number and magnitude, they have had the effect to cause a general feeling of disquiet throughout nearly all the border counties. The feeling of insecurity has been greatly increased from a knowledge that the State was utterly powerless for defense. No appropriation was made by the last Legislature for arming, equipping, or subsisting the State Militia, and consequently it could not be used for our protection. An act was passed at the last session to borrow \$20,000 to repel invasion, suppress insurrection, and defend the State in time of war, but this was appropriated simply to the expenses incurred in raising two regiments of infantry, three companies of cavalry, and two companies of artillery, for the service of the United States. Thus this sum, insignificant as it was, after the first, second and third regiments were mustered, could no longer be made available for any purpose. The incessant calls for assistance, from all parts of the State, upon the Executive, to which he was unable to respond, has in consequence, given rise to universal complaint. An attempt was made, under the general authority of the Constitution, to call into the field a portion of the militia to protect the people from invasion; but no person could be found willing to furnish them with provisions - therefore, they were discontinued."³

-
1. Wyandotte Commercial Gazette, Oct. 5, 1861.
 2. Ibid., Oct. 26, 1861.
 3. Public Documents, 1861, pp. 5-6.

On the 4th of March he again notified the Legislature of the unprotected condition of the citizens in the border counties and that a part, if not all of the troops in the State had been ordered to march South to reinforce Gen. Curtis' army in Arkansas. His last words of warning were:

"It is for the Legislature to decide whether, in any emergency, the Executive shall have the means to protect the State, or whether it shall be left powerless, as during the past year. The responsibility is entirely with you gentlemen. My duty is accomplished when I have informed you of the condition of the State."¹

The next day a Mr. Dickinson introduced a bill to make appropriations to repel invasions and defend the State, but it died in the House.²

About one o'clock Sunday morning the 7th of September, 1862, Quantrill with 230 men dashed into Johnson county, took possession of Olathe and sacked the town. It was said that he took fifty horses and mules, attached them to the best wagons he could find, loaded them with provisions and escaped. Two men were killed and fifty troops captured.³ About a month later Quantrill once more invaded Kansas, this time with 110 men. He entered Shawnee county and sacked Shawnee, a town about ten miles from Westport. The report was that he had burned 13 buildings, killed three men and robbed the town.⁴

Who was to blame for the failure to protect the

-
1. House Journal, 1862, p. 446.
 2. House Journal, 1862, p. 471.
 3. Leavenworth Daily Conservative, Sept. 9, 1862.
 4. Leavenworth Daily Conservative, Oct. 19, 1862.

Kansas settlers during the Robinson administration? In the first place, the faction which divided the major forces of the State, had also penetrated the State Legislature. It had refused to appropriate the money necessary to support a State militia.¹ It had even refused the Governor the request for a thousand dollars to maintain a secret service department.² Moreover, the eagerness of some of the military men to command a brigade had forced too many Kansas men into the United States service and had robbed Kansas of its able bodied men to protect its own citizens. The Jayhawkers or freebooters, secessionists and the Missouri raiders had a grand time of it during the period of the Civil War. The blame for the failure to protect the Kansas settler rests with the Legislature and the Leavenworth-Lane faction as much as with the Governor of the State.³

Gen. Lane took advantage of every opportunity to win the favors of the administration at Washington. When President Lincoln issued his proclamation for volunteers from the several States, Gen. Lane organized a "Frontier Guard", composed of about fifty Kansas office seekers lingering at Washington and offered their services to the Secretary of War. The Secretary accepted the offer and for a brief period they served to protect the President in the White House. They were tendered the "East Room" for their

1. House Journal, 1862, pp. 232-4; 446; also Public Documents, 1861, pp. 5 & 6.

2. White Bloud Chief, Sept. 4, 1862.

3. Robinson, Kansas Conflict. Chap. 18, pp. 29-30.

meeting quarters and at least for one night fifty Kansas men "slept sweetly on the President's rich Brussels with their arms stacked in martial line down the center of the hall while two long rows of Kansas ex-Governors, Senators, Judges, Editors, Generals and Jayhawkers were dozing upon each side, and the sentinels made regular beats around them."¹ Small favors like that were used by the Lane faction to win the confidence of the administration at Washington. This made it more difficult for their opponents, the Robinson men, to receive recognition.

On the 15th of April, 1861, President Lincoln issued his first call for volunteers. On the 17th Governor Robinson sent a communication to the President stating that "Kansas [would] furnish 1,000 men for the enforcement of the laws if desired."² Some time in April Gen. Lane had written to Gov. Robinson and told him that the President had requisitioned Kansas for two regiments. The troops were to be equipped from the arsenal at Fort Leavenworth.³ On the 2nd of May, G. A. Colton arrived at Topeka, having left Washington on the 18th of April. He bore a dispatch to Gov. Robinson. It was supposed to be the requisition order for the two Kansas Regiments. The dispatch was sent by Gen.

-
1. Kansas State Journal, Lawrence, May 9, 1861. The Daily State Record of April 29, 1861, gives the names of the officers and privates. Among them are: Lane, Capt., Col. Delahay 1st Lieut., Stockton, Gordon, Burriss, Jenkins, H. D. Adams, W. W. Ross, S. W. Greer, S. C. Pomeroy, Thos. Ewing Jr., Chas. De Vivalde, J. Phillips, J. C. Vaughan, A. C. Wilder, D. R. Anthony, Wm. Hutchinson, etc. All were Lane men, except Ewing. In June 1862 he too became a Lane man.
 2. Senate Journal, 1861. pp. 228f.
 3. Senate Jrnal, 1861, pp. 228f; also Top. Tribune, May 11, 1861

Lane.¹ The requisition order, however, was missing.

Early in May, Gen. Lane returned to Kansas to urge the people to stand by the government. He spoke at Leavenworth on the 7th,² in Topeka on the 9th³ and in Lawrence on the 11th.⁴ What he said revealed the fact that he had returned to Kansas to assist in forming and preparing the Kansas Volunteers for the Government service.⁵ He admitted, however, that the President had made no formal requisition for Kansas Volunteers but had simply indicated his willingness to receive two Kansas Regiments if their services were tendered.⁶ The Tribune reported:

"Gen. Lane, since his arrival in town, has made all sorts of statements. He has said that he has an order from the War Department for two Regiments. When asked to produce it, he said the Secretary of War would have sent one but he refused it, as he did not know that Kansas could furnish them, and it would have been humiliating to have had the requisition made and Kansas unable promptly to furnish it. When asked why he wrote that such an order was issued, he said that the Secretary gave him a verbal order. When told that the Department did not do business in that way, he declared that the most of their orders were so delivered, and that all the States, except New York, received their requisitions by telegraph. When told that if he would show anything as authoratative as a telegraph dispatch, with the Secretary of War's name to it, he would have sufficient authority, he said he did have an order with the Secretary's name to it. When asked to produce it, he said it was verbal. He brought the order verbally and the name verbally, as an officer of the Government."⁷

-
1. Senate Journal, 1861, pp. 228-230; Topeka Tribune, May 11, 1861.
 2. Wyandotte Commercial Gazette, May 11, 1861.
 3. Topeka Tribune, May 3, 1861.
 4. Kansas State Journal, May 16, 1861.
 5. Daily State Record, May 10, 1861.
 6. Ibid., also Topeka Tribune, May 11, 1861.
 7. Topeka Tribune, May 11, 1861.

The fact is that Messrs. Pomeroy and Lane had written the Governor that two regiments had been ordered and that Colton was to deliver the papers to the Governor. When he arrived, having spent two weeks on the road, his dispatches were found enclosed in a sealed envelope directed to Col. Lane. On opening them they were found to contain only the authority for arms to be furnished for two regiments, each consisting of eight companies of infantry, and two of rifles, 70 men to a company. The requisition order, however, was missing.¹ It appears, therefore, that the President had not assigned any quota to Kansas on his first call. The State, however, had furnished 650 men,² but the urge had not come from the President, but from Gen. Lane.

Early in May the State Legislature had passed an act which the Governor had approved on the 16th, authorizing Gov. Robinson to call into active service two regiments of militia to be tendered to the President for service in behalf of the Union.³

Andreas wrote that the First Kansas Regiment was raised in May, was rendezvoused at Camp Lincoln near Fort Leavenworth, Kansas, and on the 3rd of June it was mustered into the service of the United States under Geo. W. Deitzler of Lawrence, Colonel, Oscar E. Learned of Burlington,

1. Topeka Tribune, May 11, 1861.

2. Robinson Coll. - Clippings, Sat. J1, 7, 1883. The name of the paper is not given. Andreas, pp. 179f.

3. House Jnl., 1861, pp. 358-9, 408.

Lieutenant Colonel, and John A. Holderman as Major.¹ The Second Kansas Regiment was raised during the month of May, and the early part of June, was rendezvoused at Lawrence, Kansas, and mustered into the service of the United States on the 20th of June.² Robert B. Mitchell of Mansfield was appointed as Colonel, Charles W. Blair of Fort Scott as Lieutenant Colonel and Wm. E. Cloud of Emporia as Major.³ The officers were commissioned by Gov. Robinson.⁴ The Second Regiment was in the United States service for only three months, under Col. Mitchell. At the end of three months it was mustered out.⁵

There was some opposition to this urge to help protect the Federal Government and leave the State unprotected. Both the Leavenworth Daily Conservative and the White Cloud Chief commented on the unprotected condition of the State and the abnormal enthusiasm of some of the military leaders. The Conservative wrote:

"We believe the Administration has no disposition to order our men away from the State, since it knows well our lack of men and our exposed position. It is well known, however, that certain gentlemen, who care more for military glory than for the safety of Kansas have urged Mr. Lincoln to call for regiments from Kansas."⁶

The Robinson papers carried the statement that

-
1. Andreas, History of Kansas, pp. 179-181; also Topeka Tribune, June 1, 1861.
 2. Kansas State Record, June 22, 1861; also Andreas History of Kansas, pp. 181-82.
 3. Andreas, History of Kansas, pp. 181-82.
 4. S. N. Wood Papers - Robinson to Wood, Feb. 2, 1864.
 5. Ibid.
 6. Leavenworth Daily Conservative, May 3, 1861.

Gen. Lane had aspirations to be Brigadier General, "A position to which he, [Lane], said the President and Cabinet were a unit in appointing him".¹ Moreover, it was said that on the 22nd of May, Gen. Lane had started to question the Governor's power to muster the companies into service, claiming that this authority was vested in him.² On the 4th of May the War Department had issued an order giving instructions as to who should commission the officers. It reads as follows:

"Each Brigade will consist of four Regiments and one Brigadier General, one Aid-de-camp, one Assistant Adjutant-General, one Surgeon, one Assistant Quarter-Master, one Commissary of Subsistence. All of the above officers will be appointed by the President, by and with the advice and consent of the Senate, except the Aid-de-camp.

"The Commissioned officers of the Company will be appointed by the Governor of the State which furnishes the Regiment."

This order was sent to all the States that had been called upon to furnish troops under the President's proclamation of the 3rd of May.³ According to this order Kansas was to furnish 3,235 troops.⁴ Lane, however, used his influence to discredit the State authorities. On the 25th of May the Tribune wrote:

"It is well known that he [Lane] is using all his power to create distrust in the State authorities. In hotels, in groceries, and on the highways, he, a Senator, is raving, raging, frothing, against the Government of the State, in a manner degrading to his position and criminal in a person professing to be a loyal citizen."⁵

1. Topeka Tribune, May 25, 1861.

2. Ibid.

3. Ibid.

4. Robinson Collection - Clippings. Dated Sat. Jl. 7, 1883.

5. Topeka Tribune, May 25, 1861.

During the first half of June the papers carried the news that Hon. F. P. Stanton had been authorized, by the Secretary of War, to raise one regiment in Kansas and two in New Mexico. It was said that the appointment invested Stanton with the authority to "look after the army in Kansas and New México".¹ In a letter to S. W. Wood, in 1864, the Governor wrote that the "War Department [had] authorized the State to recruit the third regiment."² Gov. Robinson and Stanton were friends and it is possible that the Governor had helped Stanton to secure the appointment. The regiment, however, was never filled. Senator Lane was jealous of the honor and interfered with Stanton's work. As soon as Lane heard of Stanton's appointment he hurried back to Washington and while there managed to secure authority from the Administration to organize two more Kansas regiments. They were to be accepted by the War Department for three years or during the period of the war. Moreover, the papers came out with the statement, quoting Gen. Lane, that the Senator had been appointed a Brigadier General in the Volunteer force of the United States. In the light of subsequent events it will be of interest to quote the General's letter in full. It appeared in several Kansas papers as follows:

"Mr. Editor:- On the 20th inst., I was duly appointed a Brigadier General in the volunteer force of the United States and thereupon received the following order:

-
1. Topeka Tribune, June 1, 1861; Leavenworth Daily Conserv., June 13, 1861.
 2. S. N. Wood Papers, Robinson to Wood, Feb. 2, 1864.

War Department, June 20, 1861.

Gen. James H. Lane:

"Dear Sir:- This Department will accept two regiments for three years or during the war, in addition to the three regiments the Department has already accepted from the Governor of Kansas, to be raised and organized by you in Kansas. Orders will be given to muster the same into service immediately on being ready to be mustered; and on being mustered, the requisite arms, etc., will be furnished on the requisition of the mustering officer, who is hereby authorized to make the same.

By order of the President,

Simon Cameron, Secretary of War."

General Lane continued: "Impressed with the necessity of prompt and vigorous action in defense of our country, its flag, and our homes, the President has authorized the formation of a Brigade of five Regiments in Kansas. He has been pleased to place in my hands the honor of leading the gallant sons of the youngest State of the Union, to victory in defense of that Union, of which it has so lately become a part. Treason and rebellion surround us. Loyal American citizens, driven from their homes, are crying to us for protection. The best government in the world is assailed by wicked hands. Men of Kansas, and the surrounding country, in the name of all we hold sacred, and by the authority of our Constitutional ruler, I invoke you to rally to the stars and stripes, come forward and join the regiments accepted from our State. When organized, the watchword of the Brigade will be the downfall of treason wherever found, and the upholding of Union men in every State and place.

James H. Lane, Brigadier General."¹

Immediately following this letter appeared the following statement:

"Gen. Lane has assigned to me the duty of receiving and organizing the troops provided for in the foregoing order...."
William Weer."²

As to the Senator's appointment as Brigadier General ,

Nicolay and Hay wrote:

"The 'grim chieftain' returned to Washington in June, and on the 20th, after consultation with the Secretary of War, tendered the President two additional regiments for three years' service or the duration of the war. Lincoln wrote to Cameron the same day that after reflection he had

1. Kansas State Record, June 29, 1861; Topeka Tribune, June 29, 1861.
2. Ibid.

concluded that we need the services of such a man out there at once; that we better appoint him a brigadier general of volunteers today, and send him off with such authority to raise a force ... as you think will get him into actual work quickest. Tell him when he starts to put it through."¹

Gen. Lane had been authorized to muster the 4th and 5th Regiments with officers before they were filled. Gov. Robinson wrote that they were never filled, but were finally consolidated. The third and fourth had been consolidated as the tenth, and the fifth had been filled by transferring companies to it.² Lane blamed Robinson for his inability to fill them. Gov. Robinson attributed the failure to Lane's lack of popularity. Mrs. Robinson in later years maintained that the Governor had placed no obstacles in the way of Lane's recruiting them.³ The 5th Regiment of Kansas Volunteer Cavalry was organized in July 1861. Hampton P. Johnson of Leavenworth had been appointed Colonel, John Ritchie of Topeka, Lieutenant Colonel and James H. Summers, Major.⁴

The dispute now shifted to the United States Senate in Washington. As soon as it became known that Lane had accepted the position as Brigadier General of Volunteers, Gov. Robinson appointed Frederick P. Stanton as Senator to succeed Mr. Lane. The Governor did not wait for Senator Lane to declare the position vacant, but based his action on

-
1. Nicolay & Hay, Complete Works of Abraham Lincoln, VI, 294.
 2. S. N. Wood Papers - Robinson to Wood, Feb. 2, 1864; Andreas, History of Kansas, p. 194.
 3. Robinson Coll. - MSS. of Speeches, Articles, etc. Apr. 15, 1897; also Stephenson - Political Career of Lane, pp. 112-13.
 4. Andreas, History of Kansas, p. 184.

the United States Constitution which declared that "no person holding an office under the United States shall be a member of either house of Congress during his continuance in office." He maintained, therefore, that the acceptance of an incompatible office was a resignation of the one previously held. On the 12th of July, Sen. Foote of Vermont presented what purported to be the credentials from the Governor of Kansas, of Frederick P. Stanton as Senator in place of Lane. Sen. Lane was present, and rose to defend his position. He said that it looked like an attempt to bury a man before he was dead. Although admitting that he had been employed in raising a brigade in Kansas, and when filled, if the brigade desired it, he would take charge of it; nevertheless, he would not surrender the office of U.S. Senator until this had taken place. Moreover, if he should surrender it he would not give it to the Governor, who was actuated by hostile feelings, but to the people of Kansas. He wanted the people to select his successor.¹

The question was now referred to the Judiciary Committee, Mr. Stanton presented his case before the committee. He pointed out, among other things, that when the Governor had tendered the appointment to him he had requested him to suspend action until he could ascertain the facts in the case. He telegraphed the Secretary of War and asked whether Sen. Lane had been appointed Brigadier General, and if so whether he had accepted. In a few days the

1. Leavenworth Daily Conservative, July 21, 1861.

Secretary had replied: "Lane is appointed and has accepted." Stanton now left for Washington. Upon his arrival, however, he found Gen. Lane in the Senate defending his position. Stanton was surprised, therefore, to find that Lane even denied having accepted the commission of Brigadier General. He had learned from Marcus J. Parrott that Gen. Wm. Weer had been present in Washington when Gen. Lane had taken the oath of office as Brigadier General and had mentioned the fact that Weer had "paid the fee to the officer for administering the [oath]". Stanton explained the manner in which Gen. Lane had protected himself:

"Since the presentation of my memorial, I have learned the true state of the record at the War Department. It seems that Gen. Lane procured a blank commission and a copy of the requisite oath at the Adjutant General's office, and was requested to return them both, when duly executed - the one to be recorded, and the other to be placed on file. The commission or letter of appointment was executed in due form, presented to Gen. Lane, and accepted by him; but neither this letter nor the oath was returned to the office of the Adjutant General. The Secretary of War informs me that he inferred General Lane's acceptance from the fact that he anxiously solicited the appointment, and gladly received the paper which conferred it. ... As Brigadier General, he authorized Gen. William Weer and Col. A. J. Ege, of Kansas, and perhaps others, to proceed to raise the two regiments mentioned in the Secretary's order of the 20th of June."¹

Gen. Lane's explanation was that, as long as he had not returned his commission to be recorded, nor his oath to be filed, he had not accepted the appointment.² On the 20th of July Stanton pointed out, before the Judiciary Committee that the title to every office was "grounded on

1. The Kansas State Journal, Jl. 25, 1861.

2. Ibid.

two things - the election of the party, and his being sworn in". It was sufficient, therefore, that Gen. Lane had taken the oath of office. He cited the cases of Rex vs. Ellis, (East., 252) and, "The People vs. Stevens, (5 Hill, 625) where the court had ruled that 'when a person [had] been elected to an office, he [was] admitted to the full possession and enjoyment of it upon taking the requisite oath, provided no other condition [was] prescribed'.¹ On the 29th of July the Judiciary Committee decided in favor of Stanton, and so reported its action to the Senate. Dissatisfied with the committee's decision, Gen. Lane asked for a further hearing. The committee agreed to do this and thereby gave Gen. Lane a chance to defer action until the Senate adjourned.²

The Senate again considered the question on the 15th of January, 1862. Mr. Clark moved to strike out the word "not" in the resolution of the Committee of Judiciary. The original motion had read that Lane was not entitled to his seat. After some discussion the Senate agreed to strike out the word "not". The vote was 24 to 16.³ This ended the contest. The wily Lane had won again. James Christian who was in Washington, D.C. at this time, later attributed Gen. Lane's success to the Secretary of War, Edwin M. Stanton,

1. Governor's Corresp. - Archives Dept. #8, Ser. 347, pp.2-3.
 2. Leavenworth Daily Conserv., Aug. 4, 1861.
 3. Daily State Record, Jan. 18, 1862.

who he said, had fixed it all up for Lane.¹ Sen. Lane was now at liberty to continue his military plans.

While Stanton and Lane were contesting the senatorship many things had happened. On the 20th of August, J. C. Fremont, Major General commanding the Western Department, with headquarters at St. Louis, was authorized by the Secretary of War to instruct Gov. Robinson to raise three regiments of infantry in Kansas. One was to act as a Home Guard, the other two were to serve in the Territory of New Mexico. The enlistment was to be for three years or during the period of the war.² Gov. Robinson would use the Home Guards to restore order within the State.³ The ink was scarcely dry on the Fremont authorization when Gen. Lane was back in Kansas. On the 23rd of Sept. he had burned Osceola and on the 8th of October he appeared in Leavenworth all loaded to fight the Governor who had criticised his Missouri raid, and who had tried to oust him from the Senate. After hurling a terrific invective against Gov. Robinson and Prince on the 8th of October, he had the Leavenworth faction adopt a series of resolutions on the 9th. The preamble and resolutions read as follows:

"Whereas, The Division of the West is too large to be commanded with success by one man from a base located at St. Louis:

-
1. Robinson Collections - James Christian to Gov. Robinson, Jan. 21, 1839.
 2. Leavenworth Daily Conservative, Oct. 17, 1861. It contains Fremont's instructions.
 3. White Cloud Chief, Aug. 21, 1861.

"And whereas, The means of communication between St. Louis and Kansas is liable at any moment to be intercepted, therefore

"Resolved, That, in the opinion of this meeting, a new Military Department should be immediately created, including Kansas, the Indian Country, and Arkansas, with the base at Fort Leavenworth.

"2d. The Government should place at the disposal of the Commander of such division at least 10,000 troops, consisting of all arms, especially artillery.

"3d. That we believe we express the wish of seven-eighths of the people of Kansas when we request that the command of such division be given to the ardent friend of Kansas, the tried and successful soldier, Gen. James H. Lane.

"4th. Resolved, That we request, and urge it upon Gen. James H. Lane, if in his judgment, consistent with the public welfare at home, that he visit Washington immediately, and represent to the Government the condition of things in the West, and especially in Kansas, and procure, if possible, the creation of a new Military Division, as set out in the foregoing resolution."¹

Gen. Lane used these resolutions as the basis of his action. By creating a new division he would get rid of Gen. Fremont, through whom Gov. Robinson was securing his authority to organize the Kansas troops, and through whom, it appears, Gov. Robinson was keeping the military contracts away from Leavenworth.² He would thus make Leavenworth the business center of the Kansas military machine. Moreover, he had hoped in that way to open up a military position for himself. Gen. Fremont was removed in November, the first days of the month,³ on a charge of extravagance,⁴ and on the 12th Lincoln created the new department.⁵ From that

1. Kansas State Record, Oct. 12, 1861.

2. Leavenworth Daily Conservative, Nov. 6, 1861.

3. Wyandotte Commercial Gazette, Nov. 9, 1861. The letter bearing the news was written Nov. 2, 1861.

4. Wyandotte Commercial Gazette, Oct. 5, 1861.

5. Stephenson, J. H. Lane, pp. 112-113.

day until the beginning of February, 1862, Lane kept the Kansas people under the impression that the President had appointed him as Major-General commanding the Kansas department, and that it was Major-Gen. Lane that would command the Southern Expedition.¹ As usual, Lane had proceeded to appoint his military staff without government authorization, had recruited soldiers, given instructions and what not.² He had returned to Kansas and had induced the State Legislature to pass resolutions to express their "implicit faith and confidence in the skill, courage, patriotism and capacity of Gen. Lane to command the expedition which [was] supposed to be about to be led by himself south".³ Gen. Hunter now interfered. He announced to his troops that, "In the expedition to go south from this department called in the newspapers General Lane's expedition, it is the intention of the major-general commanding the department to command in person, unless otherwise expressly ordered by the government".⁴ The news spread like wildfire and came as a shock to Lane's friends, The Daily State Record reported, "We sincerely trust that General Lane will not be interfered with at this late date. It would be gross injustice to him, and to the gallant men he has rallied

-
1. Leavenworth Daily Conservative, Dec. 18, 1861; Daily State Record, Jan. 15, 1862.
 2. Leavenworth Daily Conservative, Jan. 24, 1862; Daily State Record, Jan. 21, 1862.
 3. House Journal, 1862, pp. 137, 142, 157.
 4. Chas. Robinson, The Kansas Conflict, Chap. 18, p. 15. See Original MSS. among the Gov. Collections.

around him".¹ On the 28th of February Lane wrote to the State Legislature:

"On the 20th of January I left Washington, expecting to take command of a column designed to move in four separate bodies through this State, southward.

"It was understood by the Senator, and expected by the country, that a satisfactory arrangement would be made with Major General Hunter. Such was my conviction.

"I came to Kansas, therefore, intending to arrange matters with him; to resign my seat in the Senate, to you, from whom I had received it, and then to notify the President of the acceptance of the commission of Brigadier General, which was not to issue until the receipt of such notification.

"I made every effort which self-respect would permit to effect this arrangement with Major-General Hunter. I failed. The correspondence when published will prove indeed, that I could not have served him in any capacity, however subordinate without degradation."²

The only thing left for him, he continued, was to return to his seat in the United States Senate. The State Senate entertained a motion to express to Lane its "warmest sympathy and condolence, in his hour of sadness, bereavement and disappointment in thus being thwarted in the cherished hope of his life." The resolution, however, was postponed indefinitely.³

The reason for Sen. Lane's failure to get the appointment seems to rest with President Lincoln. After due consideration, the President had finally decided on David Hunter as Major-General commanding the Kansas Department. He had, however, given Gen. Lane a subordinate position. Should Major-General Hunter decline to command the expedition, Gen. Lane would be next in order. Dr. Stephenson stated

1. Daily State Record, Feb. 9, 1862.

2. Senate Journal, 1862, pp. 164-66.

3. Ibid.

that Hamilton R. Gable of Missouri had advised the President against assigning Lane to the position because of Lane's depredations committed in Osceola, Missouri. Gable had favored Hunter's appointment because he knew that Hunter would "keep Kansas robbers and thieves out of Missouri".¹ Furthermore, Gen. Lane had worked independently of Gov. Robinson and Major-General Hunter, and yet he had left the President under the impression that this Southern Expedition and the preparations for it had been planned by Lane in cooperation with Gov. Robinson and Maj.-General Hunter; whereas both Robinson and Hunter claimed to be entirely ignorant of Lane's plans, appointments, etc., except in so far as they appeared in the newspapers.² President Lincoln had no idea that Gen. Lane was contemplating to out-rank Gen. Hunter or in any way to interfere with his command.³ When Gen. Hunter, therefore, began to countermand and check orders issued by Lane, Hunter's subordinate, the facts in the case reached the ear of the President, and the Lane expedition was at an end. Gen. Lane was never defeated, however, and the Robinson-Lane conflict continued unabated.

Before Gov. Robinson's administration came to an end thirteen regiments had been ordered recruited. The organization of the first five regiments has been referred

1. Stephenson, J. H. Lane, pp. 112-113.

2. Robinson, Kansas Conflict, Orig. MS. Chap. 18, pp. 9-15.

3. Leavenworth Daily Conservative, Feb. 9, 1861.

to. The 6th Regiment of Kansas Volunteer Cavalry was organized in the spring of 1862, with Wm. R. Judson as Colonel, Lewis R. Jewell as Lieut. Colonel and Wm. T. Campbell as Major. The regiment was employed to scatter the bands of raiders under Quantrill, Gordon and others of Southwest Missouri.¹ The 7th Kansas Volunteer Cavalry was organized on the 28th of October, 1861, with Chas. R. Jennison of Leavenworth as Colonel, David R. Anthony also of Leavenworth as Lieut. Colonel and Thomas P. Herrick of Highland as Major.² Col. Jennison got himself into trouble. He had issued passes to soldiers rather freely with the result that some fifty men had left the ranks.³ It was also said that he and his men had done things up in a "novel and queer style". They would fight and whip the enemy and then confiscate or appropriate their property.⁴ Gov. Robinson had commissioned him, it was reported, in order to bring him under the control of the military law and keep him from robbing or murdering the people.⁵ Whatever Jennison's guilt may have been, Lieut. Colonel Anthony, of Jennison's own regiment and Col. Geo. W. Dietzler, his immediate commanding officer, had made representations to Brigadier General S. D. Sturgis of Leavenworth who at once ordered the arrest of

1. Andreas, History of Kansas, pp. 185-6.

2. Andreas, History of Kansas, p. 188.

3. Leavenworth Daily Conservative, Apr. 30, 1862.

4. Wyandotte Commercial Gazette, Aug. 3, 1861.

5. Leavenworth Weekly Inquirer, May 29, 1862.

Col. Jennison and Lieut. Hoyt, his partner in the act.¹
 The result was that Col. Jennison was removed from office.

The 8th Kansas Volunteer Infantry was recruited in accordance with the instructions given to Gov. Robinson by Gen. Fremont. It was intended for home and frontier service, and was organized in November, 1861, with Henry W. Wessels as Colonel, John A. Martin as Lieut. Colonel and Ed. F. Schneider as Major.² The 9th Regiment was the Kansas Volunteer Cavalry. It was organized on the 27th of March, 1862, and was rendezvoused at Ft. Leavenworth. Edward Lynde of Grasshopper Falls was appointed Colonel, Charles S. Clarke of Iola Lieut. Colonel and James M. Pomeroy as Major. Several changes were made later in the organization of the 9th Regiment.³ The 10th Regiment was the Kansas Volunteer Infantry. It was composed of the 3rd, and 4th Kansas Regiments and part of the 5th. Its organization was completed the 2nd of April, 1862, and was rendezvoused at Paola, Kansas. Col. Wm. F. Cloud of Emporia, Lieut. Col. Henry Williams of Osawatomie and Major Otis B. Gunn were its major officers.⁴ The remaining three regiments were raised under the President's call of July 2nd, 1862. Three regiments of Infantry were called for. Lane was authorized to recruit them. He empowered Thomas Ewing Jr.

-
1. Leavenworth Daily Conservative, Apr. 19 & 30, 1862.
 Letters of Anthony and Sturgis.
 2. Andreas, History of Kansas, p. 189.
 3. Ibid., pp. 193f.
 4. Andreas, History of Kansas, p. 194.

to raise the 11th Regiment, Charles W. Adams to raise the 12th, and Cyrus Leland was asked to recruit the 13th. The major officers of the 11th were Thomas Ewing Jr. Colonel, Thomas Moonlight of Leavenworth Lieut. Colonel and Preston B. Plumb Major. The 12th Regiment did boundary service. Its major officers were Chas. W. Lawrence, Lane's brother-in-law, Colonel, Josiah E. Hayes of Olathe, Lieut. Colonel and Thomas H. Kennedy of Lawrence Major. The 13th Regiment was rendezvoused at Camp Stanton near Atchison, Kansas. Thomas M. Bowen was appointed Colonel, John B. Wheeler of Troy, Kansas, Lieut. Colonel and Caleb W. Woodworth of Atchison, Major.¹

The last days of April or the first of May, 1862, Gen. Sturgis and Gen. Denver were asked to report at Washington and Corinth respectively and hand their command over to the officers next in rank.² The charges against them were trumped up accusations of disloyalty and insubordination, brought by the Lane-Leavenworth faction.³ On the 4th inst. Gen. Blunt was notified by the Secretary of War that he had been appointed to the command of the Department of Kansas. He was also informed that the Department of Kansas had been enlarged and would henceforth, until further notice, comprise Kansas, Nebraska, Colorado and the Indian

1. Ibid., pp. 195-200.

2. Leavenworth Daily Conservative, May 3, 1862.

3. Ibid., May 6th, 1862; Blunt, "Gen. Blunt's account of his Civil War Experiences". Kansas Historical Quarterly, I, 212.

Territories with headquarters at Fort Leavenworth. Major General Hunter, however, was to remain in command of the Department as enlarged.¹

The quarrel over the appointment of military officers seems to have reached a climax during August 1862, in connection with commissioning the officers of the 11th, 12th, and 13th regiments. Gen. Lane had asked the Secretary of War to help him in the quarrel, to which Edwin M. Stanton had replied:

"Your letter of the 18th inst. is received. You state that the troops being raised by the Commission are given to understand that they will be permitted to select their own officers, field and company, that nevertheless Governor Robinson has intimated that he will disregard the wishes of the men and commission such persons as officers as he may think proper to select.

"Under these circumstances you request to be instructed as to the course to be pursued by the Commissions when Companies and Regiments are filled and mustered, and the Executive shall refuse to commission the officers selected.

"In reply you are directed to report the names of the officers selected to the department. The Governor will be requested by the Department to commission them. Upon his refusal the President will issue commissions."²

In accord with Sec. of War Stanton's instructions, the Rosters of the Field, Staff, and Company Officers of the 11th and 13th Regiments were presented to Gov. Robinson on the 4th of October, but the Governor had refused to recognize them.³ He was willing to approve of the company officers selected by the men composing them, but he reserved the

1. Leavenworth Daily Conservative, May 3, 1862.

2. Robinson Papers, K.S.H.S. #36490. Letter of Edwin M. Stanton to Lane, dated Aug. 23, 1862.

3. Robinson Collection, Undated letters, etc; Stephenson, J. H. Lane (Publ. of K.S.H.S. III), pp.127-8.

right to designate the Field and Staff officers, although he was willing to give due regard to the wishes of the regiments. This authority to commission the Field and Staff officers, he said, was vested in the Governor. Moreover, he said that he had good reasons to believe that many of the officers on the list had never been elected by the soldiers nor were all of the officers selected qualified.¹ As a way out Gov. Robinson sent the matter to Major General S. B. Curtiss commanding the Department of Missouri.² When Sec. of War, Stanton asked Gov. Robinson to obey and grant the commissions the Governor is reported to have replied: "While he [Stanton] had the power to override the Constitution and laws, he had not the power to make the Governor of Kansas dishonor his own State."³

There was a difference of interpretation of the federal draft law as it applied to Kansas. In his anxiety to fill the 11th, 12th and 13th regiment, Gen. Lane had left the Kansas citizens under the impression that the law applied to them and threatened to use force to induce the men between the ages of 18 and 45 to join the army. On the 13th of August the Leavenworth Daily Conservative contained the following warning:

"The Secretary of War has issued the following order: 'Any person liable to draft, who shall absent himself from his county of State before such draft is made, will be arrested by any Provost Marshal, or other United

1. Stephenson, Lane, pp. 127-128.

2. Robinson Collection, Undated Letters.

3. Kansas Herald of Freedom, Nov. 30, 1883, in Kansas Scrap Book, IV, 74.

States Marshal, or State officer, wherever he may be found within the jurisdiction of the United States and conveyed to the nearest military post or depot, placed on military duty for the term of the draft, and the expenses of his own arrest and conveyance to such post or depot, also the sum of five dollars as a reward to the officers who shall make the arrest, shall be deducted from his pay."¹

The Secretary of War had ordered the Governors of the several States to proceed forthwith to furnish their respective quotas of the three hundred thousand militia called for by the order of the President dated the fourth of August 1862. These quotas it was said had been furnished to the Governors respectively by communication from the War Department.² On the 4th of September the White Cloud Chief quoted the Governor as saying that no quota had been assigned to Kansas:

"The Lawrence Journal publishes a correspondence between Gov. Robinson and General A. J. Mead, on the subject of the draft. Gov. Robinson says 'no order for recruiting has been received by the State authorities'. Of the call no quota was assigned to Kansas. He also says: 'There is no draft ordered from this State'".³

On the 25th of September Sol Miller wrote that the Federal Government had not intended to call upon Kansas for a single man under the levy of August 4, 1862, until it had been solicited to do so. He seemed thoroughly disgusted with the militarists' overenthusiasm:

"A serious complaint has lately arisen in this and adjoining Counties. Squads of soldiers are ranging all over the county, forcing men into the army at the point of the

-
1. Leavenworth Daily Conservative, Aug. 13, 1862. The order was issued by Wm. Barstow, Col. of the 3rd Wisc. Cavalry and Provost Marshal Gen. Distr. of Kansas.
 2. Leavenworth Daily Conservative, Aug. 16, 1862.
 3. White Cloud Chief, Sept. 4, 1862. Leavenworth Daily Conservative, Sept. 4, 1862.

bayonet or the muzzle of the revolver. This is done in order to fill up the companies to the required standard, which could not be filled up otherwise. If it be claimed that the persons so impressed are of Secession proclivities, we have to reply, that in many instances this is not the case. Many good Union men and Republicans have been forced into the army, leaving families at home who were dependent upon their labors for support, and leaving no one to gather their ripening crops. There has been no draft ordered in Kansas, nor will there be any. The Government even had not intended to call upon Kansas for a single man, under the new levy, until it was solicited to do so. This impressment of soldiers is an outrage upon the dearest rights of the people, and is producing merited indignation. Good citizens of the County, who have visited the camp to protest against the proceeding, have been insulted and driven away by threats of arrest and imprisonment."1

On the 8th of October, Senator Pomeroy spoke in Atchison and expressed his fear that Kansas was making too great sacrifices. He said that out of a voting population of sixteen thousand, upwards of ten thousand had enlisted for the term of three years, or during the war. Crops had been left ungathered, homes had been desolated and families were unsupplied with the necessaries of life. He feared that to take from Kansas so many active and labouring men would do vastly more injury to the young State than benefit to the government:

"It has been told me", he continued, "that many were induced to enlist because they were threatened with a draft. I can say such an idea was never thought of. As soon as the last calls were issued for more troops, I called at the War Department at the National Capitol, and was informed that no draft would be applied to Kansas. I therefore say it was wrong for any one to deceive the citizens of this State with threats of a draft. ..."2

The Kansas State Journal stated:

-
1. Leavenworth Daily Conservative, Sept. 25, 1862.
 2. Freedom's Champion, Oct. 11, 1862.

"With one-third of her population begging charity of the East, it is more than ridiculous - it is criminal, for Kansas to turn out nearly four men in proportion to her population for this war, to one furnished by the old, rich and self-helping Empire State. The Government has not called them of its own accord, and because it wanted them. We seriously doubt if more than a regiment or so would have been asked of Kansas, if her ambitious political leaders and military chieftains had not, for solely selfish ends, badgered the President and War Department, into a reluctant acceptance of more. . . ."1

Not satisfied, however, with mustering the Kansas citizens into service, Gen. Lane proceeded to recruit the Africans likewise. According to Stephenson, Gen. Hunter had started to organize the blacks in May 1862, before Gen. Lane got started. On the 17th of July, 1862, Congress had passed a militia act which had provided that slaves of southern sympathizers should become free upon rendering military service. Lane had supported the act. The act, however, gave the President full discretion in the employment of Negroes for any purpose whatsoever.² On the 5th of August, Gen. Lane informed the Secretary of War that the State would furnish two regiments of blacks and asked Sec. of War Stanton if there was any objection. Dr. Stephenson has reported that there is no record of a reply and cited Nicolay and Hay as being of the opinion that Stanton had made none;³ however, the Leavenworth Daily Conservative wrote on the 7th of Sept. 1862, that the Secretary of War had made a positive statement that the Negro regiments in

1. Kansas State Journal, July 4, 1861.

2. Stephenson, Lane, 129, 131.

3. Ibid., p. 129.

Kansas would not be accepted in the U. S. service.¹ This statement is substantiated by the Washington Dispatch, quoted by Sol Miller, that the President had declared positively "that no Negroes would be armed to fight against the traitors". His reasons were that if Negroes were accepted at least 40,000 soldiers would leave the army and the Border States would secede. Negroes could be employed upon fortifications and in camp drudgery but none of them should be armed. Sol Miller thought that this would be a stunning blow to Gen. Lane and his Kansas project, because Lane had "already made greater calculations and more promises, upon the strength of his Negro brigade, than Napoleon had ever [done] in the height of his glory".² In spite of the declaration of the President that no colored troops would be accepted in the United States service the Kansas colored regiments were organized. Gen. Lane, acting without specific authority had appointed Capt. James H. Williams of the Fifth Kansas cavalry to enlist blacks in the District north of the Kansas river and Capt. H. C. Seaman for the Southern District.³ Dr. Stephenson pointed out that there is evidence that not all of the blacks

-
1. On Sept. 4th, 1862, the Leav. Daily Conserv. wrote: "The Secretary of War has made the positive statement that the Negro regiments in Kansas will not be accepted into the United States Service."
 2. White Cloud Chief, Aug. 7, 1862; also Manhattan Express, Aug. 19, 1862, quotes the New York Tribune.
 3. Senate Misc. Documents #39, 42nd Congress, 1st session; Leav. Daily Cons., Aug. 6, 1862; also Stephenson, Lane, p. 129.

recruited by Lane entered the service voluntarily and then cited the occasion where fifteen Jayhawkers had entered Missouri to recruit Negroes for Gen. Lane's Negro brigade, had captured some 25 Negro men and about forty horses from persons indiscriminately and started to cross the Missouri river with them into Kansas. Capt. John of the Missouri State militia, however, had recaptured the stolen property together with eight of the Jayhawkers.¹ On the 25th of April 1863, Capt. Montgomery wrote to Mrs. Stearns:

"Finding it somewhat difficult to induce the Negroes to enlist, we resorted to the draft. The Negroes rescindicate their claim to humanity by shirking the draft in every possible way; acting exactly like white men under similar circumstances: Hence, I conclude, they are, undoubtedly human. The only difference, that I notice is, the Negro, after being drafted, does not desert; but, once dressed in the uniform of a soldier, with arms in his hands, he feels himself a man; and acts like one."²

The organization of the First Kansas Colored Voluntary Infantry, according to Andreas, was completed by the 2nd of May, 1863. Col. James M. Williams, Lieut. Col. John Bowles and Major Richard G. Ward had been selected as the major officers. The 2nd Kansas Colored Voluntary Infantry was organized in October, 1863.³ According to Stephenson, Lane's Colored Regiment was mustered into United States service the 13th of January, 1863.⁴ If both Andreas and Stephenson are correct the regiment was mustered into service before its organization was completed.

1. Stephenson, Lane, p. 30.

2. Stearns Papers, Js. Montgomery to Mrs. Stearns, Apr. 23, 1863.

3. Andreas, History of Kansas, pp. 200-201.

4. Stephenson, Lane, p. 131.

The Kansas Indians had also been drawn into the military service. Gen. James G. Blunt wrote that Gen. Sturgis had opposed the organization of Indian regiments on the ground that it was not the policy of the United States government "to fight high-toned southern gentlemen with Indians" and had threatened to arrest the officers if they persisted in organizing them.¹ When Gen. Blunt assumed command of the Kansas Department he immediately revoked the order and facilitated the organization of two regiments. The General wrote that the Secretary of War had ordered the organization of two Indian regiments. They were recruited from the loyal Cherokees, Creeks and Seminoles then in Kansas.²

The Confederate Government also was anxious to secure the aid of the Indians. They made overtures to the Cherokee Nation, offering them the Fee Simple title and perpetual possession, with the right of disposition, of their whole country. Moreover, for the so-called "neutral land" between Kansas and Missouri, they offered to pledge the Confederate State to the payment of the purchase money, with interest from the time of purchase in 1835. The purchase price had been \$500,000.³ The overture further stated

1. Blunt, "Gen. Blunt's Account of his Civil War Experiences." Kans. State Hist. Quarterly, I, 222 - 223.

2. Ibid.

3. R. J. Hinton Collection. Corresp. 1850-79. Letter of Albert Pike, Com. of the Confed. States, to Hon. John Ross Prin. of C. of C. Nation. The letter had been captured by Hinton in 1864.

that the Creeks, Seminoles, Choctaws and Chickasaws had made formal treaties of alliances with the Confederate States.¹ Notices also appeared in the papers that the Indians had been furnished with flour, blankets, guns, ammunition and money from a source unknown to the Government Indian Agent stationed there, which made it appear that the Indians were being tampered with by the Confederates. The rumor was spread that the "entire area of Kansas with all the towns, farms, crops, etc." had been promised to the Indians if they would side with the Confederate States and help drive the settlers out of Kansas.² If the Indians did molest the Kansas settlers they had either been spirited on by the Confederates or else the provocation had come from the settlers themselves.³

The military enthusiasm of Kansas had been greater than that of any Northern State. In every call issued by the President the State had far exceeded its quota. A total of 12,931 soldiers had been assigned to Kansas during the Civil War period. Kansas, however, had furnished a total of 20,151 men, and nearly all for three years.⁴ The reasons

1. Ibid.

2. Leav. D. Cons., July 31, 1861; Kans. St. Record, Aug. 3, 1861.

3. Gov. Robinson's Corresp. Griffith to Robinson, May 3, 1861. Topeka Tribune, May 25, 1861. Leav. Daily Cons., Jl. 31, 1861.

4. Robinson Clippings. Name of paper is not mentioned but the date is given as July 7, 1883. Sen. Ex. Doc. #32, 38th Cong. 1st Sess. E. D. Townsend Assist. Adj. Gen. gave the number subject to military duty in Mar. 1864, as 22,395 and the No. of men furnished by the State under all calls, up to Mar. 1864, as 16,164.

for this ready response are several, it seems. In the first place the Kansas settlers needed money very badly. They were still suffering the after effects of the drought and the military service furnished them with a way out. If a person volunteered his services the soldier would receive a bounty of \$100 plus \$13 per month, and in addition the family received pecuniary assistance during the soldier's absence from home.¹ In the second place it is safe to say that many volunteered their services to the government out of sheer loyalty to the cause. Others, less loyal or differently situated, were undoubtedly urged or literally scared into service by the ultra loyalists, politicians and would be military officers. These politicians and military men craved power. The more regiments they could organize the greater the patronage at their disposal and the more political and military power they could wield. Associated with this group, it seems, were the Leavenworth business firms who clamoured to get the sales profits that the military supplies would offer them. It appears that at least some of the Lane-Robinson quarrel centered around the question as to who should get the military business. If Gen. Lane organized the regiments he would direct the military contracts and if Gov. Robinson had control of the organization he would direct the business into channels of his own choosing. On the 6th of November, 1861, the Leavenworth

1. White Cloud Chief, Sept. 4, 1862.

Daily Conservative referred to this quarrel as follows:

"The Topeka Record has lately stated that Gov. Robinson was working with the capitalists in St. Louis to prevent the creation of a Military Department in Kansas. St. Louis wants the contracts and the furnishing of supplies, and fears Leavenworth as a rival. Robinson has joined hands with the jobbers to defeat Lane as a Major General. So long as these arguments were urged as bearing upon the State Capital question we paid no attention to them. Now we should like to know the truth."¹

The Thomas Carney & Company Wholesale Grocery House advertised that it did an extensive business in Kansas, Colorado, New Mexico and Nebraska, and had no competitor west of the Mississippi river. It advertised as being the "largest wholesale forwarding and commission house in the State" and had "full regimental stores for sutlers".² Another of the prominent wholesale houses of Leavenworth was the A.W. Sears & C. F. Earle Wholesale Boot and Shoe House. Much of the financial business was handled by Scott Kerr and Company of Leavenworth.³ Of the Kansas towns Leavenworth must have gotten the lion's share of the military trade. In January of 1863, the quartermaster and commissary departments of Fort Scott ordered their supplies from Leavenworth.⁴ In 1861 Geo. W. Collamore, Quartermaster General, purchased supplies from Robert Morrow of Lawrence and Thomas Carney of Leavenworth.⁵

The military history of the Kansas soldier has

-
1. Leav. Daily Cons., Nov. 6, 1861.
 2. Ibid, April 2, 1862.
 3. Ibid, Aug. 16, 1862.
 4. Ibid., Jan. 11, 1863.
 5. Ibid., Mar. 12, 1862.

been discussed at great length by Andreas¹ and Wm. E. Connelley² and will be omitted here. Suffice it to say that while much has been said to elevate the Kansas soldier, whose courage, sacrificial service and heroism everybody should respect and honor, there is also another side to the story which reveals the debauchery, drunkenness and theft which were all too common in the army, the Kansas regiments not excepted.³ Especially severe was the criticism against Gen. Lane and his brigade, advanced by men like Generals Hunter, N. S. Stout, Halleck and McClellan.⁴ The Kansas military conflicts had been entangled with the Impeachment of the State officers. This conflict will be treated in the next chapter.

1. Andreas, History of Kansas.

2. Connelley, Hist. of Kansas St. & People of Kansas, etc. 5 vols.

3. Lewis Bodwell Correspondence, 1856-1861. Bodwell writes to Rev. Dr. Badger, Oct. 18, 1861.

4. Robinson, Kansas Conflict. Chap. 18, pp. 5-14. Stephenson, Lane, pp. 114-115. J. A. Halderman Papers. Stout brands Lane a thief. Truth-Teller, Feb. 28, 1862.

CHAPTER IX.

Eane-Robinson Crisis: Impeachment of the State Officers.

Shortly after the admission of Kansas into the Union it became necessary for the State to issue bonds to help carry the current expenses of the government. The first State Legislature, therefore, voted to make two issues, a seven per cent issue of \$150,000 and a ten per cent issue of \$20,000. The bill calling for the seven per cent bonds was introduced on the 9th of April by Robert P. C. Wilson of Leavenworth. Originally the bill had called for \$250,000, but the Committee on Finance and Taxation had reduced the amount to \$150,000. In this form Isaac E. Eaton, chairman of the Committee, had reported the bill back to the House for consideration.¹ It was considered in committee of the whole on the 16th of April and passed the House on the 18th by a vote of 50 to 4. Four Representatives, William F. N. Army, Warren H. H. Lawrence, James McGrew, and Thomas Pierce, opposed the bill.² The Senate passed the bill the last days of April, the Governor signed it on the first of May, and it became a law on the third instant.³ The vote in the Senate was 22 to 2. Senators Josiah Miller of Douglas and Josiah M. Hubbard of Wabaunsee counties had voted against the measure.⁴

The bill had authorized Messrs. Austin M. Clark

1. House Journal, 1861, pp. 86, 96, 137, 147.

2. Ibid., pp. 147, 173-74.

3. Ibid., p. 305. Also Kansas State Record, Mar 4, 1861.

4. House Journal, 1861, pp. 132-35.

and James C. Stone to negotiate the bonds of the State to the amount of \$150,000. The bonds were to bear interest at a rate not to exceed seven per cent, payable semi-annually in the city of New York. They were to be registered by the Governor and Auditor of the State and bear the great seal of the State. The loan was to be paid in fifteen years from date of negotiation. Messrs. Clark and Stone were directed to inform the State Legislature within seventy days from the passage of the act, the terms on which they could negotiate the loan. The bonds were to be sold in denominations of not less than \$500 with coupons attached. The bill also provided for a tax levy to be collected each year to pay the interest and a second levy high enough to create a sinking fund for the redemption of the bonds.¹

Messrs. W. W. H. Lawrence, W. W. Updegraph, and Josiah Miller had protested the bill. They held that the bill was in conflict with the constitution of the State, and regarded it as too loosely worded. Unless it were changed, it would give the agents authorized to negotiate the bonds the power "to perpetuate a magnificent swindle upon the people of the State." Senator Miller wrote that he was unwilling "to legislate into the pockets of any set of men from twenty-five to thirty thousand dollars of the people's money."²

-
1. Kansas State Record, May 4, 1861. Also Proceedings of Impeachment Cases, pp. 317-319.
 2. Daily State Record, Jan. 1, 1861. Also Senate Journal, 1861, pp. 132-133.

Messrs. Stone and Clark had made an attempt to negotiate the bonds but had failed.¹ This led the House, on the 24th and 25th of May, to consider and pass an act supplementary to the seven per cent act of May third.² The Senate passed the bill on the first of June, the Governor signed it on the third, and it went into effect the seventh, instant. On the first ballot the bill had failed in the Senate, 11 to 9. It had received a majority of all votes cast, but had failed to receive the necessary majority of the Senate. Thereupon, Senator Bancroft, who a few minutes before had voted against the bill, moved to reconsider the vote and on the second ballot the Senate adopted the bill, 14 to 6. Bancroft, Martin and Hubbard had changed their vote in favor of the bill.³ Since the Journals have omitted all interesting details, and the papers made no mention of the change in votes, this part remains unexplained.

The supplementary act authorized the sale of \$100,000 of the State bonds for not less than seventy cents on the dollar. The bill authorized the Governor, Secretary of State, and Auditor, or a majority of them, to negotiate the sale of these bonds. It also provided that the Treasurer of the State should prepare bonds to the amount of \$100,000, with coupons attached, due in fifteen years, bearing interest at the rate of seven per cent per annum,

1. Daily State Record, Feb. 12, 1862.

2. House Journal, 1861, pp. 463-465, 472.

3. Senate Journal, 1861, pp. 353-354.

payable semi-annually.¹

Another act had been passed by the State Legislature which had been approved the seventh of May, 1861. It provided for the issuance of bonds to the amount of \$20,000, bearing interest at the rate of ten per cent, payable in two years. The Treasurer was to prepare bonds in sums not less than three hundred dollars, to the full amount of said loan, with suitable devices to prevent counterfeiting.²

It was easier for the Legislature to provide for the State bonds than it was for the State to sell them. Several fruitless attempts were made before the State officers found a purchaser through whom to negotiate the bonds. Before the bond acts had passed the Legislature the State Senate had asked the Governor to telegraph some prominent Banking House in New York and find out whether the Kansas Bonds would be worth the "price of like bonds of other northern States".³ On the 20th of April the Governor had telegraphed to the Duncan Serman & Company Bankers of New York and asked them what the first issue of the Kansas seven per cent State bonds could be negotiated for in New York. The Company had replied: "Do not think they could be negotiated at present".⁴ Twenty days later upon request from the Legislature, the Governor reported the failure of Clark

1. Daily State Record, Feb. 12, 1862.

2. Statutes of 1861, pp. 205-6.

3. Governor's Correspondence, 1861.

4. Ibid.

and Stone to negotiate the bonds. He presented the original report as addressed to the Governor. It was dated May 10, 1861, and read as follows:

"Sir: Since you informed us that we have been appointed by the Legislative Commissioners to negotiate the Bonds of the State, we have taken every means in our power to ascertain whether the Bonds could be sold, and if so, at what price, and we are satisfied that at this time it would be useless to attempt it. The moneyed men of the East are using all the means which they are willing to invest in stocks of any description, in sustaining the Government of the country in this contest with the Seceding States, and it would be very difficult, if not impossible, to give it a different direction.

"With these conviction, we do not feel willing to impose upon the State the expense of sending us to the Eastern cities, upon a bootless errand."¹

The Treasurer, H. R. Dutton now tried to sell the State bonds. According to the Auditor the State had issued in bonds \$50,000 under the act of May third, \$99,400 under the supplementary act of June seven, and \$40,000 in war bonds.² In February, 1862 the Secretary of the Treasury testified before the House Investigating Committee that he had tried to sell the war bonds to Messrs. A. M. Clark and J. C. Stone of Leavenworth, also to Joseph Mann of Pennsylvania, but had failed. Since then he had been in New York about the time of the battle of Bull Run. Again he was told that they could not use the ten per cent bonds.³ On his way home he had stopped at Buffalo, New York, where he had met with R. S. Stevens, who was on his way to Washington.

1. Senate Journal, 1861, pp. 237-38.

2. Daily State Record, Feb. 12, 1862.

3. Proceedings from Impeachment Cases, Lawrence, Kansas. pp.16-18.

Stevens bought \$31,000 of the war bonds at 40 cents par value and also took \$29,000 of the seven per cent bonds with him to be sold at seventy cents par value. Stevens gave Dutton a receipt for the seven per cent bonds. This happened July 31, 1861.¹ After this Dutton returned to Kansas while Stevens left for Washington. Here Stevens sold \$26,000 of the war bonds at 95 cents par value to Caleb B. Smith, Secretary of the Interior. He had also sounded Smith on the seven per cent bonds, but was refused.² The one transaction, if executed, would net him \$14,300. Is it any wonder that he became interested in more Kansas bonds?

Robert S. Stevens was a Democrat and a business friend of Governor Robinson. During President Buchanan's administration he had been under contract to build houses for the Sac and Fox Indians. But soon after the arrival of the Kansas Senators in Washington, Perry Fuller, agent of the Sac and Fox Indians, had been instructed to stop the work under Steven's contract.³ In November of 1861 he had been elected to the State Senate. Otherwise his business was of a general character. He had practiced law, was a director and stockholder of the Lawrence Bank, possessed business acumen, and seemed to know his way about Washing-

1. Ibid., p. 256.

2. Ibid., p. 256.

3. Mrs. S. T. D. Robinson to G. W. Jahn: Robinson Collections, on Lane & Impeachment.

ton.¹ He had lived at Lecompton, but had moved to Lawrence, Kansas.

After the transaction with the Secretary of Interior, Stevens had left Washington to return to Kansas via Dayton, Ohio. Here he stopped to see Robert G. Corwin, resident of Dayton. Mr. Corwin was an attorney at law, and claims agent at Washington, doing business with the War and Interior Departments. If he had not been under the employ of Stevens before this interview, at least after that the two worked together. Mr. Corwin was a brother-in-law of Caleb B. Smith.² At this meeting Corwin informed Stevens that he thought the seven per cent bonds could be sold to the Secretary of Interior provided he would modify his proposition as to price.³ Thereupon Stevens wrote a new proposition to the Secretary, gave what bonds he had to Corwin and returned to Kansas where he arrived early in October.⁴

While in Kansas Stevens had an interview with the State officers and approached them on the bonds. The testimony here is not definite, but it appears that the Secretary of State and Auditor were of the opinion that they had the right to sell \$50,000 of the seven per cent bonds

-
1. Daily State Record, Feb. 12, 1862. Steven's and Morrow's testimonies. Also Ewing, "Early Kansas Impeachments". Kansas Hist. Quarterly, Vol. I, #4, p. 312.
 2. Leavenworth Daily Conservative, June 10, 1862.
 3. Proceedings, Op. Cit. p. 256.
 4. Ibid.

at 40 cents par value and the balance of them not yet exchanged for scrip at 70 cents par value. They reasoned that since the original seven per cent act of May third had not set a limit to the sales price and the Supplementary Act which limited the sales price had provided only for \$100,000 in bonds, the remaining \$50,000 of the seven per cent bonds could be sold below seventy cents par value.¹ They arranged with Stevens to sell \$50,000 of the seven per cent bonds at 40 cents and about \$37,000 at seventy cents.² When the proposition was presented to the Governor for his signature he refused to sign it.³ Nevertheless, before they departed the State officers gave Stevens \$29,000 of the seven per cent bonds in the five hundred denominations and all the bonds in the hundred denomination they thought would not be needed to pay up scrip. The Governor signed them and Stevens sent them to Washington by Dr. Woodward to be delivered to Corwin. Following that Stevens left for Southern Kansas.⁴

At this juncture Senator Pomeroy of Washington wrote a letter to Secretary Robinson. The letter has not been preserved but Pomeroy testified that in it he had asked Robinson to send him his personal bonds. He also told him that there was a prospect of selling the State bonds. Pomeroy had gathered this information from an interview with

1. Impeachment Proceedings, Stevens' testimony, p. 256, also Robinson's testimony, p. 20-22.

2. Ibid., p. 16-18, 377.

3. Ibid., pp. 20-22, 256.

4. Ibid.

the Secretary of Interior.¹ This stirred Secretary Robinson and Auditor Hillyer to action. They gathered all the personal bonds they could lay hands on and prepared to leave for Washington. Robinson left the 28th and Hillyer the 29th of October.² Robinson stopped off at Chicago to visit some friends, and he arrived at Washington the 8th of November, four or five days later than Hillyer.³ When Hillyer arrived he sought an interview with Senator Pomeroy. Pomeroy, however, seems to have kept him at a distance and told him that it would be impossible to effect negotiations with the Interior Department. He told Hillyer that Commissioner Wm. P. Dole had just returned from the West and was opposed to investments, especially Kansas Bonds. Although such was the case, Dole had promised to find out how much Indian money was available. The negotiations, Pomeroy advised, should be left in the hands of Stevens. He should be made the agent of the State.⁴ What was Pomeroy's motive in checking Hillyer? Was he concerned about the welfare of the State or did he wish to hide something from Hillyer? Later developments may throw more light upon the subject.

Hillyer took the advice of Pomeroy and telegraphed Stevens to come to Washington. By this time Robinson had arrived and he signed the telegram with Hillyer. On the witness stand Robinson admitted that they had also sent a

1. Impeachment Proceedings, MS. Pomeroy's testimony.

2. Proceedings, Robinson's testimony, p. 381.

3. Ibid., p. 384.

4. Proceedings, Hillyer's testimony, p. 200.

letter to Stevens.¹ The news reached Stevens while in Southern Kansas. He left the State the 23rd or 24th of November and arrived at Washington the last of the month.² On Sunday, December 1st, he met Robinson and Hillyer. The following Monday, December 2nd, he met Corwin. Corwin knew the mind of the Secretary of the Interior and advised Stevens to see the Secretary of State and Auditor about a contract which would authorize Stevens as agent of the State to negotiate the sale of the bonds. That night Stevens went to see Pomeroy. Corwin, Robinson and Hillyer accompanied him. They found Pomeroy and his wife in company with several gentlemen. After they had done with the preliminary conversations, Pomeroy, Stevens and Corwin withdrew into another room and left the State officers with Mrs. Pomeroy, in the parlor. Corwin testifies that they consulted about the propriety of selling the entire issue of the \$150,000. "All of the bonds had been out except \$87,000 or thereabout in paying the debts of the State. We wanted Stevens to get in, or buy in all the bonds of the State that had been given out, and sell the entire issue to the Government". Stevens agreed to do this.³ Even if the veracity of Corwin's statement is not questioned, and if what has been recorded was all they agreed upon that night, why did they not take the State officers with them?

-
1. Proceedings, Robinson's testimony. pp. 377-384, also Stevens' testimony, pp. 256f., also Hillyer's testimony, pp. 190, 200.
 2. Proceedings, pp. 256ff.
 3. Proceedings, MS. Corwin's testimony.

Certainly the purchase and sales price of the bonds too would have been discussed. It appears that at this secret meeting were gathered the three villains who were to divide the spoils of the contemplated negotiations. That evening they must have agreed upon the method of procedure, for when they returned to the parlor they were ready to draw up the agreement with the State officers. The contract was ante-dated and the place was given as though written in the office of the State Auditor, Topeka, Kansas.¹ The date given was October 25, 1861. The agreement reads as follows:

"The undersigned, Executive officers of this State, authorized by law to dispose of, and sell, the seven per cent bonds, the issuance of which was authorized by an act of the Legislature of this State, approved May 1st, 1861, entitled 'An act to authorize the negotiation of One Hundred and Fifty Thousand Dollars of the Bonds of the State of Kansas to defray the current Expenses of the State', and an act supplementary thereto, approved June 3rd, 1861, do hereby constitute and appoint Robert S. Stevens, Esq., an agent to sell and dispose of said Bonds, giving him, the said Stevens, full power and authority to negotiate, dispose of, and sell the entire issue of said One Hundred and Fifty Thousand Dollars of said Bonds, for the benefit of the State of Kansas, hereby ratifying all and whatever said Stevens may do in the premises.

"Witness our hands this 25th day of October, A.D., 1861."²

The agreement bore the signatures of Charles Robinson, Governor; J. W. Robinson, Secretary of State; and George S. Hillyer, Auditor of State. Secretary Robinson had signed the Governor's name.³ He may have felt that since it was in accord with the Governor's wishes, the act was harmless. The Governor had discussed the matter with

1. Proceedings, pp. 256-9.
 2. Proceedings, MS.
 3. Proceedings, pp. 379, 188.

the State officers before they left for Washington; the State officer later testified that he had said "he would consent to any arrangement that could be made to sell the bonds".¹ The Governor testified, however, that he had not authorized anybody to use his official signature. His statement was that he had told the State officers that "any arrangement for the sale of bonds that they might make according to law [he] would approve of".² That was quite different. The agreement had been drawn up by Stevens. Hillyer later admitted that it had been drawn up on the third of December.³ It probably was ante-dated to deceive the Secretary of Interior about the Governor's signature, to leave him under the impression that the signatures were genuine and that the State had authorized the sale.

Having received full authority to negotiate the bonds, Stevens offered to sell them to the Secretary of Interior, subject to the following consideration:

"I hereby propose to sell to you, as Trustee for certain Indian Tribes, the entire issue of Bonds authorized by said acts being One Hundred and Fifty Thousand Dollars, at Eighty-five cents on the Dollar - I enclose my authority to sell said Bonds, as given me by State officers".⁴

The negotiations now proceeded more rapidly.

Robert Corwin, Stevens' Lieutenant, had prepared the Secretary of Interior, Caleb B. Smith, for the purchase. Stevens' written proposal appears to have been a mere formality.

-
1. Ibid., pp. 386; also Proceedings, Legislative Documents, IV, pp. 256-59.
 2. Proceedings, pp. 20-22.
 3. Daily State Record, Feb. 12, 1862.
 4. Impeachment Proceedings, MS., Dec. 3, 1861.

And yet there still remained several things to be done. On the seventh of December, William P. Dole, Commissioner of Indian Office approved the purchase of the bonds. It will be remembered that a few days previous Senator Pomeroy had represented Mr. Dole to Auditor Hillyer as opposing the purchase of Kansas bonds. Yet this is what Commissioner Dole wrote on the seventh of December:

"I feel free to state that in my judgment the prospects of Kansas as a young, growing and vigorous State, abounding in all the elements of future prosperity are such as to warrant the belief that her stocks bearing 7 per cent interest, and purchased at the rate proposed by Mr. Stevens as Agent for Kansas viz: at 'Eighty-five cents on the dollar' must in the end be a safe and profitable investment."¹

Both the Secretary of Interior and Commissioner had certified the letter to be a true copy of the original.² Moreover, Wm. P. Dole testified that the first person who had approached him on the question, the purchase of the bonds had been Secretary of the Interior, on the 7th of December.³ If that is true, Sen. Pomeroy misrepresented the facts to Auditor Hillyer. Either in pretence or in earnest, the Secretary of Interior still appeared to be unconvinced that the investment would be safe. Later he stated in his testimony that he was in doubt.⁴ On the 14th of December he wrote to the President and asked him for his opinion:

"Sir: The United States hold in trust for the Kaskaskia Indians the sum of \$40,000 which the 7th article of a treaty made with them May 30, 1854 ... provides may be invested by the President, in safe and profitable Stock.

1. Ibid.

2. Ibid.

3. Ibid. Testimony given May 8, 1862.

4. Impeachment Proceedings, MS.

"There is, also, a fund of \$15,000 held in trust for the Iowas, which under the 5th Article of the treaty made with them May 17th 1854, may be invested by the President in the same manner.

"The State of Kansas has issued one hundred and fifty thousand dollars of State Bonds, bearing 7 per cent interest, and payable in twenty years. The State authorities offer to sell these bonds at 85 per cent. The Constitution of the State prohibits the issuing of bonds to a larger amount than two hundred thousand dollars, and also provides that a tax shall be levied to pay the interest.

"It seems to me that these bonds would form a safe investment for the Indians, and the opinion of the President, as to the propriety of making the investment, is requested."¹

It appears that Stevens and some of the State officers had also personally brought the question to the attention of the President. After he was fully informed, according to Stevens' testimony, President Lincoln had been willing to approve the purchase, provided all of the Kansas delegation would acquiesce in the sale and the Secretary of the Interior thought it a good investment.² The second condition had been met by the Secretary's letter of recommendation just quoted. The first condition was fraught with some difficulty. To expedite matters and get the approval of the Kansas delegation before the President, Cowwin had drawn up a letter addressed to the President approving of the sale of the bonds, and asked the Kansas delegation in Congress to sign it. Pomeroy and Conway had signed it without hesitation. But there had been some trouble in getting Senator Lane to sign it. Not that he opposed the sale as a violation of the bond act, but because he was afraid of

1. Impeachment Proceedings, MS.

2. Impeachment Proceedings, pp. 256ff.

Stevens. Sen. Lane's Lieutenants, J. C. Stone, John C. Vaughan, T. C. Weed, Champion Vaughan and others had warned him to be very cautious in the matter since there might possibly be an election for U. S. Senator in Kansas, and it would be unwise to give money into the hands of Stevens before the election.¹ Stevens had been mentioned as a possible candidate for the Senate and therefore an opponent of Lane. It would therefore be imprudent to give his competitor this money to play with during the election, especially since Lane figured that he had but a majority of one over Stevens in the State Senate.² To begin with, therefore, Lane had refused to sign the letter addressed to the President. Stevens, however, knew Lane's weakness and engaged a Mr. Geo. A. Reynolds in a private conversation. Reynolds was Senator Lane's private secretary and business manager. Lane had procured his election to the Kansas Legislature.³ By paying Reynolds a thousand dollars he was able to secure Lane's signature to the letter.⁴ Lane later denied ever having signed the letter, yet he had to admit that the signature bore a very close likeness to his own. He could explain it only upon two grounds; It was either a rank forgery or else, as was sometimes the case with him in his busy life in Washington, he would sign a paper without reading it.⁵ The letter stated that the State Legislature

-
1. Impeachment Proceedings, MS.
 2. Impeachment Proceedings, pp. 260-61. Stevens' testimony.
 3. Impeachment Proceedings, MS. Corwin's deposition.
 4. Ibid., also Stevens' testimony - Proceedings, pp. 260ff.
 5. Proceedings, Leg. Doc. IV, 147. also Ewing, "Early Kans. Impeachments", K.H.Q. Vol. I, #4, p. 313.

had duly authorized the issue of the seven per cent bonds payable semi-annually, that said bonds had been duly executed, and were now held by the State for sale. It further stated that Robert S. Stevens was the "duly authorized Agent of the State of Kansas to sell said Bonds and that any contract made by him [would] be respected by the State." It continued to describe the constitutional limitations of the State and closed by recommending the investment to the President as safe and asked him to authorize the Secretary of Interior to make the purchase.¹

That Gen'l. Lane had signed the letter was testified to by Auditor Hillyer, who had secured Lane's signature,² also by Messrs. Stevens, Corwin, Caleb B. Smith and Pomeroy.³ Even Geo. A. Reynolds remembered having heard Lane tell Hillyer that he would sign the letter.⁴ Lane's objection having been met he wrote a letter to the Secretary of Interior, dated Dec. 19, 1861, in which he suggested that the money paid for the bonds be sent to the Treasurer of Kansas under the direction of Senator Pomeroy and Representative Conway. Pomeroy and Conway, however, had also directed a letter to the Secretary, dated Dec. 19, and asked Secretary Smith to pay the money to R. S. Stevens. Smith took Lane's letter to mean a consent on his part to conclude the transaction and followed Pomeroy's advice. Sen.

1. Impeachment Proceedings, MS.

2. Impeachment Proceedings, pp. 260-261.

3. Proceedings, pp. 260-1; Proceedings, MS.

4. Proceedings, pp. 29-31.

Stevens and the Secretary of Interior now were ready to conclude the negotiations and did so by carrying into effect the following agreement dated Dec. 19, 1861:

"It is agreed between the United States, by Caleb B. Smith, Secretary of the Interior, and the State of Kansas, by R. S. Stevens, Agent of the State, duly appointed to sell the Bonds of the said State, that the United States shall purchase the Bonds of said State, dated July 1, 1861, and payable in fifteen years in the State of New York, with interest, at the rate of seven per cent, per annum, payable semi-annually in New York, to the amount of one hundred and fifty thousand dollars, and which is the whole amount of the issue of said Bonds; and which Bonds are to be paid for at the rate of eighty-five per cent of their par value. Ninety-five thousand and six hundred dollars of said Bonds are delivered to the Secretary of the Interior at this time, and he has paid to the State of Kansas, an account of the same, the sum of Fifty-five Thousand (55,000) Dollars; and no further sum is to be paid until the residue of said Bonds shall be delivered, when the balance of the purchase money shall be paid."1

Stevens now had sold the State Bonds, yet at the time he did it was he still the agent of the State or did the bonds belong to him? If so, at what price and under what circumstances had he purchased them from the State officers? At what stage of the negotiations did he purchase them? Did the State officers know at what price Stevens would be able to sell the State Bonds to the Secretary of Interior at the time they agreed to sell? Did the State officers share in the profits? Did anyone else? In tracing the negotiations between the State officers and Stevens some light may be thrown on these questions.

The agreement between the State officers and Mr. Stevens, signed December third but bearing the date of October 25, had made Stevens the Agent of the State. While

it did not specify that Stevens was to purchase the bonds from the State, yet it had given him power in the negotiations to superscribe what he pleased. It was granted him in the following statement:

"... giving him, the said Stevens, full power and authority to negotiate, dispose of, and sell the entire issue of said One Hundred and Fifty Thousand Dollars of said Bonds, for the benefit of the State of Kansas, hereby ratifying all and whatever said Stevens may do in the premises."¹

From all indications Stevens never approached the State officers with an offer to purchase the bonds, until he was positive he could sell the bonds to the Secretary of Interior.² True, while still in Kansas the State officers and Stevens had talked about selling a part of the seven per cent bonds at forty cents par value and the rest at 70 cents, but according to the testimony of Stevens and Gov. Robinson, the Governor had refused the proposition as illegal.³

Nothing more had been done until the State officers reached Washington. The statement is based on the following sources: First, Secretary Robinson, while in Washington had written several letters to his Assistant Secretary Weir. On the 10th of December he wrote: "Don't buy any more bonds unless you want to be bitten". He also admonished Weir to keep mum about the bonds. On the 18th Robinson wrote again. This time he mentioned Gen. Lane as the last obstacle in the way of completing the sale of the bonds, but said they would try to conciliate him, and adds, "but we shall get the 70 cents

1. Proceedings, MS.

2. Based on examination of the testimony.

3. Proceedings, testimony of Stevens and Governor Robinson.

as I had hoped, before leaving". He evidently referred to the personal bonds for he continued: "We may possibly put in the whole lot at sixty cents, but it will never hurt the State a dime, or will ever be heard of."¹ As a second source, there is Stevens' testimony. What has just been quoted from Secretary Robinson's letter agrees with Stevens' testimony, that a day or two before he had entered into contract with Caleb B. Smith he had told the State officers to decide the price he was to pay them, if the sale was made.² The contract between Stevens and Caleb B. Smith was made December the 19th. According to Robinson's letter written the 18th it sounded as if the price of the bonds was still hanging in the balance. Reading his letter in the light of what other information there is, it appears that the State officers and Stevens tried to reach an agreement on the price of the bonds that day. Stevens testified:

"I think, a day or two before this, I told the officers to decide as to the price I was to account for to them if the sale was made. They said seventy cents. I told them I would not pay over sixty cents. Then one of them said sixty-five cents. I declined and we returned to our Hotels. On the same day Mr. Hillyer came to my room and said that the Secretary would not take sixty cents. I replied, 'very well, let the trade drop then', ... he left with the understanding that the negotiations were ended. That evening they came to my room, and said that they had concluded to take sixty cents. I drew a contract allowing me all I could get over sixty cents."³

According to the testimony of Messrs. Pomeroy, Hillyer and Robinson, Senator Pomeroy had advised the State officers to

1. Daily State Record, Feb. 12, 1861. also Proceedings, p.227.
 2. Proceedings, p. 262f.
 3. Ibid., pp. 260-61; also Proceedings, p. 202, "Hillyer's Testimony".

accept sixty cents.¹ Hillyer wrote that he had told Pomeroy that the law limited them to seventy cents, but in spite of that he had advised to accept the offer at sixty. Auditor Hillyer expressed himself in the following words: "My information, as well as knowledge and belief, was that, if we failed to sell to the Government, we lost our only chance; according to our judgment and that of Senator Pomeroy, this was our only chance".² Both he and Secretary Robinson assert that they did not know Mr. Stevens was getting eighty-five cents par value. This testimony was never disproven in the Impeachment Proceedings. Furthermore, even Senators Pomeroy and Lane assert that they did not know the terms, yet each one lent his influence to help the matter along. This whole mess caused the Prosecuting Attorney, W. R. Wagstaff to remark that the "State officers were either fools or knaves". He concluded, of course, that it was not to be supposed for a moment that they were fools.³ On the other hand the Attorney for the Defense, Frederick P. Stanton, said in his defense of Secretary Robinson:

"It is perfectly plain that the defendant and his colleague were made the innocent dupes of this deep laid scheme. It was easy to conceal from them the terms of the negotiation. Neither Pomeroy, Lane nor Conway knew the terms, although each one gave his influence to help the matter along. The Secretary of the Interior and Mr. Corwin both say the terms were not definitely fixed until about the close of the transaction. Mr. Stevens testifies that he did not communicate the particulars to the defendants. ... About sixty thousand dollars of this issue \$150,000 were outstanding. His purpose was to buy up these outstanding

1. Proceedings, MS., Proceedings, pp. 384-6; Proceedings, p. 195f.
 2. Proceedings, p. 202.
 3. Proceedings, Leg.Doc. IV, pp. 273-74.

bonds, and this purpose would have been defeated if the particulars of the negotiations had been made public."¹

When the House Committee asked Mr. Stevens point-blank, "State who were associated with you, either directly or indirectly, in the negotiation of Kansas State bonds with the Indian Department at Washington, and who shared with you either directly or indirectly any of the profits of said sale?" He answered: "I decline to answer, for the reason that the parties are not residents of the State; it was an arrangement between these gentlemen and myself, and whatever I paid and agreed to pay came out of my own profits, and belonged to me, according to the contract with Robinson and Hillyer".² When he was asked whether the State officers were implicated he said he preferred to let them speak for themselves.³ And yet Stevens' former statement throws some light on the subject. It excludes Robinson and Hillyer because they were legal residents of Kansas. True, they each had personal bonds for which they received seventy cents par value. J. W. Robinson represented \$4,400 and Hillyer \$2,600.⁴ Aside from that, however, all evidence points to the conclusion that Secretary Robinson and Auditor Hillyer did not share with Stevens in the profits derived from the negotiation of the State bonds. Of course, Stevens and Pomeroy used them where they could to help remove the obstacles that stood in the way of negotiation, but did not

1. *Ibid.*, pp. 302f.

2. *Senate Journal*, 1862, pp. 97-98.

3. *Daily State Record*, Feb. 12, 1862. Stevens' Testimony.

4. *Proceedings*, pp. 262-66.

confide the secrets of the negotiations to them. Nor is it reasonable to think that Senator Lane, an enemy of Stevens, shared in the profits except in so far as Stevens found it necessary to purchase his signature to complete the negotiations. This cost him \$1,000, as stated elsewhere.

Governor Robinson disclaimed any knowledge of or connection with the illegal transaction. And the evidence is in his favor. Of course, there were some reasons for suspecting him. He, together with R. S. Stevens and others were stockholders and directors of the Lawrence Bank, and Robert Morrow, also a stockholder and director of the bank, had testified that the bank issues had been secured by the State bonds of Kansas ever since July 1st, 1861, when they were issued. Morrow also knew that Gov. Robinson, Stevens, and he had deposited State bonds in the bank. While he did not know the amount each had deposited, he estimated the total number of State bonds in the bank at \$20,000.¹ Yet nobody could advance any evidence to connect the Governor with the scheme to defraud the State. The Governor made a suspicious move during the month of February, 1862. It might have been a mere coincidence, but it looked suspicious even to his friend, Sol Miller. The White Cloud Chief related the incident:

"Suit had been ordered by the State to recover from R. S. Stevens the money belonging to the State, and his property was about being attached. He [Stevens] had been before the Committee, who propounded to him the question whether Governor Robinson had received any of the proceeds of the sale of the bonds. This he declined to answer. The

1. Daily State Record, Feb. 12, 1862.

Committee permitted him to step out of the room, until they consulted with reference to his reply, he promising to return when called for. But he did not again make his appearance, and was shortly afterward seen in a buggy in company with Governor Robinson, going full tilt in the direction of Lawrence. . . . We cannot say that Robinson and Stevens were engaged in anything disreputable, but their running off looks mighty suspicious."¹

On the sixth of March Sol Miller again referred to this incident and said that the Governor had since showed him a letter from General Hunter which explained why he had left town together with Stevens that afternoon. General Hunter had requested his immediate presence at Leavenworth upon important business.² His leaving probably was a mere coincidence, nevertheless, it looked suspicious at the time and his opponents made the most of it. The managers of the House used it as proof of Gov. Robinson's guilt, and while under this illusion, rushed the resolution, to impeach the State officers, through the House without due consideration.

Robert G. Corwin of Dayton, Ohio admitted that he had assisted Stevens in the negotiations and had derived some profit from it, but hastened to add that it was but very small.³ This leaves only Sen. Pomeroy. His previous as well as subsequent records, make him a suspicious character. His management of the relief work in Kansas during the years of 1859 and 1860, was not to his credit. This was also true of his election to the United States Senate

1. White Cloud Chief, Feb. 20, 1862.

2. Ibid., March 6, 1862.

3. Proceedings, MS., deposition of Corwin.

in 1861. His subsequent record was even worse. In the memory of a few Kansans may still live the picture of that dramatic scene of January 29, 1873, when Samuel S. Pomeroy was branded as the instigator of an \$8,000 bribe. The place was Topeka and the occasion, the election of a United States Senator. Pomeroy was running for a third term. His opponent was John J. Ingalls. The race was close and the situation tense. Fifty-eight Legislators had pledged in secret caucus their vote for Ingalls, but it took sixty-seven to elect. The night before the election word had gone out that Pomeroy's bitterest opponent, A. M. York, had switched colors to his side. According to the Pomeroy politicians that would clinch the election. The following day was election day. Pomeroy sat in the lobby of the Tefft House while the session convened smoking blissfully in calm anticipation of victory. The Secretary of the Senate began to call the roll when he was interrupted by Senator York who asked for the floor. An expectant hush spread over the packed State House. The Pomeroy supporters smiled, now would come the startling switch by the State Senator from Ingalls to 'Old Pom.' A few Ingalls supporters thought otherwise. Speaker Stover yielded the floor and York strode slowly forward. Necks were craned to watch the Senator's every move. As he neared the platform he plucked two packages of Greenbacks from his pocket, flourished the bills before the astonished assemblage and after a few preliminary remarks, said heatedly:

"Mr. President and gentlemen: I visited Mr. Pomeroy's room in the dark and secret recesses of the Teffts house Monday night (Jan. 27), and there my vote was bargained for, for a consideration of \$8,000. Of this \$2,000 was paid me that night, \$5,000 the next afternoon and I was promised the additional \$1,000 when my vote had been cast in his favor today."

"Amid a stillness that seemed fairly to shriek, the State Senator tossed the bills to the secretary. 'I now', he continued, 'in the presence of this honorable body hand over the amount of \$7,000 just as I received it, and ask that it be counted by the secretary.'

"While the Secretary counted the money the crowd leaned over in shocked expectancy. Mr. York continued his indictment. ... He undertook the deception of acceptance, he said, that by 'this expose I might purge the fair name of Kansas from these conditions and this man. ... I promised, in consideration of \$7,000 in hand paid to vote for him and I here and now redeem that pledge by voting for him a term in the penitentiary not exceeding 20 years!'"

And what was Pomeroy's connection with the negotiations of the State bonds? The manner in which the plot was revealed is not as dramatic, but the crime was just as hideous. Sen. Pomeroy was connected with the sale of the bonds early in the game, constantly advising the State officers what to do. He played the part of the older brother. To begin with he called the State officers to Washington, hinting that there was a possibility of selling the bonds. When they arrived there, Hillyer getting there first, Pomeroy had discouraged him and advised him not to try to negotiate directly with the Secretary of the Interior. Next he advised him to make R. S. Stevens the trusted agent of the State. When Stevens arrived in Washington, Pomeroy, Stevens and Corwin left the State officers with Mrs. Pomeroy in the parlor while they met in another room to complete the

1. "Kansas City Star, Jan. 18, 1925", in Kansas History Clippings, Vol. VI, pp. 128-130.

details of the deep laid scheme. When they returned from the secret meeting the plans were ready. They presented a contract to the State officers to make Stevens the trusted agent of the State giving him full power and authority to negotiate and sell. The State officers fell into the plot, and signed away their authority. The next day Stevens wrote to the Secretary of Interior offering to sell the bonds for 85 cents par value. After they had convinced the Federal officers that the investment was safe beyond risk they returned to the State officers and forced them to sell the State bonds to them at 60 cents par value, leaving them 25 cents as profit for every sixty cents paid to the State. When Hillyer warned Pomeroy that to sell at sixty cents was in violation of the State law, Pomeroy advised them to violate the State law. When Stevens informed the investigating committee that the parties who were to share the profits with him were non-residents of Kansas, he gave another hint that it might be Pomeroy, for his legal residence was Washington, D.C., and not Kansas. These facts lead to the conclusion that the three men, Stevens, Corwin and Pomeroy, who met in secret conclave in Sen. Pomeroy's room the night of December 2, 1861, were among the villains, if not the only ones, that plotted the deep laid scheme to defraud the State, and should the negotiations be successful, would divide the profits among them.

By the 20th of December the negotiations to complete the purchase had been made. That day Caleb B. Smith

notified Commissioner Wm. P. Dole that he had purchased 246 Kansas Bonds at 85 cents on the dollar, amounting to \$54,910. He had made this purchase for the benefit of the Confederate tribes of Weas, Kaskaskias, Poorias and Piankeshows and the Ioways. He asked Commissioner Dole to adjust the accounts and place the bonds in the iron safe.¹ Stevens had delivered \$95,600 in State bonds to the Secretary of Interior for which the Secretary had advanced approximately \$55,000 in money. No more money would be paid until Stevens was ready to present the rest of the bonds, amounting to \$54,400.² They were in the hands of private parties and it was up to Stevens to purchase them at a price low enough to realize a profit. This necessitated secrecy and explains the request that went forth from the negotiators to keep the sales price a secret.

It should be stated in fairness to Stevens and Pomeroy that the Kansas seven per cent bonds simply had no market value. According to testimony of Hillyer and Stevens they could be bought for forty-eight and fifty-six cents par value.³ In lieu of this fact sixty cents par value was a fair price, and eighty-five cents was exceptional. One wonders whether the Secretary of Interior was a partner in the crime or what should have induced him to pay eighty-

1. Impeachment Proceedings, MS.

2. Ibid.

3. Proceedings, pp. 262-64 & 194. They purport to quote Com. Dole, yet he makes no mention of it, rather refutes it. It seems to come from Pomeroy, who used it for a purpose.

five cents when he knew it was far above the regular price. Maybe it was the condition under which he purchased the bonds, viz: the fact that he was to get a monopoly on the whole issue of \$150,000. There is no information at all that would justify even a suspicion of a collusion except the eighty-five cents par value.

The position in which the State found itself with reference to the seven per cent bonds may now be summarized. Of the \$150,000 issue, \$62,800 was in private hands. It had been used to defray expenses and buy up scrip. This left \$87,200 in the hands of the government, which the State officers had sold to Stevens at sixty cents par value. Stevens in turn had sold the amount to the Secretary of Interior at eighty-five cents par value. As a result of this sale the State could hope to get in money \$52,320 minus seven per cent interest. A movement, however, was set in motion to impeach the State officers.

For a while all was quiet in the State. The Auditor and Secretary of State had returned to Kansas but had said nothing about the sale of the State bonds. It was but the lull before the storm. The second State Legislature was opening its session in January. By the 19th they had organized and on the 20th of January things began to move. That day two resolutions were introduced in the House of Representatives. Mr. C. V. Eskridge of Emporia introduced a resolution asking the printing committee to inquire into the operation of the laws and contracts on printing. A

few minutes later F. P. Baker of Centralia introduced a resolution asking the Governor for information on the sale of the State bonds.¹ Both men probably were ignorant as to the effects of their resolutions. At least F. P. Baker voted against the impeachment charges of Governor Robinson, as will be seen later. The following day, January 21st, the Governor responded to Baker's resolution with a letter from Auditor Hillyer stating that the Auditor would in due time answer in full the request of the House into the sale of the State bonds.² That same day the Leavenworth Daily Conservative brought the following information about Gen. Lane:

"From a private dispatch, received late last night, we are able to state positively that Gen'l Lane will leave Washington to-night".³

Lane never returned to the State but that there was some ulterior motive back of it. By the 24th requests for information were coming in from the other side of the House. On that day Anderson of Circleville, Jackson county asked how much the Governor had borrowed under the war bond act. He also introduced a resolution inquiring whether any of the State bonds had been sold.⁴ On the 27th of January the Auditor sent information to the House explaining the sale of the State bonds. The Governor presented the information to the House on the 30th. The report mentioned

1. House Journal, 1862, pp. 39-40.

2. Ibid., p. 48.

3. Leavenworth Daily Conserv., Jan. 21, 1862.

4. House Journal, 1862, p. 68.

the failure of Messrs. Clark and Stone to negotiate the bonds, also the fruitless efforts of the members of the State Board to sell them. As a further discouragement he mentioned that some persons had funded their State scrip, and owing to the depressed state of finances of the country, had been compelled to sell and had offered their bonds at prices below the level at which the state could afford to sell. As a final resort, therefore, the State Board had asked R. S. Stevens to undertake to sell the bonds. The Auditor then mentioned the price of sixty cents on the dollar and added that Stevens had sold bonds to the amount of \$50,000 of the \$500 denomination and \$37,000 of the \$100 denomination. Mr. Stevens had paid the State \$30,000 in cash. The balance, somewhat over \$20,000 was on deposit in New York and it would be paid into the State Treasury as it was called for.¹ Following this report Anderson introduced the resolution calling for an immediate investigation of the accounts of the State officers. It reads:

"Whereas it appears from the reports of the Auditor and Treasurer of State that a certain amount of the bonds of the State have been disposed of, And whereas, said reports do not set forth a detailed statement of the facts in relation thereto; therefore,

"Resolved, That a special committee of five be appointed by the Chair to examine and investigate the accounts of the Auditor and Treasurer of State, and to ascertain all the facts connected with the sale of the bonds of the State of Kansas, the disposition of the proceeds thereof, what amount of scrip there has been issued, what amount redeemed, and what amount has been bonded, what amount of

1. Proceedings, Lawrence, Kansas. 1862. pp. 7-8.

bonds are remaining on hand and unsold, and whether or not State officers have been speculating in the indebtedness of the State of Kansas, with full power and authority to call for persons and papers, with instructions to report at an early day."¹

Mr. Thoman proposed the following amendment which was adopted: "By what authority the Treasurer of this State, receives \$12,400 for \$31,000 of war bonds, when the law authorized only the issue of \$20,000 of bonds for war purposes?"² The resolution as amended was adopted. The next day, January 31st, the Speaker of the House, M. S. Adams of Leavenworth, appointed Messrs. Martin Anderson of Jackson County, Sidney Clark of Douglas County, B. W. Hartley of Shawnee County and W. T. Jones of Bourbon County to investigate the accounts of the State officers.³ It was a Lane group, pure and simple. Sol Miller made an interesting comment on the Speaker's choice:

"But the strangest of the Speaker of the House, was his selection of the material of that committee, or a majority of it. If it was the intention to bring about a certain result, which had been pre-determined, regardless of the evidence elicited by the investigation, then the proper material was selected; but if the object was straightforward, impartial justice, then it was not to be looked for in that crowd."⁴

M. S. Adams had been elected Speaker of the House by a vote of 34 - 17. His opponent had been F. P. Baker of Nemaha County.

Meanwhile Gen'l. Lane had arrived in Leavenworth

-
1. House Journal, 1862, p. 119.
 2. Ibid.
 3. House Journal, 1862, p. 128.
 4. White Cloud Chief, J1. 17, 1862.

either on the 26th or 27th of January.¹ On the 31st Clark of Douglas County had offered a resolution endorsing Gen'l Lane as the Kansas military leader commanding the Southern Expedition. The following day the House spent practically the whole time discussing the Resolution.² The evening of the 4th of February Lane spoke to a crowded house in the Legislative hall. The House had voted a committee of three to receive him.³ The following night he spoke in Lawrence.⁴ On the 6th of February George A. Reynolds of Bourbon County, Lane's lieutenant, introduced a resolution earnestly recommending the President to appoint Lane immediately as major general. The House suspended the rules 52 to 13 and adopted the resolution 60 to 7. Eldridge moved that if Lane was appointed he should be requested to resign his seat in the Senate, but this resolution was tabled.⁵ This paragraph has been inserted here to show how completely the House was controlled by Gen'l Lane.

Meanwhile the House Committee was carrying on its investigations, taking depositions from Geo. S. Hillyer, J. W. Robinson, H. R. Dutton, Robert Morrow, James H. Lane, R. S. Stevens, Charles Robinson, William P. Dole, George A.

1. House Journal, 1862, p. 5.

2. Ibid., pp. 133-36.

3. Ibid., p. 142. The committee men were Thomas Murphy of Atchison, Sidney Clark of Douglas and Davies Wilson of Riley County.

4. Leavenworth Daily Conservative, Feb. 6, 1862.

5. House Journal, 1862, p. 171.

Reynolds and others.¹ Sol Miller, a member of the House and an eyewitness of the committee's manoeuvres commented on its work as follows:

"The Committee went to work; but they appeared to be in secret conclave with a certain U.S. Senator and several distinguished outsiders, more frequently than they were at work in the committee room. They had not fairly commenced operations, before, with sundry mysterious winks and nods of the head, they gave anxious inquirers to understand that all the State officers would be impeached."²

One of the "distinguished outsiders" was Judge Ewing. The Truth-Teller wrote that he had made himself "extremely useful to the Investigating Committee" and had given the private caucuses assembled in Mr. Carney's room the benefit of his judicial wisdom in prosecuting the business of the committee.³ Thomas Carney was probably another one of the distinguished outsiders. He was a prominent business man from Leavenworth and appears to have been interested in profits to be derived through sales contracted with the military department and was aspiring for the Governorship. If the Governor controlled the military situation of Kansas he naturally would direct the purchasing agents to Lawrence, if Lane were in control he would direct them toward Leavenworth. These business interests evidently had some effect in helping to shape the course of events in the impeachment procedure, even though it is difficult to get the necessary evidence to prove it.

-
1. Daily State Record, Feb. 12, 1862, also Proceedings, Lawrence, Kansas, p. 15f.
 2. White Cloud Chief, Jl. 17, 1862.
 3. Truth-Teller, Feb. 20, 1862.

The House kept on increasing the power of the Impeachment Committee. On the 5th of February they empowered the committee to inquire into the sureties of the State officers, and to telegraph to New York to ascertain whether the money deposited for the State was still there.¹ On the 10th they voted to give the committee such legal power as they deemed best to ascertain results. They also asked the Attorney General to prosecute suits against the Auditor and Secretary of the Treasury to indemnify the State against loss.²

By the 12th of February the committees appointed to investigate the affairs of the State were getting ready to report. On that day Sol Miller, chairman of the Committee on Printing reported that the committee was convinced that "there has been a systematic combination to obtain printing contracts at exorbitant rates ... swindling has been winked at ... by officers [of the State]."³ The men who figured in the deal were J. W. Robinson, J. F. Cummings, John Speer, E. G. Ross, D. H. Weir, J. H. Bennett and a Mr. Katzenstein. The facts in the case are somewhat obscure. The law had provided that the Secretary of State should place an advertisement in four Kansas newspapers inviting sealed proposals for the State Printing job. The advertisement was to run for a period of thirty days. After that the Secretary of State should accept the best offer.

1. House Journal, 1862, p. 167.

2. House Journal, 1862, pp. 195-96.

3. Ibid.

The notice seems to have appeared only in two papers. Some of the printers connived to cheat the State by agreeing upon the price but each would bid upon a different kind of work. The price asked in each case was far too high, for example for composition it was \$2.00 per 1,000 ems. One half that amount, it was agreed would have made for a good profit. The men guilty of this agreement were J. F. Cummings of the Kansas Tribune, Topeka, Kansas; John Speer of the Lawrence Republican and E. G. Ross of the Kansas State Record, Topeka, Kansas. To climax it all E. G. Ross had secretly sent in a second proposal, slightly underbidding his partners and thus placed a bid for the entire printing job. However, Mr. Ross had failed to reckon with all the printers in Kansas. A certain Mr. J. H. Bennett of Grasshopper Falls had put in an independent bid for about one half the price asked by the others and his proposal was accepted. This introduced trouble. Cummings, Speer and Ross resorted to different means to get the job. Finally Ross charged D. H. Weir, who in Robinson's absence had let the contract, with being in partnership with Bennett and having informed Bennett of the other proposals.¹

On the same day Anderson of the committee of five, appointed to investigate the accounts of the Auditor and Secretary of State, presented the committee's finding. It was a lengthy report and must here of necessity be summar-

1. House Journal, 1862, pp. 312-23; see also White Cloud Chief, J1. 31, 1862. Sol Miller here gives a rather clear statement of the case.

ized. The committee had examined into the three bond acts, reported their content and the sale of the bonds. They reported that on the basis of those acts bonds to the amount of \$189,400 had been issued. Of these, \$40,000 were ten per cent or war bonds and \$149,400 were seven per cent bonds. Of the \$40,000 in war bonds \$31,000 had been sold by the Treasurer to R. S. Stevens at forty cents on the dollar. Of these \$31,000 in war bonds Stevens had sold \$26,000 to the Secretary of Interior at 95 cents on the dollar. Of the \$149,400 seven per cent bonds \$62,200 had been used to buy up State Scrip. The remaining \$87,200 had been delivered to Stevens at sixty cents on the dollar, which he in turn had sold to the Secretary of Interior for 85 cents. The committee asserted that \$20,000 of the war bonds issued by the Treasurer were illegal, nor should the Treasurer have sold them for less than par value. They also asserted that the State officers had authorized R. S. Stevens as agent of the State to sell the bonds with the understanding that he should get all he could realize over sixty cents on the dollar. The committee believed the authorization was illegal and that Stevens was liable to the State for the full amount for which he had negotiated the bonds, viz: 85 cents on the dollar. Furthermore, the State officers had also given Stevens the semi-annual interest amounting to \$3,052. The committee figured that the interest had not accrued against the State because they believed that the sale had been transacted after the 1st of January. They concluded

the report with the following statement:

"From the evidence which your Committee submit with this report they are of the opinion that there has been a collusion of Charles Robinson, Geo. S. Hillyer, and John W. Robinson, with R. S. Stevens, to defraud the State of Kansas of a large sum of money. Your committee therefore unanimously report the following resolution and recommend its adoption, as a measure demanded by public justice,

"Resolved, That Charles Robinson, Governor, John W. Robinson, Secretary of State, and Geo. S. Hillyer, Auditor of the State of Kansas, be and they are hereby impeached of high misdemeanors in office."¹

The following day, Feb. 14, the House voted by the unanimous vote of 65 to 0 to pass the resolution impeaching the State officers.² This action of the House was influenced by, and followed immediately the questioning of Stevens on his escape with Gov. Robinson to Leavenworth.³ That same day a special committee of five was appointed which, together with the Attorney General, was to prepare articles of impeachment against the three State officers.⁴ To work out and report the charges and present the impeachment cases to the Senate, Speaker Adams appointed Messrs. P. B. Plumb of Emporia, A. Spaulding of Grasshopper Falls, F. W. Potter of Burlington, W. R. Wagstaff of Paola and Davies Wilson of Ogden, Riley county. Following this the House directed Messrs. Clark, Fishback and McCarthy to notify the Senate of the procedure of the House.⁵

-
1. House Journal, 1862, Feb. 13, pp. 245-48; also Daily State Record, Feb. 12, 1862.
 2. House Journal, 1862, p. 255.
 3. See page 393.
 4. House Journal, 1862, pp. 256-57.
 5. Ibid., p. 257ff.

On the 15th of February the Committee of the House notified the Senate that the House had passed a resolution to bring articles of impeachment against the Governor, the Secretary of State and the Auditor of State for high misdemeanors. Thereupon Senator Ingalls moved to refer the report to a special committee of three to be appointed by the chairman of the Senate. This committee was to report rules for the government of the Senate during the cases of impeachment. On the 17th of February, Mr. Root appointed Messrs. Ingalls, Lynde and Spriggs to constitute the Senate committee to assist the House in the impeachment cases and Messrs. Ingalls, Hoffman and Gunn to prepare the rules for the Senate. The rules adopted, it appears, were those used by the State of Missouri in the impeachment trial of Hon. Albert Jackson.¹ On the 20th of February the Senate notified the House that they were ready to receive the managers of the House for the purpose of their exhibiting Articles of Impeachment against John W. Robinson, Geo. S. Hillyer and Governor Robinson.

On the 21st of February Mr. Russell from the committee of finance and taxation introduced a bill into the House to create a court for the trial of the impeachment cases and defray the expenses connected therewith. Both Houses passed the bill and it became a law on the fifth of March without any action on the part of the Governor. The

1. Conclusion was arrived at from a comparison of the rules. See also Proceedings, pp.124-130. Stinson refers to it.

reason for his inaction was that he was an interested party in the cases involved.¹ It was whispered at the time that the Governor was intending to veto the bill providing for the court. Should he do this the Legislature would have to muster a two-thirds vote or else sit there for weeks without pay or drop the matter.² But the Governor was fairer than the people who suspected him.

On the 17th of February 1862 Senator R. S. Stevens had written the House of Representatives through the State officers, Robinson and Hillyer, of his willingness to settle the problem out of court before the Legislature in session would adjourn. In this way they would avoid all expenses to the State and Mr. Stevens. His propositions were:

"1st. Let the contract between yourselves and myself be submitted to the Attorney General of the State, and two other able attorneys, to be selected and agreed upon by the impeachment or a special committee of the House and myself, and if they decide it illegal, and that you had no right to authorize the sale at any less than seventy cents, then on such decision being made, I will cause to be paid into the State Treasury the full sum of seventy cents on the dollar for the bonds sold and paid for, and if desired, will return to the State the \$31,000.00 of bonds unpaid for.

"2nd. If the Legislature desire the entire sale cancelled, then, and in that case on repayment to me of the amount paid into the State Treasury, I will agree to return all the bonds, (\$87,200.00).

"3rd. If the Legislature desire the sale of the entire \$87,200.00 I will perfect it, and pay into the treasury seventy cents on the dollar thereon, if the Attorney General and others to be agreed upon, should decide you could not sell at a less price."³

These propositions were referred to a select committee, composed of James B. Ingersoll, H. W. Martin and F. P. Baker.

1. House Journal, 1862, pp. 515-469.
 2. White Cloud Chief, March 6, 1862.
 3. House Journal, 1862, pp. 265-6.

On the 19th Sidney Clarke, supported by eight other members of the House protested against the idea of the House receiving and entertaining a proposition from State officers who had sought to defraud the State.¹ On the 24th of February Mr. Ingersoll submitted the majority report of the select committee stating that they had been able to agree with Mr. Stevens that the latter would pay, within ninety days, into the State Treasury a sum in addition to that already paid that would be equal to seventy-six per centum on the bonds sold.² The committee agreed that Mr. Stevens had "effected an extraordinary sale of the bonds." Before the House came to an agreement one way or another, however, Senator Stevens had withdrawn his offer. He did this on the 26th of February, and gave as his reason the "determination, in the minds of some persons, to misconstrue the motives" which had prompted him to submit the propositions. He still was willing to settle the matter through the court or otherwise.³ The House now took up the charges against the State officers.

When on the 20th of February the Senate had notified the House that they were ready to receive the managers of the House for the purpose of their exhibiting Articles of Impeachment against the State officers, Chairman Plumb of the Special Committee of the House read the Articles before the Senate. The charges invoked against the Secretary of State,

1. Ibid., pp. 282-3.
 2. Ibid., pp. 328-32.
 3. Ibid., p. 357.

J. W. Robinson, comprised eight lengthy articles. He was charged guilty of high misdemeanors for having betrayed the trust reposed in him by the State of Kansas As Secretary of State. The counts were:

- 1st. For authorizing R. S. Stevens to sell State Bonds at the price of sixty cents on the dollar when according to the act approved May 1st, 1861, they were not to be sold for less than seventy cents on the dollar.
- 2nd. When Robinson and Hillyer authorized Stevens to sell for sixty cents they must have known that Stevens could get eighty-five cents on the dollar.
- 3rd. They gave to R. S. Stevens the first semi-annual interest bearing coupons which had not accrued against the State because the bonds were sold after said coupons became due. This amounted to \$3,052.
- 4th. Because Robinson and Hillyer had taken no security or guarantee from Stevens to protect the State against loss while the bonds were in Stevens' hands.
- 5th. Because Robinson and Hillyer had entered into a conspiracy with Stevens to defraud the State out of money.
- 6th. For paying J. F. Cummings \$344.00 for publishing the banking law in a paper styled the Wabaunsee Patriot when Robinson well knew that no newspaper was published in Wabaunsee County.
- 7th. Because Robinson countersigned War bonds to the amount of \$40,000.00 when the Act of May 7, 1861, provided for only \$20,000.

8th. Because Robinson together with Hillyer and Dutton had contracted with Trask and Lowman, the lowest competitive bidders, to do the State printing, but subsequently had permitted them to withdraw. This lost the State money.¹

The first five articles charged against Hillyer were the same as those held against Robinson and need not be repeated. Article six charged Hillyer guilty of high misdemeanor for conspiring to cheat and defraud the State out of the first semi-annual interest payments. Article seven charged him guilty of misdemeanor for having used Senator Lane's influence to complete the sale of the bonds but having suppressed and concealed from the innocent man the arrangement made with Stevens and Robinson to defraud the State.² They failed to make mention of the \$1,000 it took to persuade Lane to give his signature.

The charges against Governor Robinson were five in number. They also held him guilty of high misdemeanors. First, for violating the Act of May 7, 1861, which provided for the issuance and sale of bonds to the amount of \$20,000.00 and because in violation of the act he had signed bonds to the amount of \$40,000.00 of which \$31,000.00 had been sold. Second, For conspiring to defraud the State out of money in the sale of the seven per cent bonds. Third, because he had authorized the sale of the bonds for sixty cents on the dollar when he knew that Stevens could get eighty-five cents.

1. Proceedings of High Court of Impeachment, MS.

2. Ibid.

Fourth, because the Governor's approval to sell for sixty cents was in violation of the act providing for the sale of the bonds. Fifth, because as Governor of the State he had betrayed the confidence of the people.¹

The question quite naturally arises, why were no impeachment charges brought against the Secretary of the Treasury, H. R. Dutton? The truth is that on the first of March, 1862, D. T. Mitchell of Doniphan county had offered a resolution instructing the investigating committee to report at an early date resolutions of impeachment against H. R. Dutton. It was laid over under rules and when it was called up on the 3rd of March it was tabled.² F. P. Baker's explanation is that there was a "Northern Tier interest". The State Treasurer being a resident of Hiawatha, Brown county, the members from this tier thought enough of the State officers had been impeached. Furthermore, they did not believe Dutton was guilty; and they had agreed among themselves that they would talk about him till the session closed, to resort to filibuster, if necessary, to defeat the resolution. This got noised about and it was concluded by the House that the resolution better be tabled than to have Sol Miller, Ed. Russell and F. P. Baker talk it to death.³

On the 21st of February, the Senate, through J.

1. Ibid.

2. House Journal, 1862, pp. 422-29.

3. F. P. Baker, "The Kansas Legislature of 1862"; in Trans. of K.S.H.Soc. III, pp. 106-7.

J. Ingall's resolution summoned Secretary Robinson to answer the articles of impeachment exhibited against him. The summons was delivered on the 22nd.¹ On the 24th of February, the Senate was organized for the trial, the oaths were administered, and Secretary Robinson, through his attorneys Shannon, Stanton and Case pleaded not guilty to the charges held against him.² On the 26th the Impeachment Committee replied to the plea of Secretary Robinson, charging that the articles were true and that Robinson was guilty of all charges contained in them. Upon Shannon's motion depositions for the trial were admitted from persons who for sundry reasons could not be present at the trial. The evening of the 26th of February the House had voted to accept the articles of impeachment against Auditor Hillyer and Gov. Robinson. The articles against the Governor were adopted by a vote of 53 to 7. F. P. Baker, W. W. Dickinson, J. B. Ingersoll, Jac. C. Marsell, Sol Miller, Thomas Murphy and Edw. Russell had opposed the articles.³ On the 28th of February, the date for the trial of Secretary Robinson was postponed and definitely fixed for the first Monday in June; that for Hillyer for the first Thursday in June and for Gov. Robinson for the second Monday in June.⁴ When the Senate voted to fix the date for the trial of the State officers Wilson Shannon had moved to strike out all in said motion

1. Proceedings, pp. 54-61.

2. Proceedings of High Court of Impeachment. MS.

3. House Journal, 1862. p. 367.

4. Proceedings, pp. 57-62. Also Ibid., p. 64.

relating to the trial of Gov. Robinson. The motion was lost 9 to 11.¹ The Governor then addressed the court in request for an immediate trial. Since he was the Governor of the State and the representative of the people, justice demanded that he should be tried at once upon the charges preferred against him. This request, however, was objected to by the Attorney General Stinson, and the privilege denied him.²

The feelings against the State officers at this time must have been very intense. Floyd P. Baker later wrote about it as follows:

"The very air seemed charged with angry feelings against the Governor, Secretary, and Auditor. The Lane and anti-Lane feeling was intense. Kansas, especially those around the Capitol here since that time, have often thought that there is great excitement over Senatorial elections and nominating State conventions in these days; but those who were in the city at that time will agree with me that nothing has ever exceeded, in fact not equaled, the feelings on that occasion. It required greater courage to vote 'no' on the question of the impeachment of Governor Robinson, in the face of the crowd in that old hall, situated in what was then called the Sale block, than it did to face an army in battle array. I recollect telling my wife in the morning that I should vote 'no' on the impeachment of the Governor, and after being seated in the hall that afternoon she sent a note to me by a page, saying, 'Don't vote no; it will kill you.' She had imbibed the magnetism of the crowd and felt as many did, that to vote against the impeachment of Charles Robinson was one of the unpardonable sins. When the roll was called the silence was almost painful."³

Representative Baker here has reference to the vote of the House to accept the articles of impeachment against the Governor.

All this time the Lane forces had been busy pre-

1. Proceedings, pp. 57-62.

2. Leavenworth Daily Conservative, Mar. 4, 1862.

3. Transaction of K.S.H.Soc., III, pp. 105-6.

paring the Senate for the trial of the State officers. They had a fair majority in the House but in the Senate the Robinson group was stronger. In an effort to gain the control in the Senate the Lane disciples made a desperate attempt to dismiss certain Senators and fill the vacancies with their own men. This action was kept up until they had the Senate under their control. They started with an attempt to remove R. S. Stevens. There had been fraud in the election of 1861 in Douglas county. John Speer and R. S. Stevens had opposed each other in this district and Stevens had been admitted to the Senate. Speer contested the election of Stevens and took advantage of the feelings cast against him. The chairman of the Senate was J. P. Root, a Robinson man. When the question was referred to a committee he had appointed Senators Lynde, Hoffman and Bancroft to investigate the case. They had reported on the 22nd of January in favor of Mr. Stevens. Not satisfied with this report the question was again brought up and referred to a second committee. This time Chairman Root appointed Messrs. Barnett, Gunn and Essick to further investigate the election returns. This committee reported the fifth of February and confirmed the election of Stevens over Speer by a vote of 1,687 to 1,357 respectively. Seven hundred and forty-four votes had been thrown out as illegal, but there was no evidence before the committee showing for whom these votes had been polled. Subsequently, four important motions were made in the Senate testing the strength of this body on the question. Two of the motions were made by Senator Osborn and one each by

Senators Ingalls and Holliday, respectively. The first vote was on the question of giving the seat to Speer. It failed 6 to 16. The other three resulted in a tie of 11 to 11. The first was Ingall's motion to declare Stevens' seat vacant, the second was Senator Holliday's motion to amend the committee's report to make it read that "Stevens is not entitled to a seat in the Senate", and Senator Osborn's motion to reconsider the vote on the committee's report. In every instance Chairman Root decided for Stevens. On the 14th of February Senator McDowell made a final attempt to remove Stevens. He introduced a resolution to expell him from the Senate for having conspired with the State officers to defraud the State. The resolution was referred to a special committee to be appointed by the President of the Senate. This time Chairman Root appointed Messrs. Hoffman, Phillips and Hubbard, all Robinson men. Again they decided to retain Stevens. The Senate, however, granted Speer mileage allowance (and per diem) for what time he had spent in the Senate contesting the election of Stevens.¹

In the case of the other Senators charged with holding federal military offices, the Lane disciples were more successful. The case of S. N. Wood came up first. Senator Wood had accepted a commission as Captain of the "Kansas Rangers" in June, 1861. On the 10th of January he had handed in his resignation, giving as his reason that he was needed at home and that he was a member of the Kansas

1. Senate Journal, 1862, pp.26-36; 59-81; 103-4; 251-8.

Legislature. Brigadier General W. R. Curtis had refused to accept his resignation.¹ The case came up in the Senate and was referred to a special committee, which reported on the 28th of January to remove Wood from the Senate. The question came to a decision on the 29th and the report of the special committee was adopted by a vote of 13 to 9. Mr. C. S. Lambdin had been elected in the November election of 1861 to replace Wood. The Governor had not called for an election in the 13th district but Lambdin had been elected on the Union ticket. The Senate had disregarded the irregularity in this case and voted to receive Lambdin 12 to 9. This happened February 4, 1862.²

On the 3rd of February, Sen. Osborn had introduced a resolution calling for a special committee of three to inquire into the military commissions of Senators Lynde, Broadhead, Gunn, Bancroft and Phillips. They were the Senators charged with holding two positions, a civil and a military office under the government. This was done, in violation of both State and Federal law. The State law provided that if any person after his election to the Legislature be appointed to any office under the United States, his acceptance thereof would vacate his seat in the Legislature.³ The committee had also been instructed to determine whether elections had been held in the Senatorial Districts to fill the positions of the military officers. On the 24th of

1. S. N. Wood Papers; Letters of Jan. 10 & 12.

2. Senate Journal, 1862, p. 54.

3. See Kansas Constitution, Article II, Section 5.

February the Committee reported its findings about the military commissions of the Senators. They reported that while Edward Lynde had been commissioned as Lieutenant of the Kansas Volunteers, he had never been mustered into service. The Senate voted that since there were no grounds for contesting Sen. Lynde's position he should be permitted to retain his seat in the Senate.¹ The other four, the committee reported, had been commissioned and mustered into service. O. B. Gunn was said to have been appointed by the Governor to a position in the Kansas Militia but later he had been mustered into the service of the United States for three years.² Senator Bancroft had been appointed as quartermaster of the 8th Kansas Regiment in the Kansas Volunteer Militia and Phillips as Adjutant of the 4th Regiment of the Kansas Volunteers. On the 29th of January Stevens' motion, referring the cases of Messrs. Broadhead, Gunn, Phillips and Bancroft to a special committee, was adopted. The committee reported on the fourth of February. It introduced the testimony of Hon. A. Ellis of Miami county stating that Phillips and Broadhead both had declared their seats in the Senate vacant. The statements had come unsolicited.³ That same day the committee also reported on the elections held in the Senatorial districts. In the ninth district Horatio Knowles had received 850 votes, Alonzo Curtis 856 and Thomas Roberts 849. In the 12th district 780 votes had

1. Senate Journal, pp. 32-33.

2. Ibid.

3. Senate Journal, 1862, pp. 54-55.

been cast for State Senator of which J. M. Rankin had received 420 and W. A. Shannon 280 votes.¹ The further consideration of the question was postponed first two, then three weeks. Before the Senate was ready to vote on the question, Senator Phillips had resigned his position. This happened on the 21st of February.² This gave the Lane group the necessary votes to remove the other three Senators - Bancroft, Gunn and Broadhead. This was accomplished the first of March.³ Before the Senate voted to remove O. B. Gunn, the latter had entered a protest against the action of the Senate. After he had analyzed his case he concluded with these words:

"This then is the position I occupy, viz: I am an officer of the State Militia, called into the service of the U.S. by proclamation of the President of the United States, [dated May 3rd, 1861], and, in his said proclamation, recognized by him as militia, and not as soldiers or part of the army of the United States I was appointed by the Governor, in pursuance of Article I, Section 8, Clause 16 of the Constitution of the United States, and am no more an officer under the United States than other members of this Senate who hold commissions in the State Militia, not called into the service of the United States."⁴

The protest fell on deaf ears. The Senate voted 15 to 7 to remove him. The removal of Bancroft and Broadhead followed that of Gunn. Four Lane men at once replaced the ousted Robinson men - Horatio Knowles, J. M. Rankin, C.S. Lambdin and T. Roberts. They replaced Broadhead, Bancroft, Wood and Phillips, respectively.⁵ The vacancy created by the removal

1. Ibid.

2. Ibid., pp. 128-131.

3. Ibid., pp. 210-13.

4. Ibid., pp. 176-180.

5. Senate Journal, 1862, pp. 176-180; 138; 123-31.

of Gunn was filled later by an election when Mr. S. A. Cobb was elected to replace Senator Gunn.¹ Sen. J. J. Ingalls who had voted to oust R. S. Stevens voted to retain the military men in the Senate.² The Senate had asked Attorney General Samuel A. Stinson to give his opinion on the right of the military men to hold double positions. Late in January he reported as follows:

"It is my opinion that the acceptance of an appointment as an officer of the volunteers, now in service of the United States, by the Senate of this State, vacates his seat in the Senate."³

Mr. Stinson had confined his opinion, however, to those Senators who had been accepted by the President under the Act of Congress, entitled "an Act to authorize the employment of volunteers to aid in enforcing laws, and protecting public property, approved July 22, 1861", and not upon the Proclamation of the President, of May 3rd, 1861, as referred to by Senator O. B. Gunn, as the order under which he had been appointed to his position by Governor Robinson.

Senator Phillips' resignation had aroused suspicion in the minds of the Robinson men. On the 27th of February, Sol Miller, who was in Topeka at the time closely watching the progress of events, wrote:

"Hitherto, all efforts to oust certain members have failed. But Gen. Lane instead of attending to his duties in the Senate, is now here laying the wires to punish his ancient enemy, Governor Robinson. A great deal

-
1. White Cloud Chief, Apr. 3, 1862. Impeachment Proceed., Lawrence, Kans. p. 91.
 2. Leavenworth Daily Conserv., Feb. 20, 1862; Senate Journ. 1862, pp. 128-31, 176-80.
 3. Daily State Record, Jan. 30, 1862.

of caucusing and manipulating has been observed going on for several days past, and this afternoon the fruits began to be visible. One of the noisiest anti-Lane Senators suddenly resigned his seat, and another absented himself from his place, leaving a Lane majority present. The Senate straightway went to work and filled the place of the resigning Senator, by putting in a man of the desired stripe. It is the general impression that the resigned Senator and the absentee have made a good thing of it".¹

On the 19th of June Sol Miller again wrote:

"A majority of the Senators went there to convict the impeached officers, and will do it, no matter what the evidence may be. Some Senators were even elected upon pledges to convict".²

The University bill had become entangled with the question of ousting the military men. As the Senate then stood on the University bill, Manhattan was favored by a sufficient majority to pass the bill, the military men holding for Manhattan. Senator Essick of Riley county held the balance of power in his possession. He had been casting his vote to retain the military men. Representative Goodnow explained the trade as follows:

"At this juncture Gen. Lane arrived. He was a strong friend of our University location, and had very much aided us in the first Legislature. By voting out the military men we should lose three votes. Gen. Lane had the pledges of four or five Senators at our service, sufficient to secure the passage of the bill, on condition that Mr. Essick would give them his vote to exclude the military. Public indignation, in and out of the Legislature, was at the highest pitch of excitement at the fact that Mr. Essick by his vote was retaining men in their seats against law, and the moral sense of the people. In order to secure their votes and the Governor's signature for the location of the University at Manhattan, Mr. Wells and myself carried to Mr. Essick the proposition of Gen. Lane. It was abruptly rejected, and he left us in anger, ... Failing with Mr. Essick, we tried to influence Gen. Lane and Senators to allow the University Bill to go through first, and put out

1. White Cloud Chief, Feb. 27, 1862.

2. Ibid., June 19, 1862.

the military afterward. Neither party would yield, and the wheels were blocked. Mr. Wells and myself ... never acquiesced nor consented to a postponement of the bill, only from compulsion. ... Finding the bill could not go through without, Mr. Essick voted against the military, but not till they might have been excluded without such aid. It was too late. The tide had passed and the bill was lost 11 to 12".¹

The trade must have taken place between the 18th and 21st of February. On the 18th Senator Essick was still voting with the Robinson men to retain Stevens. On the 21st, after Senator Phillips had resigned his position and the Senate voted to replace him with Roberts, he had absented himself. Following that he voted with the Lane men.² Sol Miller's observation seems to have been correct.

In the State at large a similar spirit seems to have prevailed. In the special elections two Senators had been elected to fill vacancies, Messrs. John Bayless of Doniphan county and S. A. Cobb of Wyandotte county. The criterion of the election had been whether they favored or opposed conviction of the State officers.³ Mr. Cobb had been elected, to replace O. B. Gunn and Bayless was to replace H. N. Seaver of Doniphan county. Mr. Seaver had failed to make his appearance in the Senate and that body had declared his position vacant, the 5th of March, 1862.⁴ In the election Bayless had been opposed by a Mr. Shreve, branded by the Lane forces as a Robinson man.⁵ In March

1. Manhattan Express, Sept. 23, 1862; Leav. Daily Conserv., Sept. 11, 1862.

2. Senate Journal, 1862, pp. 103ff; 128-131.

3. White Cloud Chief, Apr. 3rd, 1862.

4. Senate Journal, 1862, pp. 112-3, 234.

5. White Cloud Chief, Apr. 3, 1862.

Representative Eskridge of the House had continued the attempt to purge the Senate. He had demanded that Lieutenant Governor Root resign one or the other of the positions he held "in violation of the Constitution", viz: the position as Lieutenant Governor and Surgeon in the 9th Regiment of the Kansas Volunteers in the United States service. The Lieutenant Governor had very emphatically denied the charge of unconstitutionality and challenged the House to prove the allegations. Mr. Eskridge had also asked the Governor to abstain henceforth from appointing civil officers to military positions. The Governor had reminded the House that the two departments of government were coordinate branches, neither being responsible to the other, but both were responsible to their constituents.¹ Nothing more was accomplished. The Senate had been purged of the Robinson men, and the cases awaited the hour set for the trial.

In accordance with Attorney General Stinson's motion of February 28, the Senate reconvened the 2nd of June to try the cases against the State officers. The first days were spent in reorganizing the Senate and swearing in the newly elected Senators. When the Secretary called the roll only fifteen Senators responded. Among those absent were the Lieutenant Governor Root, Ed. Lynde and Hoffman. It was rumored that they had all accepted

1. House Journal, 1862. pp. 426, 430-31, 473, 479-80.

military positions.¹ In the absence of Lieutenant Governor Root, Mr. Gilchrist had presided. The second day, June 3rd, twenty one Senators responded to the roll. The court now decided to reorganize the Senate and elected Thomas A. Osborn as President Pro Tem. It required fourteen ballots to accomplish it. The final vote stood 15 to 6 in favor of Osborn.² The credentials of the newly elected Senators were now presented, the Senators were accepted and sworn in. When the credentials of John Bayless were considered, Mr. H. J. Case, Counsel for the Defense, interposed an objection to Mr. Bayless taking the oath as the legal member of that body. Upon which John J. Ingalls, Senator from Atchison, informed the respondent that the Senators were the sole judges of the election and qualifications of their own members and if the Attorney for the Defense continued his "impertinent and unwarrantable interference" with their deliberations he would have to be forcibly ejected. The persistence of Mr. Case left the Senator no recourse but to have the Sergeant-at-arms eject him.³ Mr. Osborn appointed Mr. R. J. Hinton as Reporter for the Court.

The same day, June 3rd, the Counsel for the Defense, in the person of Frederick P. Stanton, presented four reasons why the Senate as a Court was without authority to act, and asked that the paper be spread upon the Journal. The statements have been summarized as follows:

-
1. Leavenworth Daily Conservative, April 29, 1862,
 2. Leavenworth Daily Conservative, June 6, 1862.
 3. Robinson Proceedings, p. 91.

First, The Senate and the House had adjourned sine die on the 6th of March and according to the Kansas Constitution could not again assemble until the time designated by the Constitution, unless called into special session by the Governor.

Second, The sole power of impeachment was vested in the House of Representatives. This authority could not be delegated, and no impeachment case could be tried, except upon the prosecution of the House of Representatives, and during the session of that body.

Third, "There is no authority for any session of the Senate separate and apart from that of its coordinate branch - the House of Representatives".

Fourth, The act regulating the trials of Impeachment and fixing the compensation could not apply to this case because it was enacted subsequent to the passage of the impeachment resolution. This body, is therefore, now sitting in direct contravention of the provisions of the Constitution. "The proceedings of this body, thus irregularly and unlawfully assembled, will be a nullity and neither its acquittal nor its conviction will accomplish any result whatever."¹

Mr. Stanton presented a lengthy argument in defense of these allegations, and asked permission to file a bill of exceptions that might be used in later quo warranto proceedings in the courts of the State.

Attorney General Stinson gave the argument in defense of the State. It was learned but also evasive. He said that on the subject of impeachment the State of Kansas had adopted "verbatim et literatum" the provisions of the Constitution of the State of Missouri. He found it convenient to say that the question of impeachment was one of those extraordinary proceedings above precedent. "There is no such thing as the common law of impeachment. Whenever a case is presented, rules are made conforming or not to the rules which may have been adopted in similar cases

1. Ibid., pp. 107-22.

elsewhere, according to the good pleasure of the body before which the trial is to be had." He cited the case of Jackson vs. Missouri in which the Senate had sat as a court in the absence of the House. He remembered that this case had been in the hands of the Senators at the time they considered the question of adjournment. He also cited the case of Judge Chase, tried before the United States Senate, as an example where the Senate as a court had adjourned to the next session while the Senate as a Legislative body still had continued in session. He also remembered that the Senate Resolution to adjourn had been predicated upon the House Resolution instructing the managers to move in the Senate that the trial of the impeachment cases should be postponed to the second day of June.¹ The court voted eleven to six against filing the bill of exceptions.² As Mr. Ewing has so aptly stated, the "Respondent's Counsel then remained to 'watch the proceedings'"³ The Counsel for the Defense had made it known, during the course of the argument, that if the court decided against them the question of adjournment might be carried to the State Supreme Court. This is what happened. How it was done will be seen later.

The question of filling the vacancies in the Senate cropped out time and again. The 3rd of June, Senator Holliday's motion established a committee of three to investigate whether Senators Lynde and Hoffman were entitled

1. Proceedings, pp. 107-22.

2. Ibid, pp. 124-30.

3. Ewing, "Early Kansas Impeachments". K.H.Q., I, 4, p. 318.

to seats in the Senate.¹ Messrs. Holliday, Essick and Cobb were appointed to make the investigation. The day before an election had been held in the sixth district to fill the vacancy created by Lynde's absence. Mr. Jerome Kunkle of Jefferson county had been a candidate to fill the vacancy.² The question of his credentials were referred to the Committee on Elections which reported the 12th of June that there were no returns of the election filed with the Secretary and the case was indefinitely postponed.³ The Lane papers interpreted Governor Robinson's military appointments as an attempt on his part to incapacitate the Impeachment Court.⁴ They had therefore kept on filling the vacancies with newly elected Senators disregarding all legal requirements.

On the 4th of June the Court decided to publish the daily proceedings of the trials in pamphlet form to be distributed among the members of the Court, the attorneys, with three hundred extra copies for the State.⁵

The following day, June 5, the trial of Secretary Robinson began. Hon. Azel Spaulding opened the case for the State. He repeated the charges against the Secretary and explained what the State intended to prove in the course

1. Impeachment Proceedings, MS.

2. Manhattan Express, June 7, 1862.

3. Leavenworth Daily Conservative, June 12, 1862.

4. Ibid., April 29, 1862; May 18 & 31, 1862; Atchison Champion, May 3, 1862.

5. Impeachment Proceedings, MS.

of the trial.¹ The Prosecuting Attorney Wagstaff then read the depositions from persons without the State, including those of Senators Lane and Pomeroy, Representative Conway, Secretary of Interior Caleb B. Smith, Indian Commissioner William P. Dole, and Stevens' assistant, Robert Corwin. Wagstaff finished with the reading the 6th of June.² Following that, fifteen witnesses were called to testify in the case. They included four members of the Impeachment Court, the Secretary pro tem., and Governor Robinson and Auditor Hillyer.³ Gov. Shannon called the attention of the court to the fact that nowhere had the witnesses been properly sworn in, "to tell the truth, the whole truth and nothing but the truth."⁴ Mr. Ewing has also pointed out the fact that apparently the witnesses "were free to visit the sessions and listen to the testimony of others."⁵

When the court had finished with the testimony it asked Mr. Case to open the argument for the Defense. At once Senator Ingalls addressed the chair and insisted that Mr. Case be excluded from any further participation in the proceedings. It was his second attack against Mr. Case. The evidence that came to light as a result of it divulged the fact that money and politics rather than equity were going

1. Proceedings, pp. 140-41.

2. Leavenworth Daily Conservative, June 10, 1862.

3. Ewing, "Early Kansas Impeachments". I, 4, p. 318, (K.H.Q.)

4. Leavenworth Daily Conservative, June 7, 1862.

5. Ewing, "Early Kansas Impeachments", K.H.Q., I, 4, p. 318.

to determine the court's decision. Senator Ingalls said:

"I am informed, and am prepared to fortify my statements, by the affidavits of eminently respectable gentlemen, members of the bar in this city, that Mr. Case has publicly declared, on the street corners, in the halls and other places of common resort, both before and during the progress of the trial, that this Senate is a jury packed against his clients, and that there is but one Senator whose verdict cannot be bought with money. . . . He has no further claim to the indulgence of a tribunal whose integrity he has impeached, whose courtesy he has abused, and whose protection he has forfeited."¹

The following day Mr. Case quietly withdrew, saying that if his appearance as an attorney of Secretary Robinson would be used as an argument prejudicial to the defense and acquittal of Mr. Robinson he would withdraw.² It was also reported that Governor Robinson intended to impeach the evidence of Senator Lane, by producing witnesses to testify that they would not believe him on oath.³

Before many more nights had passed, however, it became evident that Mr. Case had known whereof he spoke. For, before the vote in the trial of Secretary Robinson was taken one of the Senators had offered to accept a bribe vote against the conviction of the Secretary of State. His vote would have decided the case for or against acquittal of the Secretary. On Thursday, June 12th, he had divulged the information to a Mr. J. F. Cummings that there were seventeen members of the Senate ready to vote for conviction. But if he would take a certain position in the matter, as

1. Proceedings, pp. 248-9.

2. Ibid.

3. Leavenworth Daily Conservative, June 7, 1862.

for instance, in favor of J. W. Robinson, other Senators would go with him. That afternoon Cummings had offered him \$2,000 in scrip if he would change over but he had refused to take it. We wanted Cummings to go and see Bob Stevens and inform him how the matter was going. The next day, Friday noon, Cummings had met the Senator again and this time had offered him \$3,000 in cash. It had been too late. The Senator could now obtain an office paying \$2,000 a year under the general government from the hands of Sen. Lane if he would vote for conviction of the accused.¹ Mr. J. F. Cummings refused to name the Senator who had offered the bribe. In order to exonerate the Senators from the public vilification Sen. Ingalls moved that the Senators be sworn and asked the following questions:

1, "Have you ever had any conversation with J. F. Cummings in reference to the impeachment of J. W. Robinson?

2, "If yea, state when, where, and what was the substance of said conversation.

3, "Did you, ever at any time, make any proposition or intimation to J. F. Cummings that any pecuniary or other consideration would influence your decision, or that of any other Senator, in said impeachment?

4, "Have you had any conversation or interview with J. F. Cummings this morning, or any time today, in the third story of the Ritchey block in the city of Topeka?

5, "Do you know anything touching the matter now under conversation before the Senate, except from the testimony and statements made today in the Senate?"²

Each Senator present answered those questions in Cummings' presence. After all had answered negatively, Mr. Cummings still refused to divulge the name of the culprit.³

1. Proceedings, pp. 368-376.

2. Ibid., pp. 372-3.

3. Proceedings, p. 376.

About a month later the Topeka Tribune and Record had a quarrel. In connection with it Mr. Cummings made some startling statements, among them was one revealing the name of C. K. Holliday of Topeka as the Senator who had offered to vote against the conviction of Secretary Robinson for the price of \$3,000.¹ At this time it was also revealed that this same man Holliday, had sold out to the Democrats at the time of the location of the State capitol in order to secure the Democratic support in favor of Topeka for the State capitol.² At the close of the article Sol Miller wrote: "Holliday's case is but a single one in the impeachment proceedings. We have no doubt if everything were revealed, things would come to light which would make every citizen of the State blush, and would throw the Bond Swindle so far into the shade, that it would not again be mentioned."³

And now to return to the trial. When Mr. Case withdrew, his place was taken by Geo. W. Smith, Counsel for the Defense. Mr. Smith stated that the trial of impeachment was similar to a trial on indictment, "the intent of the person charged must govern the criminality of the act." He pointed out that the State officers had been ignorant of the fact that Stevens had sold for eighty-five cents, that they had sold for sixty to save the credit of the State, and because they had been advised by Pomeroy.⁴

1. White Cloud Chief, July 10, 1862.

2. Ibid.

3. Ibid.

4. Proceedings, pp. 253-4.

Mr. W.R. Wagstaff opened the argument for the State. He referred to the alleged ignorance of the State officers as "cobwebbs" used to "conceal the guilt of the accused", and concluded that "the whole conduct of the Secretary and Auditor in this bond transaction goes to establish one of two facts; that these State officers were fools or knaves. It is not to be supposed for a moment that they are fools."¹

Frederick P. Stanton concluded the argument for the Defense. He repeated the necessity of proving the criminal intent. "According to common law there can be no crime of any kind, or of any degree without a criminal intent". This intent must be proved. "The gravamen of this charge is that the defendent had 'full knowledge{ of the particulars of Mr. Stevens negotiation, and, with that full knowledge, consented thereto". He reminded the Senate that they had not looked upon Mr. Stevens' proceedings as dishonest or dishonorable or else they would not permit him to occupy a seat in that body with a right to vote upon this trial. He then reminded the court that Stevens had been the genius in the negotiations, that the whole scheme was of his invention and that the defendent and his colleague had been made the innocent dupes of the deep laid sceme to defraud the State. He explained why secrecy had been a great factor in the success of the negotiations, viz: because \$62,800 of the \$150,000 seven per cent bonds were still in private hands

1. Proceedings, p. 273.

and in order to realize a profit on them Stevens would have to purchase them at a reasonable price. He also pointed out that Senator Pomeroy had been in a position to know all the exigencies of the case and yet he had advised the State officers to accept the terms proposed by Stevens. Any one "who knows the difficulty of access to the departments at Washington will not be surprised that these defendants relied entirely upon their Senators and Representatives."¹

Attorney General Stinson closed the argument in the case. He admitted that if "it can be established that an act has been committed in violation of law it must further be shown that the person charged intended to do the act. With his motive," he contended, "the law has nothing to do. ... Never before was a corrupt motive made the essential test of criminality." He recognized Stevens as the instigator in the crime and likened the State to the apple in the apple paring machine. Stevens, he said, had put the State on his little paring machine and with a few turns of the wheel had peeled it to the core. He produced figures showing the expenses of the State departments. Among them he produced figures showing that the Governor had spent close to a thousand dollars for horse and buggy hire and remarked: "One might well imagine from the size of Governor Robinson's bill for buggy hire, that he had driven a flaming chariot along the Missouri line from June to January." Stinson pointed out that at the time Secretary Robinson

1. Ibid. pp. 298-315.

agreed to sell for sixty cents, he knew the act he contemplated was unlawful. He scorned at the assertion of the defense that Stevens would have torn up the contract which assured him a profit of over \$12,000 even at seventy cents on the dollar. He also pointed out that the Supplementary Act had provided that all the money received from the sale of the State bonds should be paid directly into the State Treasury. The negotiators could not touch a dollar or a cent of that money for expenses or anything else, until the Legislature had authorized them to do so. He then referred to the date and the spurious signature on the contract between Stevens and the State officers, and said that they had "connived the idea of selling the bonds to the Secretary of Interior before they left for Washington; yet they were as silent as the grave." Secrecy was necessary? Yes to fleece the individuals of the State as Stevens had already fleeced the State. If the State officers had never even asked Stevens about the sales price of the bonds, then "was not their blindness willful, their carelessness premeditated and criminal?"¹ In conclusion he said:

"I can but again express my regret that the House of Representatives and the State of Kansas have not been more ably represented in this important branch of the proceeding. If the evidence does not convince, beyond a reasonable doubt, of the guilt of this man, then send him forth to the world with every stain upon his fame wiped away, and give him the benefit of that sympathy which is the due of a wronged and persecuted man. But be just to the State, as you are merciful to him, and if his crime - his misdemeanor - is proved, sternly pronounce your righteous judgment."²

1. Proceedings, pp. 314-333.

2. Proceedings, pp. 340-341.

Mr. Ewing has aptly stated that "the learned Counsel might just as well have waived the right to present final argument".¹ It is very likely that not a single vote was changed by either argument or testimony. If Senators had changed their votes they had done so for other reasons. When therefore the Court proceeded to vote upon the eight articles held against the Secretary, June 13, they sustained the charge in the first article that the State had been defrauded out of its just money with the full knowledge and consent of Secretary Robinson and that the Secretary had betrayed the trust reposed in him as an officer of the State of Kansas. The vote was 17 to 4. On none of the other charges was he found guilty.² The Court even refused to disqualify him from further office holding by a vote of twenty to one. Senator Stevens had been excused from voting.

The trial of Auditor Hillyer was very brief. Since the two State officers had been partners in the act the opposing Counsel permitted the evidence offered in the Robinson trial, except Hillyer's own testimony, as legitimate evidence in the case at bar.³ Several witnesses were summoned, all by the prosecution. J. C. Stone testified that he had warned Gen'l Lane to be careful not to put money in the hands of R. S. Stevens his competitor, just shortly before the election.⁴ Secretary Robinson had been summoned to testify

1. Ewing, "Early Kans. Impeachments", p. 319.

2. For vote on each article see Ewing, Op. Cit.

3. Proceedings, p. 351.

4. Proceedings, pp. 350-51.

what he knew about the negotiations. No new evidence was introduced. On the 14th of June Senator Barnett rose to a privileged question and brought to the attention of the court the alleged attempt by one of the Senators to bribe the court in favor of the accused provided he could get enough cash money to warrant the change. The facts in the case have already been presented in connection with the trial of Secretary Robinson. Suffice it to say that it occupied a major portion of the three days given to the trial of Auditor Hillyer. The Counsel for the Defense, F. P. Stanton, presented a short argument in defense of Auditor Hillyer, but the verdict of the court was like it had been in the trial of J. W. Robinson. The Auditor was found guilty of the same charge as the Secretary, and by the same vote, 17 to 4. On the remaining six articles he was exonerated by decisive votes. The vote on his removal from office was 18 to 2.¹

Immediately following the trial of Auditor Hillyer the court took up the case against the Governor, Charles C. Robinson. In spite of the deep seated hatred manifested against the Governor by such leading papers of the opposition as the Leavenworth Daily Conservative and the Kansas State Record the court showed little interest and enthusiasm in the case.² The trial opened in the afternoon session of

1. Ibid. p. 396.

2. The Leav. D. Conserv., Feb. 1, 1862 wrote: "To hell with such profligate partisans as Charles Robinson." Those are common, others are worse. "Unless the Leg. impeached and removes these scoundrels it will be the religious duty of the people to HANG THEM. And it will be done." Leav. D. Conserv. Feb. 15, 1862.

June 16, and closed in the evening of the same day. Five witnesses were summoned to testify in the case: Treasurer Dutton, J. W. Robinson, Geo. S. Hillyer, R. S. Stevens and General Collamore, Quartermaster General of the State, Collamore was called to produce evidence to the fact that the war bonds could have been sold to Geo. L. Stearn at par value but that the Governor had refused to do it. They also tried to connect the Governor with the sale of the seven per cent bonds. In either case the evidence advanced was not convincing. The Governor's counsel, Wilson Shannon, said in the Governor's defense:

"No claim has been made of complicity, on the part of Governor Robinson, with the sale of the seven per cent bonds. The good sense of my eloquent friend, to whom we have just listened, has not claimed any such complicity. All the testimony proves that the Governor was not engaged in the transaction."¹

When the court voted on the charges against the Governor the Senators all seem to have weakened, and Charles Robinson was decisively acquitted. On the first ballot Curtis and Lambdin had voted guilty, but nineteen had voted not guilty. On the next three charges the vote for acquittal was unanimous. On the last article it was twenty to one, Mr. Essick had voted guilty.² In all three cases Sen. Stevens had asked for permission to abstain from voting and permission had been granted.

Thus ended the Impeachment trials. Two State officers had been convicted of wilfully defrauding the State,

1. Proceedings, pp. 419-422.

2. Ibid., pp. 419-422

the other had been acquitted. Were the innocent made to suffer for the guilty? Who had been the real leaders in the fraud? There is a difference of opinion as to where the blame should rest. Before the trial the Leavenworth Daily Conservative wrote:

"The Senate adjourned as a Senate to meet in June as a Court of Impeachment. Since that time Root, Bancroft, Denman, Hoffman and Lynde have been given military commissions by Robinson, and probably will not be present, or (if present), incapacitated to act in any court. Morrow, Stevens, and Osborn are now absent from the State. No successor has been elected instead of Seaver, in Doniphan County, and it is said that Cobb, Gunn's successor, cannot hold his seat.

"It will take a two-thirds vote to impeach any of the accused State officers. Robinson, conscious of guilt, decimates the Senate and thus renders conviction impossible."1

After the trial the Conservative wrote:

"Charles Robinson, Governor, generally supposed to be the biggest rascal in the pile; was acquitted, there being no evidence to convict him. One thing apparent to every mind, from the proceedings of this body, is that in the political organization of our State the Devil has the inside track."2

The sentiment expressed in that article is typical of the Lanites, headed by the Leavenworth Daily Conservative and the Kansas State Record, and the Kansas Daily Record. The Leavenworth Conservative was a Republican paper, edited by D. W. Wilder of Leavenworth. The Kansas State- and the Kansas Daily Record, a weekly and a daily paper, were edited by Edmund G.- and William W. Ross. The principal shares of the Record were owned by James H. Lane, S.C. Pomeroy, Geo. A. Crawford, and C. K. Holliday.³ It was only to be expected

1. Leav. Daily Conservative, Apr. 29, 1862.

2. Leav. Daily Conservative, June 29, 1862.

3. White Cloud Chief, Aug. 7, 1862.

that these papers would be positively anti-Robinson.

The other extreme was found in The Truth-Teller and the Kansas State Journal, both edited by Josiah C. Trask and Hovey E. Lowman. The Truth-Teller was issued only for a few months in 1862, covering the period of the Impeachment Proceedings. It defended the State officers. On the 25th of February the Truth-Teller wrote:

"Judge Ewing, the Leavenworth and Lawrence Banks and others, were offering Kansas Bonds at forty cents on the dollar. While such was the fact, these gentlemen [State officers] by some management, obtained sixty cents for the State, over and above all expenses, and Stevens proposes if that is not legal and satisfactory he will make it up to seventy cents. Where then is the swindle?"¹

Sol Miller, editor of the White Cloud Chief, was relentless in his attacks upon those whom he thought guilty. On the 19th of June, 1862, he expressed his opinion of the trial of J. W. Robinson:

"The Court of Impeachment has convicted John W. Robinson, Secretary of State, of high misdemeanor in office. Probably they discovered sufficient grounds for the finding; but it would have been all the same, if they had not. A majority of the Senators went there to convict the impeached officers, and will do it, no matter what the evidence may be. Some Senators were even elected upon pledges to convict."²

Of Geo. S. Hillyer he wrote, "All the courts of Impeachment in the world could not convince us that George S. Hillyer wilfully defrauded the State. We would pick him out as an honest man from among a thousand."³

The interpretation of Mrs. Sara T. D. Robinson given after the death of her husband is interesting and

-
1. Truth-Teller, Feb. 25, 1862.
 2. White Cloud Chief, June 19, 1862.
 3. Ibid., June. 26, 1862.

enlightening. She mentioned that the new administration had stopped Stevens' work of building houses for the Sac and Fox Indians; that Lane's influence with the Interior Department was great, and that his friends would not deny it. This had led Stevens to go to Washington to make inquiries. While there it had been suggested to him that "if he took in or changed partners he could continue his contract, [change from Robinson to Lane]." She thought that the reason why the Kansas representative and Senators at Washington allowed Mr. Stevens, a Buchanan Democrat, to give the State sixty cents when the Interior Department paid him eighty-five cents was apparent: "There are those who believe no trade could have been made with the Interior Department without this margin for somebody's profit and that it was well known by those who could and should have prevented it, that the Sec. of Interior paid eighty-five cents when he could have bought them at sixty cents. Secretary Robinson and Auditor Hillyer ... were in daily contact with the Kansas delegation in Congress, and learned from them that the only way to make the trade was to sell them to Stevens for sixty cents and let him sell them to the Department for eighty-five cents." She thought it was amazing but no more so than other things done at the time. The only reason Stevens was used by the Senators was because he possessed the necessary knowledge and acquaintance in the Indian office that it took to make those bargains. She felt that Lane might have been prompted by two motives, one to

profit by Stevens' influence to drive Indian bargains and the other to place Stevens under obligations to Lane so that he would be out of the way when he got ready to reopen the Jenkin's land case. Stevens had retired from that case as attorney. She thought the proper subject for legislative inquiry should have been the questions: "Why the Senators and Representatives from Kansas could not secure a personal interview between Sec. Robinson and Auditor Hillyer and the officers who had charge of the Indian funds and were willing to invest them in Kansas State Bonds at eighty-five cents? Why officials having charge of Trust Funds should pay eighty-five cents for bonds that they could have bought at sixty cents and why it was necessary in order that the State might sell them at sixty cents, Mr. Stevens should have the opportunity to make from \$20,000 to \$25,000 on them?"¹

It appears that the Legislature had impeached the men who had been made the scape-goats in the act but left the door wide open for the villains to escape and continue their work for another period of years. Stevens at least offered to correct the wrongs he had committed. The two Senators, however, continued their secret, underhanded graft until they died or were exposed.

The question whether the Kansas delegation in Congress had been responsible for the swindle was brought up in the House of Representatives the 15th of February,

1. Mrs. Sara T. D. Robinson to G. W. Jahn, Robinson Collection.
Written on Apr. 17, 1897.

1862. Mr. Van Winkle of Grasshopper Falls introduced the resolution authorizing a select committee to investigate the question. It was considered on the 15th, and 17th of February and on the 4th of March. When it appeared unpopular he introduced a substitute resolution:

"Whereas, it has been made to appear, from the testimony taken by the committee appointed by this body to investigate transactions relative to the sale of bonds issued under acts of the last Legislature, that all of the members of the delegation in Congress from this State, were in some degree implicated in the illegal transaction made by members of that delegation, relative to the part taken by them in said transactions, are contradictory and inconsistent; therefore,

"Be it resolved, That the members of said delegation in Congress be requested to fully vindicate themselves before the people of Kansas, from the charges of criminality thus implied against; and failing to do this, they are hereby requested to resign the seats now occupied by them."¹

Mr. Clark moved to table the resolution, but it failed.

He next introduced a substitute for the Van Winkle resolution, asking a delegation in Congress to explain their connection with the sale of the bonds and vindicate themselves from the charges of corruption. It also failed, 15 to 35. Mr. Eskridge then moved to amend the Van Winkle resolution, which on the following day, on Mr. Ingersoll's motion, was indefinitely postponed, 30 to 18. Mr. F. W. Potter of Burlington then introduced another resolution asking the delegation in Congress to explain their connection with the illegal transaction, but it too was indefinitely postponed, 30 to 23.² The friends of the Kansas delegation in Congress

1. House Journal, 1862, pp. 259, 264-5, 455-56, 473-74.

2. House Journal, 1862, pp. 473-74.

had prevented the investigation.

The impeachment proceedings had been used by Gen. Lane and his friends as a political stroke to cast suspicion on the Governor and his friends, and thus remove the Governor, at least temporarily from the political arena where he so often had spoiled Gen. Lane's schemes. It had given Lane an opportunity to make just such representations at Washington as would serve his purpose, till the State government was almost wholly ignored. This was a crushing blow to Gov. Robinson from which he never fully recovered.¹ The Governor and Mrs. Robinson were very conscious of the fact that it was another one of Lane's schemes to put the Governor out of his way. On the 16th of April Gov. Robinson had connected Gen. Lane's Southern Expedition with the Impeachment proceedings:

or "It will be remembered that during the winter more
less was said in the papers about a 'Southern Expedition'
from Kansas, sometimes called the 'Lane Expedition'. A
numerous staff was appointed, a triumphal march was had from
Washington to Ft. Leavenworth, and as much parade and bluster
made by the heroes in 'girding on' their armor as is generally
made in 'putting it off'.

"For some reason unknown to the subscriber, the
great 'Lane Expedition, so-called' met with a sad disaster,
or was 'run into the ground' at or near Ft. Leavenworth.
Gen'l Lane said he felt as though a train of cars had run
over him. Something must be done, and a resolution was sent
over to Topeka, to be adopted by the Legislature, endorsing
Gen'l Lane as a suitable person to take command of the
'Southern Expedition' and for a Major General. This resolution
was introduced into the lower House and was rejected.
Gen'l Lane then visited Topeka in person, told his friends
that Robinson's influence must be broken down both in Kansas
and elsewhere, and they must get up an impeachment, whether
guilty or innocent. About a dozen candidates for the U.S.
Senate were impatiently waiting to step into Gen'l. Lane's

1. Kans. Scrap. Book, Biogr. Vol. 4, p. 71.

seat, and he told them there was but one way to get him out of it. If he was made Major General he would leave it; and if the Legislature would endorse him for that position the President would appoint him in twenty-four hours after the news reached Washington. As nearly all the candidates were assured by Gen'l Lane that their election would be certain if he was out of the way, as he would give them his support, all went in for the endorsement, and it went through both Houses without opposition, many voting for it who regarded Gen'l Lane with contempt, both as a general and a citizen.¹

Governor Robinson was permitted to complete his term, but after that he was retired to private life for a period of ten years. In 1872 he was elected Representative and in 1874, and ^aagain in 1876 he was elected State Senator.² But he was always on the defensive. Even after the death of Gen. Lane, 1866, the factious quarrels appeared time and again in the Kansas papers, surviving even the death of Governor Robinson which occurred August 17, 1894. After this Mrs. Sara T. D. Robinson wielded a very able pen in defense of the Governor and his political career. And now to return to the State officers who were left convicted of high misdemeanors and removed from office by an irregular session of the State Senate.

On the 28th of June Secretary Robinson had notified the Governor that he was still of the opinion that the pretended session of the Senate was wholly unauthorized by the Constitution and that its judgment was a nullity. He would refuse, therefore, to vacate his position. He wrote: "I therefore respectfully decline to vacate my office as Secretary of State until it shall be authoritatively settled that the late assemblage of Senators had power to act in the

1. Leav. D. Conserv., May 1, 1862. Written in Washington, D.C.
 2. Robinson Papers, Vault of K.S.H.S. #59.

premises."¹ On the 9th of July the State Supreme Court had granted the State officers a writ of quo warranto and the case was argued at Topeka the 24th of July, 1862.² The two attorneys, Stinson and Shannon, once more faced each other on the question of the validity of the adjournment. Chief Justice Ewing presided. The court decided that the sine die adjournment of the Legislature had terminated only the legislative business. The Impeachment Court could meet pursuant to adjournment without violating the State Constitution even if the lower house did not meet in simultaneous session. The Supreme Court did not consider the validity of the court's seating of new members.³

Mrs. Robinson wrote that the Governor felt that the Secretary and Auditor had been the victims of a persecution aimed at himself. He felt indignant that they should suffer because of a blow intended for him. He had therefore regarded it his duty to appoint them to the offices from which they had been unjustly deposed. He had prepared the papers for their appointment but they declined to accept, doubting the propriety of the course.⁴ The Governor then appointed the Secretary as Surgeon in the Union army, in which service he died the following year while at Fort Smith, Arkansas.⁵ On the 18th of September, 1862, the Governor also commissioned Geo. S. Hillier as First Lieuten-

1. Leav. Daily Conserv. June 28, 1862.

2. Ibid., July 13 & 27, 1862.

3. Ewing, "Early Kansas Impeachments". Footnote on p. 318.

4. Mrs. Robinson to Jahn, Robinson Collection, Vault, K.S.H.S.

5. Ewing, "Early Kansas Impeachments", p. 321.

ant and Quartermaster of the Thirteenth Regiment.¹

The sale of the seven per cent bonds carried over into Governor Carney's administration. In 1863 the State finally disposed of the \$150,000 of the seven per cent bonds as follows: \$95,600 of the bonds had already been delivered to the Secretary of Interior, of which \$31,000 still remained unpaid for. The State was to furnish the Secretary of Interior with the remaining \$54,400 bonds to complete the contract. This had to be done in order to obtain the money for the \$31,000 kept back by the Secretary of Interior as security that the State would complete the contract. In order to do this the State Legislature passed a bill, signed the 3rd of March, 1863. It authorized an issue of \$54,400 in seven per cent bonds with coupons attached with provisions to pay for the interest and create a sinking fund. The Governor was to act as the agent of the State to complete the contract. The bonds were not to be sold for less than eighty-five cents par value. It ratified that part of the contract already completed, "Provided that nothing in this act contained shall in any way effect, impair or prejudice any claim the State may have against Robert S. Stevens, or the late executive officers of the State or their sureties."²

Early in May 1863, Governor Carney reported of his success in selling the bonds. He had succeeded in exchanging \$26,000 of the \$54,400 bonds to be issued by the legis-

1. Robinson Collection, Military Records and Executive Minutes.

2. Gen. Laws of Kansas, 1863, p. 28.

lature for that amount of war bonds of the State which fell due July 1st of that year. He then withdrew the \$31,000 that lay in the office of the Secretary of Interior awaiting the completion of the contract, and sold them together with the balance of the last issue, (\$28,600, in all \$59,600), at 95½ cents par value.¹ That completed the sale of the \$150,000 seven per cent bonds. What settlement, if any, the State made with R. S. Stevens is unknown. On the 26th of February, 1863, R. S. Stevens once more proposed a settlement to the Governor and Legislature for \$8,672 plus interest on the unpaid balance, provided the State would dismiss him from further responsibilities and regard the transaction as settled and closed.² It is not known, however, whether or not they accepted his proposition. This much is known, that Robert S. Stevens was permitted to resume his contract with the Sacs and Foxes and was even granted a similar contract for the Kaw Indians, "and in various ways the profits of patronage were bestowed upon him."³ General Lane too was successful in inducing the Land Office to reopen the Jenkins case which had been decided against him, on the claim of newly discovered evidence. And he was made the owner of the land "to which his shotgun and his position as Senator gave him title". In closing this chapter no statement is more appropriate than that of Mrs. Robinson:

1. Kansas State Record, May 6, 1863.

2. House Journal, 1863, pp. 329-331.

3. "Mrs. Robinson to Jahn", Robinson Collection, Vault, K.S.H.S.

"Had the Legislature that impeached the State officers, turned their attention towards Washington and pursued with vigor their investigations, it might have saved Kansas from scandal and purified some offices then rotten with corruption."¹

1. Ibid.

CHAPTER X.

The Election of Thomas Carney.

The Robinson administration was fast drawing to a close. Candidates for the State offices began early to publish their qualifications and to advertise their eagerness to serve the State. The candidates for Governor were numerous. The list included William A. Philips and Geo. W. Collamore of Lawrence, W. R. Wagstaff of Miami, Geo. A. Crawford, A. C. Wilder, M. S. Adams and Thomas Carney of Leavenworth.¹ Messrs. W. F. Conway, T. O. Thatcher and William A. Philips were among the possible candidates for Congressman. Messrs. J. J. Ingalls and T. A. Osborn were mentioned as candidates for Lieutenant Governor.² Governor Robinson was not running for re-election.

The latter part of July the Republican State Committee, with A. C. Wilder as chairman and T. O. Thatcher as secretary, issued a call for the Republican State Convention. The place chosen was Topeka, and the time, Wednesday noon, the 17th of September, 1862. The convention was to nominate candidates for the following offices: a member of Congress, an Associate Justice of the Supreme Court, a Governor, a Lieutenant Governor, a Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, and an Attorney General. The Republicans of the State were requested to elect seventy-five delegates to the convention,

1. Leavenworth Daily Conservative, Aug. 2, 5, 6, 28, 1862.

2. Ibid., Aug. 10, Sept. 20, 1862.

one from each Representative District, as provided for by the last legislature.¹

In the primary election for delegates, August 30, 1862, the city of Leavenworth had cast 375 votes for Wilder, 205 for Adams, and 191 for Carney. Adams, however, withdrew from the race in favor of Carney. The Conservative, supporting Wilder, put it that Adams had "sold out" to Carney.² This placed Thomas Carney in the lead for Governor in Leavenworth. A. C. Wilder later shifted his aspirations from Governor to Congressman.

A few days before the Republican Convention the reporter for the Leavenworth Conservative pictured the pre-convention scene at Topeka as follows:

"At the Pomeroy House I found Gen'l Lane, ... W. F. Conway, ... and J. L. McDowell, U. S. Marshal. The former is here exerting himself in the utmost to secure the nomination of Mr. Carney for Governor. Mr. Conway is here to secure his own. Between the two we have the Marshal of the District working with Lane, to whom he has always been opposed, for the special benefit of Mr. Carney, and for the benefit indirectly of Mr. Conway, with whom also he has been at variance..."

The Reporter mentioned the retirement of Chief Justice Ewing as being so sudden that there had been no time to look up suitable candidates. He regarded it quite evident that there had been a pre-arranged scheme to use the judgeship as capital with which to secure needed votes for Governor. He wrote that the name of Judge Thatcher had been suggested for the position. The promise of support to him by the Lane-Ewing-Carney-Conway-McDowell combination would bring to the

1. Leavenworth Daily Conservative, Aug. 28, 1862.

2. Ibid., Sept. 3, 1862.

support of Carney some of George Collamore's friends. Being a Wilder man, he questioned the methods of Thomas Carney. He wrote regards him:

"Mr. Carney is represented that he has five delegates from his own County. He knows and cannot deny that Mr. Wilder elected seven out of nine delegates, Mr. Adams one and Carney one. If then, he claims that he now has five, it is virtually proclaiming that he has bought them up."¹

When the delegates met they elected F. P. Baker of Nemaha, a supporter of Thomas Carney, as president of the Convention. This placed the Convention in the hands of Carney and Lane. Sol Miller put it in his own words:

"They spoke when they pleased, as often as they pleased, said what they pleased, and ranted away in order and out of order, with perfect impunity; while delegates on the opposite side were gagged down with little or no ceremony."²

Governor Robinson, otherwise critical of the methods of the Convention, admitted that a most excellent ticket had been nominated but said it had been done by "such scandalous means". Commissions, he wrote, were almost openly auctioned off to influence delegates. Lane had received the right to appoint the officers of three regiments then being organized, and had used them to run the State Convention.³ Sol Miller confirmed the Governor's statement. "Trading", he wrote, "had been the order of the day". Aspirants had sought to make combinations with the friends of the strongest candidates for the principal offices. Some of them had

1. Leavenworth Daily Conservative, Sept. 18, 1862.

2. White Cloud Chief, Sept. 25, 1862.

3. Robinson Collection. "Kansas Conflict". Chap. 18, p.24.

traded once too often and had been badly "euchred". For example, Thomas A. Osborn had been nominated Lieutenant Governor over John J. Ingalls of Atchison, and yet the delegates from Atchison had united with the Carney men on the condition and with the understanding, as they alleged, that they were to have the Lieutenant Governor.¹ That had created hostility among the delegates and resulted in a division.

The following candidates were nominated: Thomas Carney of Leavenworth, Governor; T. A. Osborne of Doniphan, Lieutenant Governor; George A. Crawford was elected by acclamation as Secretary of State; Asa Hartgrove of Linn as Auditor; William Spriggs of Anderson as Treasurer; I. T. Goodnow of Riley County as Superintendent of Public Instruction; W. W. Guthrie of Brown county as Attorney General; L. D. Bailey as Associate Justice of the Supreme Court and A. C. Wilder of Leavenworth as Congressman. Mr. Wilder defeated Conway, Thatcher, and Lawrence on the seventh ballot.² Mr. Crawford declined to accept the nomination as Secretary of State and in his place Hon. W. W. H. Lawrence of Franklin county was nominated.³ His ostensible reason for refusing to accept the nomination was the failure of the convention to comply with the conditions on which he had agreed to accept the nomination.⁴ Sol Miller wrote that Crawford had

1. White Cloud Chief, Sept. 25, 1862.

2. Leavenworth Daily Conservative, Sept. 20, 1862.

3. Ibid., Sept. 25, 1862.

4. Leavenworth Daily Conservative, Sept. 25, 1862 and Oct. 4, 1862.

refused because no platform had yet been adopted, but thought he would have accepted the nomination for Governor without a platform.¹

Not all had been well. Rumors of bribery had been noised about and had disturbed the peace of the convention. Moreover, a portion of the delegates, dissatisfied with Jim Lane and the way the convention had been run, had bolted. To allay the suspicion of corruption a committee had been appointed to investigate the charges. It had been carefully selected. It was composed of Messrs. J. L. McDowell, Russell, Geo. H. Fairchild, Thomas, Riggs, Burnett and Reynolds. The Committee, without making an intensive investigation, hushed things up by reporting that there were no charges worthy of consideration against any of the proposed candidates.²

The dissatisfied delegates, however, agreed to meet in separate convention to nominate their own candidates. They called it the Union Convention and decided to meet at Lawrence. It was a motley group, composed of disappointed office seekers, anti-Lane men and Democrats. Among the more prominent leaders in State affairs, who attended the convention were, Governor Robinson, W. W. Updegraff, M. J. Parrott, W. R. Wagstaff, Samuel Stinson, J. J. Ingalls, J. W. Robinson and others.³ It represented men who a few months previous had opposed each other in the impeachment trials.

1. White Cloud Chief, Sept. 25, 1862.

2. Leavenworth Daily Conservative, Sept. 19 & 20, 1862.

3. Ibid., Sept. 30 & Oct. 1, 1862.

When the delegates assembled they found that eleven counties were represented, comprising about forty delegates. Samuel Stinson, it was reported, had been "omnipotent and omnipresent". He had moved the convention to unite with the Democrats. The motion had carried, yet in spite of it they had proceeded to nominate a full State ticket. W. R. Wagstaff of Miami was nominated Governor; J. J. Ingalls, Lieutenant Governor; M. J. Parrott, Congressman; James Humphries of Riley, Secretary of State; N. S. Goss of Woodson, Auditor; D. L. Lakin of Jefferson, Treasurer; Louis Carpenter of Douglas, Attorney General; E. D. Brown of Wyandotte, School Superintendent; E. S. Lowman of Douglas, Associate Justice and W. P. Gambell of Leavenworth, Chief Justice of the Supreme Court. It will be remembered that the Republican Convention had not nominated a candidate for this position at the time of its session. The Union ticket was made up of Republicans and Democrats. Wagstaff, Goss, Lakin and Gambell were Democrats, the rest were Republicans.¹ The Convention had been bitterly anti-Lane and rather feeble in defending Gov. Robinson.²

The Democratic party met in convention at Topeka, October 1, 1862. Very little is known of this convention. They nominated their own candidate for Congressman, William J. Mathias, otherwise they agreed to support the Union ticket.³ It was regretted by some that the Union Convention

1. Leavenworth Daily Conservative, Oct. 29, 1862.

2. Ibid., Sept. 30 & Oct. 1, 1862.

3. Ibid., Oct. 3, 1862.

had been so hasty and ill-considerate. It should have appointed a committee to consult with the Democratic party and formed a true Union party. It might have carried the entire Democratic vote of the State plus a large portion of the Conservative Republican vote, especially the anti-Lane element. It was felt by some people in Kansas, like in Ohio, Pennsylvania and other States, that the time had come for "the overthrow of the radical and destructive Republican party".¹

The campaign was hard fought although probably never doubtful. Charges of bribery were heaped against both sides. It appears that Senator Ingalls had been willing to sell his "birth-right for a mess of pottage". He was put on the defensive by Tom A. Osborne and Geo. Fairchild of Leavenworth.² It was while trying to defend himself as a loyal citizen of Atchison that he made the confession that he had been the friend of Pomeroy in the election of U.S. Senator in 1861; that he had done everything in his power to secure his election, "that if it had not been for his 'manoeuvring' when the vote was being taken, Mr. Parrott would have been Senator!"³ During the campaign, however, nobody's name appeared more frequently in the papers than that of Jim Lane. While not a candidate, he had probably reached the summit of his power and had become rather dogmatic as a result of it. He had branded the Union candidates

1. Ibid., Oct. 24, 1862.

2. Ibid., Oct. 9, 1862.

3. Leavenworth Daily Conservative, Oct. 9, 1862.

as rebels. In a speech at Atchison he had declared that the Republican ticket would be elected because "the Provost Marshall at Leavenworth had the names of six hundred sympathizers with treason already on his books, who would be prevented from voting an opposition ticket, and that the new regiments would also be back in the State on the day of election to see that everything went right".¹ This threat, whether it was meant to be taken seriously or not, together with the charges of bribery were used with telling effect against the Lanites. The Leavenworth Enquirer had put it rather sharply:

"Federal patronage has ever been a lever by which to influence the elections in Kansas since the days of the Shawnee Legislature, and the only difference manifest, perhaps, between now and then, is that such patronage has been reversed, and is at present in the hands of those who will use it equally unscrupulously, though to a different end. It is used now to perpetuate Lane's power in Kansas, and it has degraded our politics beyond that of any other State; and when the whole thing has been accomplished, when the ticket nominated by means as unfair as have ever disgraced any age or country has been placed before the people, the master spirit of that Convention, in feeble imitation of the celebrated coup d'etat of September, declares publicly that the people shall acquiesce in his decision, shall vote as he desires, thus placing in power officers not of their choosing, but forced upon them by a would-be Dictator.

"Who Constituted that Convention? Who crooked to Lane the pregnant hinges of the knee, that thrift might follow fawning? In every case men who had either received favors at the hand of Lane, or who looked for favors from him. Federal office holders or expectants, every one, licking the hand that had fed them, or humbly whining at the feet of the great man for the crumbs which his influence might scatter among the pack. The catalogue reveals this - their names are there."²

At another place the Enquirer wrote:

-
1. Manhattan Express, Oct. 4, 1862.
 2. The Daily Leavenworth Enquirer, Oct. 29, 1862.

"Lane was recruiting commissioner; his promise was looked upon as a certainty of commission in one or the other of the new regiments forming; and even the firmest adherents of the party are forced to acknowledge that in one regiment at least the officers, from Colonel down to Chaplain, were appointed from delegates, genuine, proxy and bogus, to that Convention."1

The statement of the editor is quite typical of the censure of Lane's methods. Very little criticism was cast against the Republican candidates, personally, except by implication. And yet, if they voted for the ticket they tacitly endorsed the method. In this respect the Manhattan paper no doubt had expressed the sentiment of a great many Kansans:

"The question is whether the wicked demoralizing scheme of Lane, for self aggrandizement shall be endorsed. Elect the ticket nominated by the corrupt purchase of votes at the convention and the State says amen to the most sickening crimes, while it encourages the corruptor to proceed in his course of iniquity."2

In spite of all that had been said and written, the Republican ticket was elected entire. Nothing less could be expected. It is only in the most exceptional cases that a bolter's ticket wins in the election. There are too many people that vote regular no matter what may happen that would ordinarily discourage the informed and thinking electorate. Furthermore, the people in Kansas were financially hard hit. This helped to make it easy for Lane to influence many voters with his promises. The result of the election showed that Thomas Carney had received 10,012 votes and Wagstaff 5,467, a choice of two to one. This vote was typical

1. Daily Leavenworth Enquirer, Oct. 29, 1862.

2. The Manhattan Express, Oct. 11, 1862.

of the election.¹ It shows that the big majority of the electorate had paid little if any attention to the candidate and had voted a straight ticket.

It has been mentioned that Chief Justice Ewing had resigned and had accepted the position as Colonel of the 11th Kansas Volunteer Regiment. The rumor that he had resigned was out before the election, even a day before the Republican Convention.² It seems that he had contemplated resigning the judgeship before the Republican Convention, and had informed the convention; but before it took action in the premises he had withdrawn the declaration. According to Sol Miller, Ewing had been afraid that he would not be commissioned if Governor Robinson had to do it and he was determined to hold on to one good thing until he was sure of another. Miller thought that "Ewing's confidential friends might have known he intended to resign but that did not constitute a resignation, which the Governor or State Board of Canvassers were bound to recognize". Thus by his failure to resign in time he had deprived the people of an election, and had secured the appointment of a man who was objectionable to many; for, Governor Robinson had appointed a Democrat, Nelson Cobb of Lawrence, to fill the vacancy.³ Judge Ewings' resignation was dated October 20, 1862, and appears to have been received by the Governor on the 28th of December.

1. Leavenworth Daily Conservative, Dec. 7, 1862.

2. Leavenworth Daily Conservative, Sept. 16, 1862.

3. White Cloud Chief, Feb. 5, 1863.

That same day Gov. Robinson had appointed Nelson Cobb as Chief Justice.¹

Both the Union and Republican parties had nominated a candidate for this office. The Union party had nominated Willard B. Gambell and the Republicans, John H. Watson.² The Republicans had nominated Watson since the convention. The election returns had favored Watson two to one, but the State canvassing committee had refused to canvass the votes cast for Chief Justice. The House had passed a concurrent resolution, directing the new board to canvass the vote, but the Senate had unanimously refused to concur, regarding it a judicial question.³ Both Cobb and Watson claimed the office. This brought the case before the State Supreme Court. It decided the case in favor of Nelson Cobb. According to the constitution the vacancy must "occur more than thirty days" before the regular election or else the Governor may fill the position by appointment. The court decided that the term "Regular election" should be interpreted to mean the "next election held conformable to established law".⁴ That settled the case because the vacancy had been announced officially less than thirty days before the election. Governor Robinson had followed his own personal inclinations in selecting the man for the position rather than the wishes of the people, and as usual he had

1. State Record, Jan. 7, 1863.

2. Leavenworth Daily Conservative, Dec. 7, 1862.

3. White Cloud Chief, Feb. 5, 1862.

4. The State ex rel., v. Cobb, 2 K, 49.

the law on his side.

The newly elected Governor, Thomas Carney, had been a merchant in Leavenworth, Kansas. At the time of his election he was but a young man of thirty-eight years. He had been born and raised in Ohio. In 1857, he, together with Thomas C. Stevens had started a wholesale grocery store in Leavenworth. In a few years it had developed into a prosperous business. By 1862 it included two extensive warehouses and an extensive store at the Sac and Fox agency. Their yearly sales amounted to more than five hundred thousand dollars.¹ The store was advertised as doing an extensive business in Kansas, Colorado, New Mexico and Nebraska, and being without a competitor west of the Mississippi River.² At the time he was elected Governor, Thomas Carney was serving as State Representative. He was a man of business ability, but had been sponsored by Gen. Lane in the campaign of 1862.

The newly elected State officers assumed the functions of the State government Monday, the 12th of January, 1863. It was done without any ceremonial formalities. Governor Robinson had frowned on the idea of a public inauguration.³ On the 14th instant, Governor Carney read his message to the Legislature, sitting in joint convention. It was an able, but lengthy document. Nationally speaking, he favored an energetic and thorough prosecution of the war, and the

1. Leavenworth Daily Conservative, Jan. 19, 1862.

2. Ibid., Aug. 29, 1862.

3. Ibid., Jan. 13, 1863.

Emancipation Proclamation. He informed his fellow Kansans that with a population of only 107,000 they had organized thirteen regiments. "We have mustered", he said, "more men to combat Rebellion than any loyal State in the Union. This has been done at immense sacrifice. Many of our families have been left almost destitute. ... In many instances the faithful mother, and in some instances only children have been left to attend to the household and farm". It was a tragic fact. He asked the Legislature to make appropriations for the relief of soldiers' families, sick and wounded volunteers.

The Governor gave careful attention to the finances of the State. He reminded the Legislature of the unfulfilled contract with the Secretary of Interior, calling for \$54,400 seven per cent bonds which were in the hands of the people, and said that the Secretary of Interior had agreed to receive enough of a new issue to make good the contract, provided the State would "affirm by law the act of its former agent."

The agricultural and educational interests were carefully considered. He encouraged the multiplication of small farms. It would make the State surer, more stable, and progressive. He reminded the Legislature of the fact that the State had not received its full share of school lands, because the previous grants had not taken into consideration the Indian Territory, embracing 9,986,441 acres. Out of this Kansas should have received 664,478 acres for

schools, other states had received a proportionate number. He also made mention of the fact that the Federal Act of September 4, 1841 had appropriated 500,000 acres for internal improvements to each state but that the constitution of Kansas had diverted it to the support of common schools. He asked the Legislature to determine to which fund the 500,000 acres should go, internal improvements or education. He expressed great concern that the Legislature should guard well the educational interests of the State. "Better straightened means than a starved intellect. Better poverty of purse than poverty of heart." He reminded the Legislature of the recent Morrill Act passed by Congress, and asked them to take advantage of it. He upheld the constitution in its prohibition that the State should "never be a party in carrying on any works of internal improvements", but smiled when he said it, wrote Sol Miller.¹ It evidently had reminded him of his own inconsistency for he had sponsored the bridge bill only the previous session. He recommended that the State complete the construction of the railroad from Weston to Fort Leavenworth, the wagon road from Fort Leavenworth to Fort Scott and south from Fort Leavenworth to Fort Union, via Riley, Larned and Lyon; from Fort Leavenworth to Fort Laramie and West. He supported the construction of the Pacific Railroad and asked the Legislature to inaugurate a State railroad system that would connect up with the Federal road.

1. White Cloud Chief, Jan. 22, 1863.

He gave attention to the disorders within the State and declared that the laws should be maintained and enforced; lawless bands dispersed, and raids and robberies suppressed. Much of the land of the State was still in the hands of the Indians. He favored the extinction of Indian titles. He called attention to the fact that of the 2,273 townships within the State, only 765 had been surveyed; including 141 townships of Indian lands. This still left 1,508 townships within the State unsurveyed. All the insurance within the State had been contracted for by foreign insurance companies who were getting State protection without paying any taxes. He asked the Legislature to tax property of the companies within the State. He reminded the Legislature of the Territorial claims incurred during the Civil War and asked them to petition Congress to pay them. Last but not least, he advocated the importance of general laws. "Let counties, townships, and cities have home rule".¹ Governor Carney had made a careful study of the conditions of the State and his message therefore has historical value.

Mr. Asa Hairgrove had been elected State Auditor. He was the sole survivor of the Maria de Cygnes massacre of May, 1858.² In January of 1863 he and the newly elected Treasurer, William Spriggs, reported that the Territorial indebtedness was about \$80,000 including estimated interests; and the State indebtedness, without interest or warrants, was

1. Public Documents, 1862, pp. 5-24.

2. White Cloud Chief, Oct. 23, 1862.

about \$194,000, a total debt of \$274,000. Of this sum \$86,200 would come due in July 1863. To pay it there were the delinquent taxes of 1861 and 1862, amounting to \$132,000, the amount to be realized on the sale of the \$31,000 bonds, plus the delinquent Territorial taxes; but, if the Secretary of Interior did not release the State from the Stevens contract, then the State would have to issue \$54,400 more of the seven per cent bonds to complete the contract. This would increase the indebtedness of the State by that amount.¹ Added to this, the State would have to make appropriations for the expenses of the current year.

The bond question, involving Stevens and the Department of Interior, was considered by the Legislature in late February and early March. It passed the bill given in considerable detail in the previous chapter. The bill provided for an issue of \$54,400 of seven per cent bonds with coupons attached, and ratified that part of the contract already completed by Stevens, with strings attached.² The bill was vigorously fought and protested by nine State Senators, including F. P. Fitzwilliam, Sol Miller, James McGrew, F. W. Potter and Thomas H. Baker. They reasoned that the new issue was unnecessary. The State could get along nicely without it.³ Sol Miller was concerned about the integrity of the Legislators, and that of the Governor. He wrote:

1. Leavenworth Daily Conservative, Feb. 5, 1863.

2. See Chapter IX, p. 447.

3. White Cloud Chief, Mar. 19, 1863.

"There is one singular fact connected with this fight. Men who were elected on tickets in opposition to the regular State ticket, and some here soured against the State Administration, have become the most uncompromising champions of this Administration pet measure; and, as a curious coincidence, have all been appointed members of the Governor's 'Staff', with the rank of Colonel and Lieut.-Colonel. These are officers of no emolument, and precious little honor."¹

Whether the Governor had followed in Gen'l Lane's footsteps remains unknown. That he was willing to take financial advantages of the position he held, is apparent.

It will be remembered that the bill providing for the new issue of bonds authorized the Governor to sell them. This he did, at 95½ cents par value. That was well done. The Governor had not forgotten, however, that the new issue of \$54,400 in bonds had left an equal amount of bonds in the hands of private individuals to be speculated with. While he was in Washington, in March and April of 1863, negotiating the new issue of State bonds, he was reminded of the bonds in the hands of private individuals. So keenly did he feel the advantage of his position that he wrote a letter to J. L. McDowell of Leavenworth advising him to purchase the bonds. The letter is labeled "Strictly confidential". It bears the date of April 19, 1863 and reads as follows:

"I understand that there are some of our State Bonds held by private individuals that no doubt can be bought at from 70 to 80 ¢. If you can buy any at that price you will do well. I would not let them pass even at 85 cts. You will also find State Scrip a good thing at same prices. If you can find enough to buy more than you have funds for call on my partner for the money and I will divide the profit with you. I will say this to you, the scrip will be

1. Ibid., Mar. 5, 1863.

paid soon, and I can sell the bonds at from 93 to 95¢ in New York so that you can at a glance see what you can do provided you can get either. I hope you will succeed in making some money, as you can do so as well as not.

"What you do will have to be done quickly as I will be home soon and suffice it to say that I hope to put the State on a cash basis, as I shall succeed to my satisfaction financially. All of which please keep strictly to yourself.

"Don't want any one to know about matters until I get home and get ready. Suffice it to say I have beat the protest. I enclose an order on Stevens for some funds, should you need some. ... Remember every word here is in the strictest confidence.

Thos. Carney.

P.S.

"From the correspondence I see published in Kansas papers should think you could buy both scrip and bonds cash. I mean between Usher and Stevens." 1

Had it just dawned upon the Governor while in Washington that those seven per cent bonds in the hands of private individuals would be available for speculation if the new issue was authorized by the Legislature, or was he already aware of this when he recommended the measure to the Legislature? In the light of Sol Miller's statement and the Governor's own letter, it looks very suspicious. To this must be added the Governor's interest in seeing the measure through. These facts point to the conclusion that Thomas Carney had merely discovered a more subtle way of cheating the State and its citizens out of money in order to line his own pockets, and those of his friends than the first administration. It is hoped that the indictment is not too severe.

An act to fund the Territorial debt was passed by the Legislature and approved by the Governor the 20th of

1. J. L. McDowell Papers, "Gov. Carney to McDowell", April 19, 1863.

February, 1863. It provided that any person having Territorial warrants issued by the Auditor or Comptroller upon the Territorial Treasurer, could present them to the State Treasurer and receive State bonds for the same. The act, however, did not recognize any certificates, warrants, or bonds issued under the acts of February 7 and 11, 1859.¹ This act was introduced to settle the long pending, outstanding Territorial claims.

Already during Governor Robinson's administration an effort had been made by certain members of the Legislature to involve the State in works of internal improvements. In spite of the fact that the State Constitution had stipulated that the State should never be a party to such works. The bill had been introduced and sponsored by Thomas Carney and his Leavenworth friends. Originally the bill had provided for the construction of two bridges across the Kansas river at a cost of \$150,000. Technically speaking, the State was not to become a party to the work, but it was to lend its credit to make the construction financially possible. Sol Miller wrote that it evidently was the memory of this bill that had caused the Governor to smile when he advised the Legislature that the State should never be a party in carrying on works of internal improvements.² This measure had failed in the Legislature of 1862 by one vote.³ The following year a similar, yet different measure appeared

1. State Record, Mar. 4, 1863.

2. See p. 463 of this chapter.

3. White Cloud Chief, Sept. 4, 1862.

in the Legislature. It provided for the building of three bridges over the Kaw river - one at Topeka, one at Lawrence, and one at De Soto, Johnson County. To help finance this measure another part of the State Constitution was drawn into the question. According to the Federal act of 1841, Kansas was entitled to five hundred thousand acres of land to be used for internal improvements. The State Constitutional Convention, in the ordinance, had declared that such lands should be applied to the support of common schools. Governor Carney in his message to the Legislature had asked the State to determine to which funds these five hundred thousand acres should go, - internal improvement or school. He asked the Legislature to memorialize Congress on the question. The Governor's wishes in the case were well known.¹ The Legislature complied with the request and passed a resolution to this effect. Then without awaiting the action of Congress they framed the above mentioned bill donating 150,000 acres of this land, valued at one dollar per acre, for the building of the three bridges. Amendments followed in rapid succession which provided for the construction of more bridges until finally the measure included any bridge in the State costing a thousand dollars and upwards. This was done to manipulate Senators. In the end the only hope of the opponents of the bill lay in resorting to filibustering, but it was brought to a vote in spite of it. Finally the Lieut. Governor cast the deciding vote in

1. Public Documents, 1862, pp. 5 - 24. Also White Cloud Chief, Apr. 2, 1863.

favor of the Constitution and the school fund. This happened on the last day of the legislative session. Thus twice had Thomas Carney resorted to local legislation, the Constitution to the contrary notwithstanding, and twice he had failed in the effort by a margin of but one vote.

Other important laws had been enacted during Governor Carney's administration. The legal rate of interest had been fixed at Seven per cent, with twelve per cent on special contracts.¹ This was quite a change from the Territorial days of 1860 when the interest rates reached the unprecedented height of sixty per cent. The Legislature had also accepted the provisions of Congress donating public lands to provide colleges with funds for the benefit of agriculture and mechanic arts. In keeping with this provision the Legislature voted to establish a State Agricultural College at Manhattan, February 19, 1863. Two days later it located the State University at Lawrence, Kansas. On the 25th, instant, they located the State Penitentiary at Leavenworth, which was later shifted to Lansing, Kansas. Another act was passed during the Administration which provided for the custody of the State Law Library. No State Capitol buildings had as yet been established. The Territorial government had spent fifty thousand dollars for this purpose but there were no buildings to show for it. The money had been squandered. The State Legislature, therefore, passed an act to procure temporary capitol buildings.² In this

1. White Cloud Chief, Mar. 5, 1863.

2. Kansas State Record, Feb. 25 & Mar. 11, 1863.

manner the Administration under Governor Carney continued the work of establishing and locating State Institutions, State buildings, and State roads started during Governor Robinson's administration.

The question arose as to who should control the State patronage, the Governor or General Lane; Thomas Carney, like Governor Robinson, had trouble with the General. Lane was too ambitious. He had no sense of propriety. He knew no limits. He would interfere with anybody's business if by it he could get what he wanted. Already in March of 1863 Governor Carney complained to McDowell about Lane "promising everything", and remarked, "all of which you and I understand".¹ Later Governor Robinson wrote that by 1864 Lane's pretensions had become so unbearable to the Kansas authorities that Governor Carney had gone to Washington to protest against it. It appears that at this stage of the game the secret of Lane's power in Washington had rested with the Secretary of War, Stanton, at least in part. Thus wrote Governor Robinson:

"After an interview with Lincoln he [Carney] went to Secretary Stanton, bearing a letter from the President suggesting that the Governor of Kansas should be treated like other Governors. Stanton tore the letter up, saying angrily: 'Tell the President that I am Secretary of War.' Carney turned away but before he left the building the Secretary sent after him and a long interview ended in the extinction of Lane's extraordinary powers."

No doubt the best days for the General had passed. Two years later the papers reported his tragic end. His bitter opponent wrote that his suicide was in no way due to his political

1. Carney to McDowell, March 27, 1863. McDowell Papers.

quarrels, for he had become reconciled to Carney, and his public position was secure. Certain dishonorable proceedings on his part, in connection with Indian traders, however, had become known. When he failed to exculpate himself, and the President had refused to give him a foreign appointment as a means of escape, he put a pistol into his mouth and discharged it. He died from the self-inflicted wound ten days later, July 10, 1866.¹

The Lawrence Massacre also occurred during Governor Carney's administration. It happened on the 21st of August, 1863. The sun had not yet risen when Quantrell with a band of about three hundred cavalry entered the town. As they approached the river by Massachusetts street and the streets east and west of it, they roused the citizens with a furious shout. As the bewildered citizens rushed on the scene to learn what was happening the "bushwhackers" shot them down in cold blood. Thus started the massacre, which was followed by plunder and burning of hotels, stores and dwellings. The surprise for the citizens of Lawrence was so complete that it was utterly impossible to undertake anything whatever for their defense. The arms of the town were in the armory of which the enemy had taken possession. The few who heroically ran out with their guns, were quickly murdered, wrote William Kempf, an eyewitness and attache of the Provost Marshall's office. In fact, all who showed themselves during the first half hour met with the same

1. Robinson, Kansas Conflict. Chap. 18, p. 29 (Orig. MSS).

fate. Germans and Negroes when caught were shot down immediately. The whole town was guarded by guerrillas, the hills above as well as the woods below the town. It was impossible for persons living on the outskirts of the town to make their escape. After Quantrell's men had spread over town they commenced to plunder and burn the buildings in a most deliberate manner. They opened safes, blew them up by powder, chiseled or broke them open; in several instances they even sent messengers to private residences demanding the keys for the money chambers in the stores. Public and private places were ransacked and everything of value carried away. The inmates of the Eldridge Hotel were roused by somebody violently beating the gong. When they assembled in the hall it was discovered that not a weapon was in the house.¹ Captain Banks and R. S. Stevens were guests of the hotel. When they realized their position they decided to surrender. They waved a white sheet from the balcony and asked for Quantrell. Mrs. Charles Robinson wrote that it was R. S. Stevens who had arranged with Quantrell to save the lives of the inmates of the hotel. Several years prior to this Stevens had won the case for Quantrell while the latter was held in Lawrence on a charge for horse stealing. Quantrell evidently remembered the case and ordered the inmates to the Whitney House where they were kept as prisoners. This

1. Wm. Kempf, "The Lawrence Massacre", in Kansas Weekly Tribune, Aug. 27, 1863. This number also contains several other accounts of the Massacre.

House was kept by a Mr. Stone, who had befriended Quantrell during his stay in Lawrence. Quantrell had remembered the kindness of Mr. Stone and had ordered his men to save the building.¹ These facts indicate that Quantrell still possessed some traits of human kindness.

The town was burned to ashes. The hotels were all destroyed except the City Hotel. The Mansion House was the first to be set on fire. They had expected to surprise a number of Red Legs there, but were disappointed in finding only one, and even he escaped. The offices of the Journal, Tribune and Republican were leveled to the ground. All the business houses were burned except the Eldridge store. It was located in the "Miller Block". The Armory too had been saved. The Court House had been set afire at about seven o'clock. The books of the County and District Clerks were burned, but those of the Register of Deeds had been placed in the safe, and are supposed to have been saved.² About one hundred and twenty-five houses had been burned and only a few escaped being ransacked. The total loss due to fire, plunder, and theft was estimated at \$2,000,000. The loss in money alone was \$250,000.³

The loss in human lives was enormous. The estimate was 150 dead. Many were burned to death. Among the dead were some prominent citizens of Lawrence, also some

1. Robinson Collections. Personal Recollections of Mrs. S. T. D. Robinson of the Quantrell Raid of Aug. 21, 1863.
 2. Kansas Weekly Tribune, Aug. 27, 1863.
 3. Ibid.

guests who had visited in the town. John Speer, Jr. had been killed while defending his house. James Eldridge and James Prince of the Eldridge store had been shot after they had handed over the money to the murderers. Samuel Jones, a blacksmith was shot down at his anvil. Messrs. Trask, Dr. Griswold, Baker, and Thorp were killed in the yard of Dr. Griswold before the eyes of their families. George Carpenter fell a victim to the murderers in spite of the efforts of his wife and sister to save him. General Collamore had gone into the well to hide and the bad air had killed him. The "Bushwhackers" had also planned to kill Gen'l Lane. They had put a Lawrence citizen on a horse and commanded him to lead them to Lane's house on penalty of death. But Gen'l Lane had escaped into a ravine from his back door. Several shots had been fired after him but without results.¹

Several cases of remarkable bravery of women had been reported. The wife of the District Attorney, Mrs. J. R. Riggs, had saved the life of her husband by seizing the bridle of the guerilla's horse while he attempted to follow and shoot Mr. Riggs. The wife of Sheriff Brown three times quenched the fire kindled to burn their house. Her husband was hiding under the floor of the house.

Although most pathways of escape had been well guarded, many men, women and children had found shelter and protection near the river bank among the thickets of grape

1. Kansas Weekly Tribune, Aug. 27, 1863.

vines and all manner of under growth.¹ Here they waited in fear and anguish the hour when the savages would leave. Among them were those whose hearts would be broken, mourning the death of the father, husband, brother or some member of the family, and the house probably in ruins. Shortly before ten o'clock Quantrell and his guerrillas left with their loot and about 100 stolen horses, murdering and plundering as they entered the country. The massacre and looting had lasted about five hours. They left Lawrence via the Santa Fe road. When they came to Brooklyn they burned the little town, then pushed off to the West of Prairie City and down the Ossawatimie road to Paola. They crossed Bull Creek at Rock Ford and marched into the bottom lands where the grass was high. Here they camped near a little lake until shortly after midnight when they crossed over the boundary into Missouri. Gen. Lane had gathered about sixty men and gone in pursuit of Quantrell. He was soon joined by the forces of Major Plumb. They were unable to inflict a great deal of punishment on the enemy, except to harass the enemy's rear. Nevertheless, they reported that Quantrell had lost some thirty men during his retreat.² Moreover, the pursuit probably kept Quantrell from destroying Prairie City and Ossawatimie. A certain Mr. Bois of Lawrence, who had been taken prisoner by Quantrell and carried away to Missouri, later reported that Quantrell had planned to destroy Ossawatimie too,

1. Ibid.

2. State Record, Sept. 2, 1863.

but had been crowded by his pursuers and forced to give it up.¹

Just what had prompted Quantrell to commit this outrage is not easy to get at. It appears to have climaxed the Jayhawking or Kansas-Missouri raids. It might have been a mere desire for plunder, money and horses; or a hatred for the anti-slavery men; or a desire to avenge some wrongs inflicted on him while in Lawrence. Any one of these and other desires might have motivated him to action. Quantrell had lived in Cumberland, Maryland before he came to Kansas. While in this state he had attempted to kill his wife, according to one report. The act had caused him to flee to Kansas.² He had landed in Miami county during the Civil War days. Here he taught school for several terms in the Stanton district, and gave satisfaction to the patrons of the district. The certificate to teach had been granted him by one Abraham Ellis, whom he later wounded in a raid. When he discovered it was Ellis whom he had shot he is reported to have said, "I'm d----d sorry".³ Later he gave up teaching and joined the John Brown band operating along the Kansas-Missouri border. Things turned from bad to worse. In 1860

-
1. Ibid. While camping among the Missouri timbers Bois had spied a powerful brown, all saddled but without a rider. He stole onto it and darted away into the bushes and joined the Federal forces not far off in pursuit of Quantrell.
 2. Kansas State Record, Sept. 9, 1863.
 3. Ballard, D. E., "The First State Legislature", Trans. K.S.H.S., X, p. 247.

he betrayed four or five young men, with whom he had been operating along the border, to a Mr. Walker of Jackson county, Missouri. This resulted in death to all of them except a Mr. Dean from Lawrence. Since then he had lived in Lawrence, Kansas with a Mr. Stone who kept the Whitney House. While here he went under the assumed name of Charley Hart, and, in plain English, his occupation was that of a horse thief. It was during this time that R. S. Stevens, at the time a lawyer in Leocompton, had fought his case and had won it for him.¹ After this he espoused the cause of rebellion and went to Missouri, where he took up the pursuit of "bushwhacking".² Here he won followers and in 1862 invaded Kansas to sack. In 1863 he returned to Lawrence to perpetrate the horrible massacre just related. His is not a very enviable record.

It was believed by some citizens of Lawrence that some Kansans had known about Quantrell's plans to destroy the city. They had failed, however, to warn the people of Lawrence. It was Mrs. Robinson who objected to Mr. Cordley's statement that no warning had been given of Quantrell's coming. She wrote that a letter had been given to Mayor Collamore that "Quantrell was coming at the light of the moon". Furthermore, she wrote that Major Plumb, stationed at the Kansas-Missouri border with some 250 troops, had known of Quantrell's coming, and that Capt. A. D. Phillips, a sutler

1. Robinson Collection. Personal Recollections of Mrs. S. T. D. Robinson of Quantrell's Raid, Aug. 21, 1863.
 2. Kans. State Record, Sept. 9, 1863.

under Plumb, had wanted to warn the people of Lawrence, but that Major Plumb had kept him from it.¹ She also reported that Quantrell had been escorted out of the State, after the massacre, by Major Plumb and others in the garb of United States soldiers.²

The event naturally caused great consternation among the people of Kansas. Gen. Lane, who was always ready with a solution would not fail this time. A week after the massacre he addressed a large gathering at Leavenworth, and in a stirring speech urged them to avenge the bloodshed. "I will tell you what I want to see", he shouted. "I want to see every foot of ground in Jackson, Cass, and Bates counties burned over - everything laid waste. Then we shall have no further trouble. The bushwhackers cannot then remain in the country for they will have nobody to feed them".³ To clear himself from all suspicions he continued:

"Do you suppose your humble speaker would have been asleep in his own house if he had believed there was danger? No; I would have had a company of men ready to whip the murderers to their satisfaction, as soon as they entered Kansas. We relied on the military authorities for protection."⁴

Lane blamed the massacre on to the "conservative polity of Schofield", and asked for a resolution to remove him and place a man of heart and determination in his stead. The object of Schofield's policy, Lane said, was "to Restore

-
1. Robinson Collection. Mrs. Robinson to Miss Congill, Aug. 5, 1904.
 2. Personal Recollections of Mrs. Robinson. Among the Robinson Collections.
 3. State Record, Sept. 2, 1863.
 4. Ibid.

slavery." He then took advantage of the occasion to campaign for his re-election. He declared himself in favor of the Union without slavery. "If you wish a Senator who will vote for peace while a shackle remains upon the limb of a single slave", he shouted, "then look around for some one besides Jim Lane".

Before he closed his harangue he once more appealed to the people's sentiments, and tried to arouse them to action:

"I repeat here that for self preservation, there shall be extermination of the first tier of counties in Missouri, and if that won't secure us, then the second and third tiers, and tier on tier until we are secure."¹

His words were greeted with uproarous cheers. And before the people adjourned they had passed resolutions in support of his suggestions. A resolution was passed to remove Schofield and another one calling for action to revenge the massacre. As many loyal men as could be spared were asked to meet at Paola on the 8th of September with arms, amunition and provisions to last fifteen days. Thus one raid led to another, and peace and prosperity were still a thing of the future.

Another event of interest occurred during Governor Carney's administration. It was the untimely election of United States Senators held in Kansas the 11th of February, 1864. Senator Lane's term was to expire the 4th of March, 1865, but an election was held in the State Legislature to fill this vacancy more than a year before the term expired.

1. Ibid.

This was unprecedented in the annals of the United States. It is merely another incident to show how politically minded the Kansas people were in the early stages of Kansas history. The credit for having originated the idea must rest either with Senator Lane or Senator Pomeroy. Secretary Samuel P. Chase's name has also been connected with it. Ward Burlingame charged it to the credit of Chase as an act of revenge upon Jim Lane who had betrayed his presidential aspirations, but it seems too early for that. Thomas Carney attributed it to Senator Pomeroy, while others give the credit to Gen'l Lane. Whoever originated the idea, suffice it to say that Senator Pomeroy supported it and Governor Carney was drawn into it. It is supposed to have happened in this way. Gen'l Lane had taken pains to canvass the question with the State Senate elected in 1862 and holding over. If that body was right politically he would manage to carry the House at the elections in 1863. After the fall elections of 1863 he discovered, however, that both branches of the Legislature were unfriendly to him, and he abandoned the idea and denounced it a fraud.

In the fall of 1863 while Thomas Carney was in Washington he had dinner at Secretary Chase's house. While there the Secretary and other prominent men it is reported, had pleaded with the Governor to accept an election by the State Legislature to convene the following winter. The Governor had argued against it, but the others had tried to convince him that in the absence of any positive law to the

contrary it was as proper as any other time. Nothing definite, however, came out of this meeting.

The preparations for the election were continued, nevertheless, and were well under way when the Legislature convened. Governor Carney, however, had not yet decided to run. Then one day, at the beginning of February, Judge Horton arrived in Topeka with a letter from Senator Pomeroy. The letter brought the information that a caucus of the leading Republican Senators had been held in Washington. Senators Wade, Chandler, Sherman and others had been present. These men had expressed the desire that Governor Carney should accept the election to be held by the Legislature in 1864. Moreover, they had pledged to sustain him against any other man who might be elected by the succeeding legislature. This decided the question for the Governor. He decided to run and was elected United States Senator February 11, 1864.

When the news of the election reached Senator Pomeroy, he wrote a letter to the Governor congratulating him on his success and added these words: "The next Legislature will, no doubt, ratify the election of the present one, thus giving you the seat beyond question." The Governor was stunned. He failed to understand the meaning of it all, and left for Washington. While there he soon learned that what Senator Pomeroy had written him about the Republican caucus and the pledge of the Senators to sustain him was untrue and that he had been greatly deceived. On the contrary the Senators had expressed surprise at the idea and remarked that

if such a course would be followed it would jeopardize their positions, for if it were permitted, their own seats could be taken away from them without notice or warning. The letter had been fabricated by Pomeroy "out of the whole cloth". It was reported that Senator Pomeroy had been prompted to do it out of a desire to get rid of Lane, because he had more influence with the administration in Washington than Pomeroy. After thinking it over, however, he had changed his mind for fear that a Senator from Leavenworth would jeopardize the success of his own election, and had backed squarely out of his position.¹ When Governor Carney learned of the facts in the case he made no attempt to claim the position under the election of 1864.

This event brings to a close the Thomas Carney administration. This chapter is not to be regarded a history of the second administration. It has been inserted to round out and give a clearer picture of the troublesome period. Both administrations were disturbed by war, raids, factions and frontier problems. These facts must be associated with the history of this period in order to understand the strain to which the Kansas people were subjected. Only in this light are their actions understood. It is surprising that they accomplished as much as they did under such unfavorable circumstances. An evaluation of the period, however, will be made in the closing chapter.

1. "The Commonwealth, April 13, 1879", In Kansas Legislative Clippings, I & II.

CHAPTER XI.

What Was Accomplished.

This chapter aims to supplement rather than summarize the preceding chapters. It will treat the various fields of endeavor in a three-fold manner. In the first place it will summarize the constitutional provisions pertaining to each field, next will follow a brief discussion of the legislative enactments, and finally an attempt will be made to describe the conditions as they existed in practice. The fields that will be discussed are: The religious, the cultural, the social, the economic, and the political. If the topic has been discussed elsewhere a brief summary statement may be made.

The State constitution had provided for religious liberty. In the Bill of Rights it had provided that no preference should be given by law to any religious establishment or mode of worship, nor should a person's religion be made a test for any office of public trust, for any vote at elections, or render his testimony incompetent in court. It had provided for religious exemption from military service. It had also provided for the incorporation of religious organizations and stipulated that all property of these organizations should be vested in trustees elected by members of such corporations. Moreover, all property used exclusively for religious purposes was to be exempt from taxation.

The State Legislature of 1862 had observed the

tax exemption clause and exempted houses of public worship and lots, pews, furniture, parsonage, burial grounds, etc. from taxation.¹ The Court had interpreted the constitution to mean, however, that a dwelling owned by a church, used exclusively as residence, was not exempt from taxation.² The same Legislature had defined the powers of the board of trustees in the religious organization and provided for its perpetuation by election.³ The Militia Act of 1861 provided that "any person having conscientious scruples against bearing arms and who shall annually on or before the first day of May pay the County Treasurer \$5.00" should be exempted from militia service.⁴

The Civil War had not made for a tolerant church in Kansas. The division in the churches, which in some cases had existed before the war, was greatly accentuated. The Methodist Church South was finally forced to close its doors, and many of the members left the State.⁵ Hatred, rather than the christian spirit of love and forbearance too often prevailed against those who were members of the Southern division.

Ample provision had been made for the development

-
1. Compiled Laws of Kansas, 1862, pp. 874-881.
 2. Case of Vail v. Beach 10 Kansas 214.
 3. Compiled Laws Op. Cit., p. 383.
 4. Compiled Laws of Kansas, 1862, pp. 699-718.
 5. Spencer, Rev. Jacob, "The Methodist Episcopal Church, South, in Kansas 1854-1906". Col. K.S.H.S. XII pp. 147-154. Rev. Spencer's church was the only one that remained open during the Civil War period.

of education in the State constitution. In the Ordinance the Wyandotte Convention had set aside sections 16 and 36 in each township of the State, including Indian reservations and trust lands. The 500,000 acres of land granted new States under an Act of Congress in 1841 was also set aside for education under Article 6 of the Constitution. Moreover, it had provided that 5 per centum of the proceeds of the sale of public lands should be paid to the State for a fund, the income of which should be used for the support of common schools. All this land, the proceeds, and the income thereof were made the common property of the State, a perpetual school fund, which should not be diminished, "but the interest of which together with all the rents of the lands, and such other means as the Legislature may provide, by tax or otherwise", should be inviolably appropriated to the support of common schools. In addition, all miscellaneous fees derived from exemptions from military duty, clear proceeds of estrays, fees for breach of penal laws should be used to support the common schools, but were to be applied in the county where the money was collected. The Ordinance had also set aside 72 sections of land for the maintenance of a State University, which, together with all other grants, donations or bequests, and all funds arising therefrom should be the University fund. The constitution had also provided for the regulation of the use of these resources. The school lands should not be sold unless authorized by a vote of the people at a general election, and the land had to be re-

valuated every five years. Moreover, the school funds were to be perpetual and could not be diminished. The common school funds and the educational interests of the State were placed under the supervision of a State Superintendent of Public Instruction. The Legislature was to promote intellectual, moral, scientific, and agricultural education in the lower, middle and upper brackets, with equal opportunity for both sexes. It was to protect the schools against sectarian control and preserve the freedom of the press.

Congress, in the act of admission, had stipulated that the act "should not be construed as an assent by Congress to all or any of the propositions or claims contained in the ordinance ... or in the resolutions." It proceeded to enumerate its concessions, viz: Sections 16 and 36 described elsewhere, 72 sections for the State University, and five per cent of the proceeds of public lands to be paid to the State for public roads, internal improvements or for other purposes, as the Legislature might direct. The grants were made on the condition that the State would not interfere with or tax the lands or property of the United States.¹

In 1862 the Legislature, by joint resolution, accepted the conditions of the grants.² Already on the 3rd of June, 1861, however, the Legislature had authorized the Governor to select the lands granted to the State and secure the titles.³ In his message to the Legislature, January 15,

1. Compiled Laws of Kansas, 1862, pp. 76-77

2. Ibid. p. 84.

3. Gen. Laws of Kansas, 1861, p. 164.

1862 Gov. Robinson reported that the lands "donated by the Ordinance of Admission" had been selected.¹ In the minds of some Kansans, however, there remained the question of whether the 500,000 acres given to the State under Act of Congress in 1841 should be used as a school fund or for purposes of internal improvement. Gov. Carney asked the Legislature to memorialize Congress on this subject. No answer has been discovered except that the United States Attorney General refused to commit himself on the question.² In 1866 the State Legislature provided, however, that the 500,000 acres should be set apart to be sold for the benefit of the Northern Kansas Railroad Company, the Kansas and Neosho Valley Railroad Company, the Southern Branch of the Union Pacific Railway and the Leavenworth, Lawrence and Fort Gibson Railroad Company.³ These roads led through settled territory and were compensated for their loss in this way. The common school fund was thereby deprived of much of its income. In spite of the fact that the constitution had included this land in the common school fund it appears that the question was never contested in the courts.

The Legislature protected the school lands against trespassing by making it a misdemeanor to cut trees off the lands.⁴ In the same year, 1861, it provided for the management and investment of the State school and University funds.

1. Daily State Record, Jan. 17, 1862.

2. State Record, Jan. 14, 1863.

3. Gen. Statutes of Kansas, 1868, p. 839.

4. Compiled Laws of Kansas, 1862, p. 895.

In accordance with the constitution it made the State Superintendent, the Secretary of State, and the Attorney General a board of commissioners to supervise over the school funds, and prescribed the regulations under which they could make investments. Loans to citizens were limited from \$100 to \$1,000 at a rate of interest not to exceed five per cent. The borrower had to give real estate as security.¹ The first State Legislature had also passed an act providing for the regulation and support of common schools. Although the act has been mentioned elsewhere, it should be added that the State Superintendent was to apportion the school money among the several counties in proportion to the number of children in each between the ages of 5 and 21. Several interesting provisions were found in Article three of the act, providing for school districts. In the first place the voters at the annual district meeting were authorized "to make such orders as they deemed proper for the separate education of white and colored children, securing to them equal educational advantages".² This was changed in 1867 when the Legislature passed an act which provided that "any district board refusing the admission of any children into the common school, shall forfeit to the county the sum of \$100 each for every month so offending during which such schools are taught." This money should be used to educate those children deprived of it by the county.³ Article three in the act of 1861 also

1. *Ibid.*, pp. 572-575.

2. Compiled Laws of Kansas, 1862, pp. 807-8.

3. Gen. Statutes of Kansas, 1868, p. 937.

granted white female persons over the age of 21 the right to vote in school elections provided they were not disqualified by Section 2 Article V of the State constitution. It also gave the voters in the district the authority to determine the length of the school year, provided it was not less than three months, also whether the school should be taught by a male or a female. An act of 1861 made it lawful for medical school professors to use bodies of condemned criminals for the purpose of medical and surgical study, provided they were unclaimed and had not expressed a desire before death to be buried.¹ The following year an appropriation of \$500 was voted by the Legislature for the education of deaf and dumb children. Professor P. A. Emery was carrying on this work.²

Although the Legislature had provided for the education of the youth the disturbed conditions in the State had greatly hindered the work. On the 31st of December, 1861, the State Superintendent, W. R. Griffith, reported that of the 32 counties organized only 12 had reported and none of them had sent in a complete report. In some of the border counties no effort had been made to organize school districts, while in other counties the work of organization had just begun. Only 66 districts had reported the first year with a total of 2,197 pupils enrolled in public schools and 175 in private schools. In the 12 counties 148 districts

1. Compiled Laws, 1862, pp. 821-22.

2. Ibid., p. 95.

had failed to report. Douglas county had reported 128 in the primary department, 110 in the grammar school, 79 in high school and 60 in Baker University.¹

The report of the second year was more encouraging. It was made on the 3rd of January, 1863, by Superintendent S. M. Torp, who had been appointed by Gov. Robinson to complete the unexpired term of Mr. Griffith. He reported a total enrollment of 11,010 students; 8,593 were attending district school, 987 select school, 1,010 graded school and 420 college. The average length of the school term was three months and the salary of teachers varied from \$13 to \$20 per month. The financial support for the school was derived from direct taxes or private subscriptions.²

On the 10th of August, 1863, Superintendent Isaac T. Goodnow reported that the "number of district schools this year will be double those of the last". To support them a direct tax of one mill on the dollar was assessed upon all taxable property of the State, amounting to \$20,000 and each district could vote its own levy in addition to this. He expected an enrollment of 16,000 pupils. He also reported that Emporia Normal school had received an endowment of 30,000 acres of land, the University at Lawrence, 46,000 and \$15,000 in cash, the Kansas State Agricultural College 90,000 acres and the common schools 3,300,000 acres.³

1. Public Doc. 1861, pp. 28-31.

2. Ibid., 1862, pp. 149-52.

3. Kansas State Record, Aug. 26, 1863.

In October of 1863 the first Teachers Association of Kansas was held at Leavenworth, Kansas. During its session a State Teachers Association was formed.¹ The newspapers also were a great aid in keeping the public informed as to the current events. The education of the State, therefore, had received favorable consideration and the groundwork done in this field was constructive. Gov. Robinson and Superintendent Griffith had asked the Legislature to bring the common school lands into the market. They argued that the State was in greater need of help in the first years than it would be after it was well established.² Little, if any of the school lands were sold, however, during the Robinson administration.

The constitution had also provided for the social welfare of the State. Article seven provided for the care of the insane, blind, deaf, and dumb and for the establishment of such other benevolent institutions as the public might require. It also required of the several counties of the State to provide for the care of the aged, the infirm or others in misfortune who might have claims upon the sympathy and aid of society. Section six of the Bill of Rights prohibited slavery and involuntary servitude, and section 16 prohibited imprisonment for debt, except in cases of fraud. Lotteries and the sale of lottery tickets was

1. The Kansas Educational Journal I, p. 2; Gowing, Clara, "Life Among the Delaware Indians." Col. K.S.H.S. XII, 192.

2. Pub. Doc. 1861, pp. 28-31; Daily State Record, Jan. 17, 1862.

prohibited. The District Court was given the sole power to grant divorces. The property rights of women were also protected by the constitution.

The State benevolent and penal institutions were not established until after the first administration. Their history has been discussed elsewhere. In 1859 the Territorial Legislature, under the act of "Executors and Administrators" and the act providing for Exemptions, had provided for the protection of the widow against creditors. The State Legislature retained these provisions and in 1861 added to it an inventory which should be filed with the probate court for protection. These acts listed the exemptions against which the creditor had no legal claims.¹ Another act was passed in 1861 which provided for her protection in case she had failed to elect, within six months after the death of her husband, the rights provided for her by law.²

The first State Legislature had passed an act concerning divorce and alimony. It prescribed the conditions under which the district court could grant a divorce and the causes for which alimony would be granted to the wife.³

The poor had been provided for by the second State Legislature. The act made the mayor and council of an incorporated city and the township trustees of the civil township the overseers of the poor within their respective limits.

1. Compiled Laws of 1862, pp. 524, 549, 902.

2. Ibid., p. 902.

3. Ibid., pp. 472-77.

The governmental unit for the support of the poor, however, was the county. The authority to raise the money necessary for their care was vested in the board of county commissioners. They were also authorized to purchase land and establish and organize an asylum for them. Poor children could be bound out by the overseer and superintendent of the asylum.¹ It has already been mentioned that the State Legislature had made an allowance of \$500 to help educate the deaf and dumb. Nothing had been done, however, for the support of the blind. The act of 1859 providing for the maintenance and support of illegitimate children was retained as in force. It had vested the authority over these children in the justice of the peace.² The act of 1861 establishing the county probate courts had vested the probate judge with authority to appoint guardians over minors, persons of unsound mind and habitual drunkards.³ The Territorial act of 1859 to restrain dram shops and taverns and regulate the sale of intoxicating liquors was retained. This had provided for local option. Before a license to deal in liquor would be granted the applicant had to produce a petition signed by a majority of the householders of the township or county in which the dram shop or tavern should operate.⁴ A law was passed in 1862 prohibiting the sale of liquor to the Indians. To violate the act was a misdemeanor punishable by fine and

1. Ibid., pp. 745-53.

2. Ibid., p. 595.

3. Compiled Laws of 1862, pp. 465.

4. Ibid., p. 486.

imprisonment.¹

The Territorial Legislature of 1860 had passed an act to prevent and punish armed invasions from and into the Territory. The codifying commission of 1862 had retained the act. It provided that if any person should "aid or assist, engage in, cooperate or participate with any military or armed company or companies, and [should] go to or cross the boundary line of any sister States or Territory, with intent to commit any act or acts, in violation of the laws of such State or Territory" or if a person from another State or Territory should invade Kansas for any one of those purposes mentioned they should be deemed guilty of a felony punishable by confinement and hard labor for a term not less than two years nor more than ten years.²

The Legislature of 1861 had also passed an act providing for the protection of wild game. The open season for prairie chickens, quails, partridges, wild turkeys and deer was from September to April. It authorized the justice of the peace to enforce the act. Twenty-three freeholders in a county could, however, render the law inoperative.³

Many laws had been passed by the Legislature to help stabilize social conditions in the State; however, as is often the case the laws in themselves will not restore social justice or temperance. That requires more than mere

1. Ibid., pp. 601-2.

2. Ibid., pp. 604-5.

3. Ibid., p. 576.

legislation. The social conditions during Gov. Robinson's administration continued, therefore, very much like they had been during the Territorial days. The women's crusades against the liquor venders had not solved the intemperance problem of the State. In May of 1862 Leavenworth city alone reported 100 saloons, 2 bowling saloons, 6 eating saloons, 8 wines and liquors, 3 lager beer depots and 2 distilleries.¹ Topoka had also reported an increase in intemperance. On the 12th of April 1861 the Daily State Record reported:

"Among the indications of the rapid growth of our city we cannot fail to notice the almost daily increasing number of liquor establishments, some of which are unmistakably 'groggerous', while others are dignified with the name of 'Saloon'. . . . It is urged that these establishments are an absolute necessity at this particular time; but why? we would ask. We can scarcely believe that those men who have been chosen to enact the laws of Kansas find it impossible to live without that which steals away their brains. If so we are as well without laws."²

On the 25th and 27th of March occurred several incidents which may have helped to stir the people of the State to action. On the 25th a Mr. Isaac Edwards of Topoka, while under the influence of liquor, stabbed and killed the Indian Black Hawk with whom he had been drinking. This led to the imprisonment of Edwards, and on the 27th he was found dead in his cell. It was thought that he had been hanged by the friends of Black Hawk.³

On the 17th of April, 1861, a State meeting was held of all the friends of temperance to consider the pro-

1. Leavenworth Daily Conservative, May 22, 1862.

2. Daily State Record, April. 12, 1861.

3. Ibid., March 26 & 28, 1861.

priety of organizing a State Temperance Society.¹ At this meeting a State organization was effected which held its first annual meeting in Topeka October 9, 1861. At this meeting five resolutions were adopted in which the society made it known that they looked to the churches of the State for earnest cooperation, and that they expected all ministers to actively support the cause. They suggested total abstinence from intoxicating drinks as one test of membership, asked every friend of temperance to labor for the enactment of a law prohibiting the sale of all alcoholic drinks as a beverage in the State, and frowned on the use of domestic wines by families as deleterious to the interests of the temperance cause. Among the prominent men of the organization were Dr. Amory Hunting, Sr., as Vice President, H. M. Green, Secretary Pro Tem., J. P. Root, Abraham Ellis, W. W. Updegraph, Dr. Peter McVicar and J. C. Barnett.²

The second annual State convention was held at Topeka on the 8th of October, 1862.³ No laws were passed, however, during the first administration affecting a change.

Horse stealing was one of the most common crimes in the years 1861-1862. Much of this was done by men dressed in United States uniforms. It seemed to increase as the war progressed. The complaint came from all sections of the

1. Ibid., Mar. 23, 1861.

2. Francis, C., "The Coming of Prohibition in Kansas".
Col. K.S.H.S., XV, 200-1.

3. Manhattan Express, Sept. 27, 1862.

State. On the 14th of December, 1861, the Manhattan Express reported that persons from Manhattan had stolen 20 to 30 head of horses on the Eastern border of Kansas and kept them in hiding.¹ On the 19th inst. the Commercial Gazette of Wyandotte reported that Robert Lawrence and Henry Phillips had been publicly whipped in the court house for horse stealing and then ordered out of the State, never to return under penalty of death. "White Mule Burnett" had also been notified to leave the State.² A year later Sol Miller wrote that horse thieving had been carried on to such an alarming extent that no man's property, loyal or disloyal, was safe. He wrote that it was done "by men in United States uniform, deserters from the army. ... Within a week we have heard of about a dozen horses being stolen in this county, mostly by deserters; and scarcely a day passes but we see persons from other counties, who are hunting for stolen horses." The Wisconsin 3rd Regiment was blamed for much of the thieving.³ Sol Miller's solution was to have the citizens take matters into their own hands and hang every horse thief that could be found. The military had been tried and had proven utterly inefficient.⁴

The State prisoners were kept in the Leavenworth county jail prior to January of 1863. On the first instant

1. Ibid., Dec. 14, 1861.

2. Wyandotte Commercial Gazette, Dec. 21, 1861.

3. White Cloud Chief, Feb. 5, 1863.

4. Leavenworth Daily Conservative, Dec. 13, 1862, quotes the White Cloud Chief.

this jail had 32 convicts, of whom nine were pardoned, nine discharged and fourteen remained in jail. Carl House had murdered Philip Friend and was sentenced to be hanged the 13th of February, 1863, as the first capital conviction in Kansas.¹ The State prison was located at Lansing the next year. Although these conditions prevailed in this young State, there were many peace loving and industrious citizens in it whose names never appeared in the papers, but who really formed the backbone of the new State.

In 1861 the many immigrants that flocked into Kansas brought new hopes to the State. The previous summer, due to the drought, there had been a stampede out of the Territory. The summer of 1861, however, had produced a bountiful harvest and the people of Kansas had produced more than enough for their own needs.² The tide of emigration therefore had turned and long lines of wagons, loaded with families and goods, followed by herds were passing through Topeka, Wyandotte and other places seeking new homes further west. Many of them came from the South, especially Missouri, trying to escape the dangers of the war. Thus wrote one of these prospective immigrants from North Carolina:

"My object of writing this letter is this - Our country is at war and a bloody scene is upon us. I have, therefore, resolved to move my family out of the slave States, and now I want to ask you this question: If I were to bring

-
1. Leavenworth Daily Conservative, Dec. 8, 1861; Bable, F. M., "The Kansas Penitentiary". Col. K.S.H.S., XIV, 381-2.
 2. Gov. Robinson's message to Legislature. Daily State Record, Jan. 17, 1862.

my family to Topeka next June, do you think a Southern family would be safe there? ... for as soon as a Northern army comes to the South the negroes will rise and kill every person they can get hold of."¹

The war had also started an exodus of colored people into Kansas. Before the Civil War started Kansas had only a few Negroes; however, by 1862 the number of Negroes in the State was estimated at 1,500. It was reported that they were largely fugitives from Missouri brought into Kansas by the "Old K. Brigade". Lane's Brigade on its return from Missouri in October of 1861 had been accompanied "by two or three hundred contrabands".² They settled in various parts of the State, but the principle points of location were Leavenworth and Topeka.³ The Methodists and Baptists at once established churches among them.⁴ It was reported that Senator Pomeroy was planning to supervise and establish a colony of free Negroes in New Granada. Mr. Guthrie regarded it as a huge scheme in land speculation.⁵

The introduction of fugitive slaves into Kansas again raised the question of the enforcement of the fugitive slave law. J. L. McDowell, U.S. Marshal of Kansas asked the U.S. Attorney General what the attitude of the administration was on this question. Edward Bates replied that it was the President's duty to see that the laws were faithfully executed. "That means all the laws", he wrote. "He had no

1. Wyandotte Commercial Gazette, May 11, 1861.

2. White Cloud Chief, Nov. 28, 1861.

3. Leavenworth Daily Conservative, July 8, 1862.

4. Ibid.

5. Guthrie Papers, Diary. See entry of August 25, 1862.

right to discriminate; no right to execute the laws he likes and leave unexecuted those he dislikes. And of course, you and I, his subordinates, can have no wider latitude of discretion than he has." He warned McDowell that a failure on his part to execute the law would be regarded as a misdemeanor.¹ It was becoming increasingly more difficult, however, to enforce the law and no doubt there were many violations.

The economic problems of the State had been anticipated only in part by the Wyandotte Convention. The Bill of Rights had provided that no distinction should ever be made between citizens and aliens in reference to the purchase, enjoyment and descent of property. This section, however, had been changed in 1888, prohibiting a distinction between property rights of citizens of Kansas and those of other States and giving the Legislature the right to regulate the property rights of aliens.² Article II had provided for the regulation of finance and taxation. It had exempted from taxation personal property to the amount of \$200 for each family. It had exempted from taxation all property used exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent and charitable institutions. Article XII, Section 1, required that all corporations should be erected under general laws. It did not prohibit the Legislature, however, from passing a special

1. McDowell Papers. K.S.H.S. See Bates to McDowell, July 23, 1861.

2. Bill of Rights, #121, Sec. 17.

act conferring corporate powers on school districts.¹ Section 2 had made stockholders of corporations liable for dues to an additional amount equal to the stock owned by each stockholder. Article XIII provided for banks and currency. Section one provided that banks must be established under a general law. The courts, however, limited it to banks of issue and not to banks of deposit and discount.² The miscellaneous Article, Section 9, contained the Homestead exemption clause. This exempted 160 acres of farm land or one acre of city land occupied as residence by the family of the owner with all improvements from forced sale under any process of law. No property, however, should be exempt from sale for taxes, payment of obligations contracted for the purchase of said premises, or for the erection of improvements thereon. The property should never be alienated without the joint consent of husband and wife, when that relationship existed.

There had been practically no financial legislation outside of the bond acts already discussed. The Legislature of 1861 had passed an act regulating the business of banking. The Auditor of State was to engrave the bank notes of various denominations and countersign, number, and register them. No bank was to go into operation unless it had a capital of \$25,000 nor established in any town of less than 200 inhabitants. The auditor should not countersign notes beyond the

1. Knowles vs. Board of Education, 33 K. 699.

2. Popo vs. Capital Bank, 20 K. 440.

value of securities.¹ The Territorial Legislature of 1860 had fixed the rate of interest at 10%, unless otherwise agreed upon. It also established a maximum rate of 20%. The State retained the act in force.² The State Legislature of 1862 had amended the Kansas Valley Bank Act of 1857, limiting the issue of bills and notes to 200% above the amount of the capital stock actually paid in, or three dollars of its paper for one of capital stock paid in gold and silver.³

In 1861 the State Legislature passed certain stay laws. The sale of real and personal property for taxes was postponed till after January 1st, 1862, and all taxes and costs now due and collectable could be paid to the treasurer of the respective county on that date. The act, however, did not extend to Franklin, Lykins, Brockenridge, Wabaunsee, Leavenworth and Douglas counties.⁴ Another act was passed in 1861 which provided that where real estate was sold under execution, order of sale, or other final process, the property sold could be redeemed by the judgment debtor or redemptioner from the purchaser within two years by paying him the amount of his purchase plus 10% interest per annum, and if the redemptioner had purchased it, the judgment debtor could within two years purchase it on the same terms from the redemptioner.⁵

1. Gen. Laws of Kans., 1861, pp. 88-100.

2. Compiled Laws, 1862, p. 603.

3. Ibid., p. 661.

4. Gen. Laws of Kans., 1861, p. 286.

5. Ibid., p. 769.

To protect the mortgagee the Legislature of 1862 passed an act which provided for entering satisfaction of mortgages. It required that the register of deeds of each county in recording a mortgage should leave space on the margin of the record for the entry of satisfaction and also required of him to enter it after the mortgage was paid. The mortgagee was held responsible, however, for failure to have it entered.¹

To settle the question of jumping claims the Legislature of 1861 passed an act which enabled the owner to bring the case before the justice of the peace four days after the illegal possession was made, commanding the intruder to appear before the justice and show his right to the land. If the plaintiff's claim was upheld he could require a writ of execution directing the sheriff or constable to remove the illegal claimant and force him to pay all costs of trial.² Memorials were sent to Congress, by the Legislature, asking it to open up the Indian lands for settlement.³

The protection of the farmer's stock was of great importance to the State. A number of Territorial laws had been passed for their protection. The State Legislature of 1861 added a law to provide for the protection of stock from contagious disease. It required that every person should restrain his diseased stock, it authorized the justice of the peace to impound cattle going at large or driven through

1. Gen. Laws of Kansas, 1861, p. 724.

2. Ibid., p. 823.

3. House Jnl., 1862, pp. 86, 158-39, 176.

the county in violation of law. A most interesting provision was found in Section 4 prohibiting any drove or droves of cattle to enter Kansas between the first of April and November of each year, from the states of Texas, Arkansas or the Indian Territory lying south of the State of Kansas. Any person violating this provision for the first offense was to be fined not less than \$75, and for every subsequent offense not less than \$90. The justice of peace and sheriff were to enforce this act upon complaint, and drive the cattle out of the state.¹ The taking up and posting of strays was carefully regulated by another act of the same year. The authority in each case was again the justice of peace, assisted by the county clerk to keep the record. The owner was given 12 months to prove his property.² The act of 1858, which required that all fields and inclosures should be inclosed with a fence either of rails, posts, turf or Osage orange hedge, was retained in the compiled laws of 1862.³ The act governing the relationship between landlord and tenant, lessor and lessee had been adopted in 1858, and was retained by the State, with a supplementary act passed in 1862. This made a debt by note or account created for rent of land a lien on the crop.⁴ The Land Patent Act of 1862 provided that all land patents granted should be recorded in the register of deeds in the proper

1. Compiled Laws of Kansas, 1862, pp. 839-40.

2. Ibid., 845-50.

3. Compiled Laws of 1862, pp. 599-600.

4. Ibid., pp. 662-64.

county in which such lands were situated.¹ An act regulating weights and measures was passed in 1862. It changed the weight of a bushel of oats from 55 to 52 pounds and of stone coal from 70 to 80 pounds. The Territorial act had been passed in 1858.² Several State acts were passed providing for the organization of a State Agricultural Society and for county and township agricultural and horticultural organizations.³

Much less had been done by the State for the protection of industry, because industry was still in its infancy. The Territorial Legislature of 1860 had passed an act prescribing the formation of limited partnerships for the transaction of any mercantile, mechanical or manufacturing business, but not for the purpose of banking or insurance. It made the partners "jointly and severally" liable.⁴ The act on corporations was also a Territorial act, passed in 1859 and was retained by the Codifying Commission. It regulated the incorporation of colleges, academies, universities, bridge and ferry companies, manufacturing, gas, light and water companies, religious societies, town companies; and set forth the general provisions regulating incorporated companies.⁵ The State Legislature of 1862 passed several acts regulating the incorporation of churches and cities.⁶

1. Ibid., p. 732.

2. Ibid., pp. 901-2.

3. Ibid., pp. 824-5, 825-6.

4. Ibid., pp. 737-40.

5. Ibid., pp. 360-382.

6. Ibid., pp. 383, 384f.

The problem of transportation was vital during this period. The act of 1860 relating to counties and county officers had authorized the board of county commissioners to "lay out, alter or discontinue any road running through one or more townships in such county, and, also, to perform such other duties respecting roads as may be required by law", also to alter or change the route of any Territorial road within their respective counties.¹ The same Legislature in another act left the power in the hands of the county commissioners and proceeded to describe the mode of laying out and establishing roads. The act provided for territorial, county and township roads. All territorial roads hereafter were to be laid out upon petition of at least 20 freeholders of each county through which the road was to pass. The petition should be filed with the county commissioners of the counties concerned. Each county board would then appoint one disinterested freeholder to view and survey the road. Before any grant would be made citizens would have to give a bond to pay for the cost in case the project failed to carry. If conditions were satisfactory a four weeks notice would be published in the newspapers of each county concerned. During this period the officers of each county would entertain petitions for or against the project. Also application for damages would be filed during this period. After this the road would be surveyed, marked, and opened for service. The road was to be 66 feet wide. County

1. Compiled Laws of Kansas, 1862, p. 412.

and township roads were also to originate upon petition. County roads were to be paid out of county funds and township roads out of township funds. All male persons between the ages of 21 and 50 should perform annually two days of road work. To maintain the roads a tax of from 2 to 5 mills on the dollar should be levied on all lands in the counties subject to taxation. Persons could work off the road tax at the rate of \$2.00 per day.¹ The State Legislature in 1861 provided for 42 State roads in a single act.² Several other State roads were added the next year.³ Each road was to be located by a board of three commissioners appointed by the Legislature.

The act regulating the licensing of ferries was passed in 1859 and was retained by the State. It restricted competition to within a mile and taxed the business from \$10.00 to \$500.00 annually.⁴ The act of 1860 authorized the county commissioners to grant the licenses.⁵ Several bridge acts were passed.

The railroad interest was beginning to dominate the State, even though the State Legislation does not give this impression. Several acts had been passed, however, by the State Legislatures of 1861 and 1862. In 1861 the Legislature provided that all railroad companies whose charters

1. *Ibid.*, pp. 730f.

2. Kansas Laws of 1861, pp. 245-51.

3. Compiled Laws of Kansas 1862, pp. 798, 799.

4. *Ibid.*, pp. 555-57.

5. *Ibid.*, p. 412.

had not been declared forfeited should be given two years to commence the actual construction of their respective roads. The same Legislature changed the name of the Leavenworth, Pawnee and Western Railroad Company to Leavenworth, Fort Riley and Western Railroad Company.¹ The Legislature of 1862 authorized the railroad companies to unite or consolidate and prescribed the regulations under which this should be done. It also permitted the companies to construct and operate telegraph lines.²

The financial question has been discussed elsewhere. Suffice it to say that where the act of 1861 levied a tax of 3 mills on the dollar on all taxable property plus a 50 cents head tax, the act of 1862 had increased the tax levy to 5 mills.³

The economic conditions had been at a very low ebb when the State was admitted. At least six months passed before the crop of 1861 broke the famine. The yields were gratifying. The Kansas State Record of August 1861 wrote:

"As if to compensate somewhat for the severe trials through which our people were called upon to pass during 1860, God, this year, is showering his blessings upon us with a most beneficent and abundant hand. In the memory of the 'oldest inhabitants' nothing has ever been seen in Kansas or out of it, equal to the present season. ... And what vegetation! ... Garden truck of every description from the earliest to the latest. Lettuce, radishes, onions, peas, beans, squash, cucumbers, beets, babbage, tomatoes, turnips, and the thousand other varieties of the lither edibles have been produced in the greatest profusion. In the field culture the same abundant return rewards the labors of the husbandman.

1. Laws of Kansas, 1861, pp. 237, 238.

2. Compiled Laws, Op. Cit. pp. 767f.

3. Gen. Laws of Kansas, 1861, p. 246 & Compiled Laws of Kans. 1862, p. 778.

The wheat, a large yield. ... Our corn fields are like forests, and the promise is for a greater yield than has ever before even in Kansas, been obtained. ... A few days more, and our melons as large as pumpkins, and the pumpkins as large as barrels, will speak for themselves."¹

On the 5th of March, 1862 at a meeting held at Topeka a State Agricultural Society was organized with F. P. Baker of Nemaha county as chairman, and J. D. Church of Atchison county as Secretary. A constitution was drawn up under the name of The Kansas State Agricultural Society. The purpose of the organization was "to promote the improvement of agriculture and its kindred arts, throughout the State of Kansas."² The first annual State Fair under the direction of this society was held at Leavenworth the 6th to the 9th of October, 1863.³ On the 5th of February 1863 Sol Miller wrote that this society was holding meetings every week at which practical men were giving their experience in agriculture and horticulture, discussing sheep raising, grape, tobacco and Osage orange culture. Agriculture had become so profitable that in 1864 Captain Montgomery wrote that he was leaving the army because with wheat selling at \$2.00 a bushel and corn \$1.50 in the field and yielding 32 bushels per acre, "at these prices", he wrote, "farming pays better than fighting."⁴ A person in Leavenworth county had manufactured 1,200 gallons of wine from grapes produced off a six acre patch valued at \$1.50 per

1. Kansas State Record, Aug. 3, 1861.

2. White Cloud Chief, March 27, 1862.

3. Kansas State Record, Aug. 13, 1863.

4. Stearns Papers. Montgomery to Stearns, Dec. 10, 1864.

gallon, and sold quantities of grapes besides. A person in Anderson county had raised 1,500 pounds of tobacco to the acre.¹

The editors of the eastern Kansas papers urged people in Kansas to manufacture their own clothing and wine. Kansas was a splendid hemp and wool growing country. This would enable the farmers to get a market for their products.²

There was a very large overland trade passing through Kansas. On the 20th of December, 1862, the Freedom's Champion wrote: "The merchants and business men of Leavenworth have derived and are deriving great benefits from the trade of southern and south western Kansas, which since the rebellion has changed from Kansas City to them."³ The emigration and trade across the Plains was enormous. In September of 1860 it was reported that 150,000 persons had crossed on the roads leading through Kansas that year with 15,000 head of mules, 2,000 head of horses, 8,000 wagons, and 86,000 head of cattle. The value of the merchandise shipped to New Mexico, Pikes Peak, Utah, and to the military posts and Indian trades for the year was estimated at \$12,000,000, employing a capital of \$5,500,000, and returning a profit of \$5,000,000 or fifty per cent to persons engaged in this trade.⁴ In

1. White Cloud Chief, Feb. 5, 1865.

2. White Cloud Chief, Dec. 18, 1861; Kansas City Kansan, Kans. Hist. Clip. V, 275.

3. Freedom's Champion, Dec. 20, 1862.

4. Kansas State Record, Sept. 26, 1860, Taken from Leaven. Dispatch.

1862 it was reported that more than 3,000 wagons, 618 horses, 20,812 oxen, 6,406 mules, 96 carriages, and 3,720 persons had made their way over the old trail to the Southwest. The cargo was valued over \$40,000,000.¹ Messrs. Hockaday, Burr and Company, were in this transportation business between Atchison, Kansas, and Salt Lake City, and the Kansas Valley Bank did much of the financial business for them.²

The railroad companies had done very little construction work, although some progress had been made since 1860. The Federal Government had passed the Pacific railroad bill on the 2nd of July, 1862, which had provided for a railroad to the Pacific. This act was also of great interest to Kansas. It provided for a Kansas branch road starting on the Missouri river and was to unite with an Iowa branch on the 100th Meridian of Longitude West from Greenwich, at a point between the southern margin of the Republican Valley river and the northern margin of the valley of the Platte river, in Nebraska Territory. The Leavenworth, Pawnee and Western Railroad Company would receive aid for a road starting "from the Missouri river, at the mouth of the Kansas river, on the south side thereof, so as to connect with the Pacific railroad of Missouri", and extend it westward to the point on the 100th Meridian as prescribed above. This section mentioned Fort Riley in connection with its provisions. The Hannibal and St. Joseph Railroad, and the

1. Wyman, W., "Freighting; A Big Business on the Santa Fe Trail". Kans. Hist. Qrt. I, 23-25.
 2. Andreas, Hist. of Kansas., p. 373.

Pacific Railroad Company of Missouri were permitted to unite upon equal terms with the said Kansas company in constructing the road. Sec. 13 provided further that the Hannibal and St. Joseph Railroad Company of Missouri could extend its roads from St. Joseph via Atchison, to connect and unite with the road through Kansas upon filing its assent to the provision of the act, and if actual survey should render it desirable this company could construct its road west from St. Joseph, Missouri so as to connect with the Iowa branch instead of the Kansas branch. The Kansas Legislature should decide this question. The Leavenworth, Pawnee and Western Railroad Company of Kansas could construct its road from Leavenworth to unite with the road through Kansas.¹ On July 2, 1864, Congress amended the act so as to have the Leavenworth, Pawnee and Western Railroad Company build "from the mouth of the Kansas River" instead of the south side of the river, and build it via "Lawrence and Topeka, or on the bank of the Kansas River opposite said towns."² Senators Lane and Pomeroy had fought hard for the Kansas provisions. Pomeroy attributed their success to the assistance given them by the California delegates.³ On his own motion Lane, in 1862, had been added to the special railroad committee in the Senate. This committee had been instrumental in adding several amendments to the House bill, some of which were retained, others were modified and still others struck out.

1. U.S. Statutes at Large, Dec. 3, 1859-Mar. 3, 1863, XII, pp. 489-498.

2. Ibid., XIII, p. 361.

3. Freedom's Champion, Oct. 11, 1862.

The name of Fort Riley, giving direction to the Leavenworth, Pawnee and Western Railroad, it appears, was Lane's suggestion, and it was retained. He had also asked for a government loan of \$360,000 to the Leavenworth, Pawnee and Western R.R. Company for thirty years, but it was struck out.¹ Another question that was objected to by the Kansas Senators was the insertion of the so-called Henderson amendment authorizing the Kansas Legislature to decide whether the Hannibal and St. Joseph Company should extend its road to connect with the Iowa or the Kansas branch of the Union Railroad. Both Lane and Pomeroy voted against it but it passed by a vote of 34 to 8.² Senator Harlan of Iowa made a desperate effort to have the Kansas and Iowa branches come to a focal point at Kearney, Nebraska, but the amendment failed 18 to 21. Lane and Pomeroy had both opposed it on the ground that it would jeopardize the plans of the Leavenworth, Pawnee and Western Railroad Company.³

On the 3rd of March, 1863, Congress made further concessions to Kansas for railroad purposes. Grants of land ten sections in width on each side of the track, were given for a railroad and telegraph from Leavenworth via Lawrence and the Ohio City Crossing of the Osage river to the southern line of Kansas in the direction of Galveston, Texas. A branch of this road should connect Lawrence with the Atchi-

1. Cong. Globe, 37th Cong. 2nd Sess. Pt. III, p. 2806.

2. Ibid., p. 2839.

3. Ibid., pp. 2753-6.

son, Topeka and Santa Fe road at its intersection with the Neosho river. A second railroad should lead from the city of Atchison, via Topeka to the western line of the State in the direction of Fort Union and Santa Fe, with a branch road connecting it with the first road on points of intersection with the Neosho river.¹

By treaties with the Indians, Congress had made further concessions to the railroad companies. On the 30th of May, 1860 the Senate had ratified a treaty with the Delaware Indians by which the lands not assigned to the Delawares in their "Home Reserve" were to be sold to the Leavenworth, Pawnee and Western Railroad Company at \$1.25 an acre.² According to Andreas this had yielded the company 233,966 acres.³ A similar treaty had been made with the Pottawatomie Indians on the 15th of November, 1861. It gave the same company the right to purchase the Pottawatomie lands not included in their "Home Reserve" at \$1.25 an acre.⁴ Under this treaty the company acquired 425,000 acres.⁵ Individual members of the company and other influential men had no doubt profited by these negotiations. Although a thorough study of this phase has not been made certain revelations have been noted. On the 13th of July, 1861, at the time the negotiations were in progress but several months before

1. United States Statutes at Large, 1863. pp. 772f.

2. Ibid. p. 1130.

3. Andreas, History of Kansas, pp. 245-6; Kans. State Record, J1. 20, 1861 gives the number as 223,862.

4. U.S. Statutes, 1863. XII, pp. 1193f.

5. Andreas, Op. Cit. pp. 255-56.

the Pottawatomio treaty was ratified, Gov. Robinson wrote Chief Justice Ewing, agent of the Leavenworth, Pawnee and Western R.R. Company that Capt. Sarcoxie had sent for him to draft a memorial to the President in regard to their lands and matters generally, that they would not trust the agent to do it for them, and that the other chiefs would come to Lawrence when he would be at home and get it done. They wanted a higher appraisement on their railroad lands. Robinson continued;

"Yr. proposition is rec'd with the list of mortgaged lands. I observe that the list embraces some sections in T. 12 R. 20 that you did not give me the other day. I think yr. clerk must have made some mistakes as I notice he has designated Sec. 21 all of it, & the S.E. Sec. 21, etc. I have no time now to make selections but if you will locate Mr. Corwin outside of T. 12, R. 20 & give me a choice of 4 sections I think I will be content. I do not wish to be greedy but I believe from the present attitude of the Indians I can serve the Co. more with them than any one else & I would like compensation proportionally."¹

John Speer later wrote that the Douglas county Record Book #2 p. 668 showed that the railroad company had acknowledged that Martha Robinson had paid \$1.00 in full satisfaction for sections 4, 13, 17 and half of S.W. 1/4 section 18 and S.E. 1/4 of section 28, Twn. 12, R. 20, totaling 2,160 acres.²

On the 10th of January, 1863, Mr. Guthrie had entered in his diary an experience with Senator Pomeroy:

"Called to see one Senator Pomeroy who says he did not get either of my letters written to him in the summer in relation to the payment of the interest on the railroad bonds held by the Delaware Indians in security for the payment of the money due from the Pawnee & Leavenworth railroad company for a grant of lands. This surprised me very

1. Emery, James Stanley, Papers. Robinson to Ewing, Jl. 13, 1861.
 2. Kans. Scrap Book, Blog. IV. Robinson. p. 31.

much but as I have heard that the Senator received seventeen sections of this land, for his neutrality in the transaction he having heretofore strenuously opposed the grant as a fraud upon the Indians as indeed it was. If this report is true it may account for the failure of the mails in transmitting my letters as it was with the view of defeating this grant that my letters were written."¹

Although it has not yet been established what the other men connected with these enterprises got out of it, no doubt they too were well paid for their influence.

There are several other points of interest connected with the railroads that bear mention. One phase is connected with the Robinson-Lane quarrel. R. S. Stevens and Gov. Robinson had been made directors in the Leavenworth, Pawnee and Western Railroad Company. When the time arrived that the Company was to pay for the Delaware Lands and it had no money therewith to pay, they decided upon bonds as a way out. This necessitated a supplementary treaty with the Indians and its ratification by the Senate. Chief Justice Ewing was selected to interview the Senators. Sen. Lane insisted that before he would give his influence in behalf of the treaty Gov. Robinson and R. S. Stevens would have to be removed from the Directory, and two of his men put in their places. In order not to lose what had been gained, Gov. Robinson resigned; and, since Stevens was not within reach someone else acted for him. Josiah Miller and Chester Thomas then replaced them and the treaty was ratified.²

1. Guthrie Diary. See entry of Jan. 10, 1863.

2. Truth-Teller, Feb. 20, 1862. Robinson, Kansas Conflict. Orig. MS. Chap. XVI, p. 43. Leav. D. Conservative, Mar. 4, 1862.

Another event of interest pertains to the Henderson Amendment. This had authorized the State Legislature to determine whether the Hannibal and St. Joseph railroad company should connect with the Iowa branch of the Union Pacific road or with the Kansas Valley branch. It had been inserted into the Act of 1862 by Senator Henderson of Missouri just before the Senate adopted the bill. The State divided on the question. On the 20th of August, 1862, the northern tier of counties held a convention at the court house in Troy and passed resolutions to support the northern road. They pledged themselves "to secure the election of unqualified men to the Legislature", who were identified with them in their railroad interests, and who would be influential in securing the passage of a railroad directly west from St. Joseph, Missouri to the main branch of the Pacific road.¹ Sol Miller criticized Pomeroy for trying to shift all Kansas railroads into the Kaw valley. He now attributed Pomeroy's election to the Senate to the two votes he had received from Doniphan county.² The question came to a vote in the Kansas Legislature in February of 1862. The House defeated the amendment 50 to 23 and the Senate 16 to 6.³ Again Sol Miller found occasion to criticize. This time he accused Atchison and Leavenworth of Logrolling. He wrote:

"It is remarkable that up to the time when the

1. White Cloud Chief, Aug. 28, 1862.

2. Ibid., Aug. 7, 1862.

3. House Journal, 1863, pp. 264, 290-91; Senate Journal, 1863, pp. 269, 286-7.

Bridge Bill was introduced here, the other day, the Atchison men opposed every suggestion concerning it. They said their constituents were unitedly opposed to the Bridge scheme. Leavenworth has been to the northern counties begging them to unite with them in support of the Bridge Bill. Failing to secure the northern vote, they have made the arrangement with Atchison. . . . These are facts. . . . So far as the charges made by the gentlemen from Leavenworth of a bargain made by the northern men with Lawrence on the University question is correct, I leave that for the gentlemen to answer. I know nothing about it."¹

In the House Leavenworth had voted with Atchison on the railroad question, but in the Senate voted with Doniphan.²

Much enthusiasm was shown in connection with the railroad question. Referring to the enthusiasm over the question in the Legislature, Sol Miller remarked one day: "If Railroads were built by gas, this morning's work would have completed the road to the Pacific."³ By the beginning of the Carney administration the routes of the principle railroads in Kansas were quite well defined; the construction work, however, still remained to be done.

The State, county, and township roads had been provided for by law, but the construction work had not been completed at the close of the Robinson administration. The Kansas State Record of 1861 reported that proposals for roads would be received until April 1st and service would commence July 1st.⁴ On the 2nd of January 1862 the Secretary

1. White Cloud Chief, Mar. 5 & 19, 1863.

2. Derived from comparison of votes.

3. White Cloud Chief, Mar. 6, 1862.

4. Kans. State Record, Mar. 2, 1861.

of State reported that only very few of the county commissioners had made reports to the State as to the actual work accomplished.¹ Most of the roads were, therefore, still in very poor condition. On the 18th of September the Leavenworth Daily Conservative had an article describing the conditions of the road between Leavenworth and Topeka:

"Entertain as clear and vivid an idea as you may of what the extremity of human misery consists in, you will still have inadequate conception until you find yourself making a journey of sixty miles in a Stage Coach containing from fifteen to twenty men, women and children. If there are any timorous persons in your locality still apprehensive of a draft, let them take such a trip as that and they will find themselves so illshaped and crippled when they get through, that the most rigid examining Surgeon would have no hesitation in pronouncing them unfit for military duty."²

The squatters had continued to encroach on the lands forbidden to them. The complaint now was that they were squatting on lands belonging to the railroad companies. On the 23rd of April, 1862 the Leavenworth Daily Conservative warned them that unless they would leave on their own accord they would be "ejected by military power". The Federal Government was bound by treaty to prevent all interference by illegal combinations of squatters with the company in the possession of their lands.³

The delinquent taxes remained a problem for the next administration to collect. The lists in the newspapers filled many columns. On the 20th of June, 1861 the Lawrence Republican published a list covering two and one

1. Pub. Doc. of Kansas. 1861, Lawrence, 1862, pp. 13-25.

2. Leavenworth Daily Conservative, Sept. 18, 1862.

3. Ibid., April 23, 1862.

half columns of fine type, the State Record carried a list of four columns for Topeka alone. On the 1st of May, 1862, the White Cloud Chief listed the delinquent tax lists for Doniphan and Nemaha counties and covered almost a page and a half, the list for Riley county required seven and one half columns in the Manhattan Express.¹ The Legislature, therefore, had postponed the sale of real and personal property for taxes till after January of 1863, and thereby prevented much suffering. It was reported at the time the bill was under consideration that in many of the interior counties there was scarcely one quarter section out of five that was not subject to the law.²

The expenditures of the young State were very moderate when compared with the twentieth century cost of operation. Here is a comparison of the States expenditures for a number of years:³

1861	84,775.93
1862	92,508.53
1863	137,259.54
1864	173,977.01
1935-36	33,742,232.03

The financial condition of the State in February of 1863, however, was still critical. Based on the reports of the State Auditor and Treasurer there was a Territorial

-
1. Lawrence Republican, Je. 20, 1861; Kans. State Record, Apr. 6, 1861; White Cloud Chief, May 1, 1862; Manhattan Express, March 22, 1862.
 2. Kansas State Record, Apr. 20, 1861. This law did not apply to all counties. See p. 503.
 3. Dawson, J. W., "The Legislature of 1868". Trans. K.S.H.S. X, p. 258; Bulletin of Univ. of Kansas. Vol. 37, No. 24, Dec. 15, 1936.

indebtedness of \$80,000 including estimated interests, and a State indebtedness of \$194,000; making a total of \$270,000. This did not include, however, the \$54,600 bond issue necessary to obtain the \$31,000 held by the Secretary of Interior as security against the incomplected contract nor the interests and warrants outstanding. To offset this debt there were the delinquent taxes of 1861-62, amounting to \$132,000, the \$31,000 in bonds held by the Secretary of Interior, and the tax levy for the ensuing year. The State officers had not included the war tax of over \$73,000 levied against the State by the Federal Government.¹ During the first administration the government had been in great need of money. It is reported that in 1862 Charles Carney had intervened to save the State from disgrace by advancing it \$25,000 from his own purse.²

The political history of the first administration, not discussed elsewhere, will conclude the discussion. Article five of the constitution provided for the qualifications of electors. Every white male person of twenty-one years of age or upwards who had established a six months residence in the State or thirty days in the township or ward was qualified to vote, provided he was a citizen of the United States or had declared his intention to become naturalized. In addition to the customary list of exclusions the constitution had exempted from voting the soldier, sea-

1. Leavenworth Daily Conservative, Feb. 5, 1863.

2. White Cloud Chief, Oct. 23, 1862.

man or marine. The person who had given or accepted a challenge to fight a duel or had been involved in executing it, or any person who had given or offered a bribe to procure his election was disqualified from holding office. Duelling appeared to imply permanent disqualification, bribery merely for the ensuing term. The 15th amendment to the federal constitution and the State amendment of 1911 had extended the suffrage to the Negro and to the women. In 1864 the State had amended Section three of Article five of the constitution, and among other things had authorized the Legislature to make provisions for absentee voting.

Article IV provided that all elections should be by ballot and all elections by the Legislature viva voce. It set the time for general elections to be held annually on the Tuesday succeeding the first Monday in November. Township elections should be held on the first Tuesday in April until the Legislature should provide otherwise. In 1902 and 1914 the constitution was changed to provide for biennial elections and in 1913-14 the recall of public officers was introduced.

To define the constitutional provisions election laws had been passed by the State Legislature in 1861. On the 23rd of May the Governor had approved an act regulating elections. It prescribed the qualifications of voters and prevented illegal voting. Each township in the county and every ward in the city should constitute an election district unless otherwise divided by law. The township trustee

and any two justices of the peace were to be the judges of all elections in townships, and the city council or any three members of the council should be the judges of the city elections. The sheriff was to give fifteen days notice of general elections and ten days notice for special elections. The Australian ballot had not yet been introduced. The law prescribed the rules of residence, authorized judges to challenge a voter as to residence, age and citizenship. It permitted candidates or their friends to the number of three, to be present when ballots were counted. After the votes had been canvassed and entered they were to be sealed and one sent to the county clerk, the other deposited with the township trustee or city clerk. The county clerk and commissioners were then to meet and canvass the votes of the county and the clerk was to certify, sign and send the returns to the Secretary of State and the Governor. The Secretary of State, Auditor of State, Treasurer of State, and Attorney General, or any three of them were to constitute the board of State canvassers. All vacancies in the State, county, in the supreme and district courts, unless otherwise provided for by law, should be filled by appointment from the Governor. The act also fixed the term of State, county and legislative officers. On the 22nd of May the Legislature fixed the date of election, prescribing, "That, on the Tuesday succeeding the first Monday in November, A.D. 1862, and on the Tuesday succeeding the first Monday in November, in every second year thereafter shall be hold a general electio

for the election of a Representative in Congress, Governor" etc. On the same day the Legislature provided for the election of county and township officers. In another act approved June 3, 1861, it prescribed the manner of contesting the election of State and county officers, members of the Legislature and other officers.¹ Notice of contested elections of State officers were to be filed with the Secretary of the Senate and the Senate was to determine the true election of State officers. Seats of Senators and Representatives should be determined by the respective House in which the seat was contested.

The political implications involved in several of these acts have been discussed elsewhere. The executive department, unlike most other State constitutions, had been provided for in Article one of the constitution. This department has also been discussed elsewhere. Suffice it to say that the Governor was vested theoretically with "supreme executive power" but practically he had been robbed of much of his executive power, except that of requiring information from executive officers, convene and adjourn the Legislature, grant pardons and reprieves under legislative regulations and restrictions, keep the seal and issue commissions.² The long ballot of State officers had deprived the Governor of much of the administrative power of the State.

The Legislative enactments describing the duties

1. Compiled Laws, 1862. pp, 490-511.

2. This power was contested by Gen. Lane as discussed in another chapter.

and obligations of State officers, and their compensations have been discussed. On the 3rd of June, 1861, the Legislature passed an act which provided for a State Board of Equalization. Its function was to equalize the State tax among the counties in the State. The board was composed of the Secretary of State, Treasurer, and Auditor. It was to perform this duty at the seat of government on the second Monday of September each year.¹

The Legislative Department of the State provided for in the second article of the constitution has received less consideration. The constitution had limited the number of Senators and Representatives to 33 and 100 respectively. This was changed by amendment in 1875 not to exceed 40 and 125 respectively. Since the first Legislature consisted of 25 Senators and 75 Representatives, future changes were to be regulated by law. The qualifications, compensation and the length of sessions also had been determined by the constitution. The provision that all bills were to originate in the House of Representatives was amended in 1864, permitting bills to originate in either House. The annual session of the Legislature was changed by amendment to biennial sessions in 1875. At the same time the State also changed the term of office of Representatives and Senators from one and two years to two and four years, respectively.

The Legislature had adopted the Territorial rules of procedure, provided for State printing, and set about to reapportion the State. The first State Legislature had

1. Compiled Laws of Kansas, 1862, pp. 862, 511-12.

attempted the task but the two Houses had failed to agree. The bill had originated in the House, the Senate had amended it, but the House refused to accept the Senate amendments. A conference committee was called but the House refused to accept the committee's report.¹ According to the Elwood Free Press the failure was due to a "foolish quarrel between the northern and southern Kansas factions" in the Legislature.² The first Legislature had failed, therefore, to fulfill one of the constitutional requirements.³ The following Legislature, however, passed an apportionment act. It retained the same number of Senators and Representatives, but made other changes. Instead of combining counties to carry out a program of gerrymandering, as had been done by the Wyandotte Convention, each county was given at least one Representative, and only the less populated counties were combined for the purpose of electing Senators.⁴ The gerrymandering scheme of the convention had, therefore, been largely abandoned.

There was considerable criticism of the work of the first State Legislature. The Kansas State Journal wrote: "The trouble with the first Legislature of the State of Kansas has seemed to be that its members were elected for the purpose of choosing two Senators". This had had a corrupting

1. House Journal, 1861, pp. 347-604; Senate Journal, 1861, pp. 296-391.

2. Elwood Free Press, June 15, 1861.

3. Compiled Laws 1862, p. 64. The first Legislature was to make the apportionment and none other was to be made till 1866.

4. Kansas State Record, April 6, 1861.

influence on the body and had disturbed the regular work of the Legislature.¹ Another comment read: "The majority were just common farmers, with a slight sprinkling of merchants, lawyers, doctors and newspaper men, yet in a very short time the same common people turned up as Captains, Colonels, Generals and Governors".² The numerous leaves of absences granted by the House tended to impair its operation when it lacked the necessary constitutional majority to do business.³ The Secretary of State reminded the House that they had violated the constitution in that they kept bills passed by the Legislature more than two days before they were sent to the Governor. He pointed out how it might involve the constitutionality of the law if the Governor refused to sign a bill, in which case the question of time would be an important factor.⁴

Owing to the constitutional provision which stipulated that all bills must originate in the House of Representatives, the Senate found itself at a loss what to do with the time during the first month. On the 25th of April the Lawrence Journal wrote: "Great inconvenience has resulted from the clause in the constitution which makes it necessary for the House to originate all bills. The Senate had virtually done nothing up to this time."⁵ This led to the

1. Kansas State Journal, June 6, 1861.

2. Ballard, D. E., "The First State Legislature", Trans. K.S.H.S. X, 233.

3. House Journal, 1861, p. 407.

4. Ibid., pp. 395-9.

5. Kansas State Journal, Apr. 25, 1861.

introduction of an amendment to change the constitution, It has already been pointed out that one of the important accomplishments of the second Legislature was the codification of the State and Territorial laws.

The constitution in Article three had set forth the provisions that were to govern the Judicial Department of the State, providing for one State Supreme Court; for five District Courts, which could be increased by law; for county probate courts; justices of the peace, and other courts inferior to the Supreme Court as may be provided by law. It had prescribed the limits of jurisdiction of the courts, and authorized the Legislature to define their powers. The Legislature of 1861 had established the State courts and provided the detailed prescriptions. It had provided for civil and criminal codes by retaining the Territorial acts. It had adopted the Territorial provisions of the English Common Law and set the time when the laws should go into effect, viz: either from the date of passage, or by their publication in the Topoka State Record.¹ It had also provided for regulating the trials of impeachment.

Article nine of the constitution had authorized the Legislature to provide for the organization of new counties, locating county seats, changing county lines and provide for county and township officers. The State Legislature of 1861 had carried out these requirements, as described elsewhere. The constitution had provided only indirectly

1. Compiled Laws of Kansas, 1862, pp. 1062-3. See footnote.

for the establishment of townships. It had taken the townships for granted it seems, and had provided for the election of "such county and township officers as may be necessary". The act of 1861 had authorized the county commissioners, however, to divide the county into convenient townships.¹ Moreover, the Territorial act of 1860 had been retained by the State and it had provided for the various township officers.² Although the plan of county and township government since 1860-61 has continued substantially unchanged to the present time, new officers, powers and duties have been added. A county auditor was added in 1872 and a matron for county jail in 1913. The importance of the office of the probate judge has changed and his power and prestige had decreased. The Territorial act of 1860 providing for counties and county officers bears resemblance to the Iowa Statute of 1860 and the Indiana Statute of 1852. By 1862 there were 33 organized and 12 unorganized counties in the State.³ The establishment of county seats often led to heated contests, among rival towns.⁴

Article twelve of section five of the constitution had authorized the Legislature to make provision by general law for the organization of cities, towns and villages. The State Legislature had retained the act of 1859 which provided for the incorporation of towns and villages, but in 1862 it had passed an act providing for the incorporation

1. Gen. Laws of Kansas, 1868, p. 249.

2. Compiled Laws of 1862, pp. 884-9.

3. Ibid., pp. 84-9

4. Kansas History Clippings, Vol. IV, pp. 50-52.

of cities. This act pertained to all cities or municipal corporations of not less than seven thousand inhabitants. It repealed all acts in conflict with its provisions, and provided for the mayor council system of city government, and divided cities into four wards. The offices provided for were mayor, treasurer, clerk and eight councilmen. It made the mayor the conservator of the peace and invested him with exclusive jurisdiction to hear and determine all offenses against the ordinances of the city. The council was vested with power to tax and grant licenses. It limited the indebtedness of the city to \$25,000 unless 2/3 of the electors decided to increase the debt.¹ The acts dividing the cities of Kansas into three classes were not passed until 1868.²

The State constitution had provided for the establishment of corporations but had specified that it should be by general laws. This led to much litigation in an attempt to define the limits of the constitutional provisions.

Article eight had made the Governor the Commander-in-chief of the State militia. It was to be composed of all able bodied male citizens between the ages of 21 and 45 unless exempted by State or federal laws. It had authorized the Legislature to define how the officers should be elected or appointed. In 1861 the State Legislature passed an act to organize and discipline the militia. It authorized the

1. Compiled Laws of 1862. pp. 584f, 598f.

2. Gen. Statutes of Kang. 1868, pp. 129f, 154f.

county assessor to enroll the names of persons liable to military duty and asked the county attorney to send a copy of the enrollments to the Adjutant General of the State. The militia was to be used to execute the State laws, repel invasion, riot or insurrection, and could be used in case of war. The company should select its own officers, and commissioned officers were to be elected by those inferior in rank.¹

Article XIV of the constitution provided for amendments. It authorized the Legislature to originate amendments by 2/3 vote of all members elected and then submit it to a vote of the people. Here a majority vote of the electors voting on the proposition would determine its adoption or rejection. The convention method was also provided for. All attempts to amend the constitution under Gov. Robinson's administration, however, failed in the Legislature. Attempts were made to amend the section pertaining to the origin of bills in Article two Section twelve and the section pertaining to bank deposits, but they failed. During Gov. Carney's administration Article II section 12 was amended to its present form.

Thus the Robinson administration had set in motion the forces of government in the several fields of endeavor which ultimately brought peace, prosperity and happiness to many of its citizens. Many obstacles which had hindered its

1. Compiled Laws of Kansas, 1862 pp. 699f.

development carried over into later years and were only gradually subdued or outlived. Such was the case with the factions, graft, jayhawking, and intemperance. Other problems were not fully understood at the time and have only recently received governmental attention, like the problem of the "dust bowl" in southwestern Kansas, soil erosion in eastern Kansas, the adaptation of agriculture to the Prairie and the Plains Regions. The transportation problem is still not solved. New political problems would arise with the agricultural, industrial and cultural development of the State. These, of course, had not been anticipated. Few if any anticipations had been made, and what had been established was largely borrowed from other States, but much of it was wisely chosen. Adequate preparation had been made for education and religious training of the youth. In this way the citizens had set in motion forces that would help the State in future years to cope adequately with its more complex problems.

BIBLIOGRAPHY

MANUSCRIPT SOURCES: LETTERS, PAPERS, DIARIES

- Abbot, J.B., Letters.
- Adams, Franklin G., Letters.
- Blood, James, Letters.
- Bodwell, Lewis, Letters.
- Brown, John, Letters.
- DeLahey, Mark W., Papers.
- Emery, James Stanley, Papers.
- Guthrie, Abelard, Diary.
- Halderman, John A., Letters.
- Hanway, James, Letters.
- Hanway, John B., Letters.
- Hinton, Richard J., Letters and Papers.
- Holliday, Cyrus K., Letters.
- Hutchinson, William, Letters.
- Hyatt, Thaddeus, Letters and Papers.
- McDowell, J.L., Letters.
- Martin, George W., Letters and Papers.
- Martin, John A., Letters and Papers.
- Miller, Sol., Diary, Letters, Papers.
- Montgomery, James, Letters.
- Reader, Samuel J., Diary.
- Robinson, Charles, Letters, Papers, etc.
- Robinson, Mrs. Sara T.D., Letters, Papers, etc.

Stearns, George L., Letters and Papers.

Wood, Samuel N., Letters.

These Manuscripts are located in the Kansas State Historical Library at Topeka, except a few of Gov. Robinson's Letters are in the Watson Library, University of Kansas.

MISCELLANEOUS MANUSCRIPTS

Emigrant Aid Company, Relief Work.

Executive Correspondence, 1859-63.

Executive Minutes of Kansas Territory, 1858-60, 1857-61.

Executive Minutes, Memorandum, 1861-65.

House and Council Dockets.

Kansas Relief, 1860-61 & Collamore, Geo.W., Letters.

Kansas State Census for the Year ending June 1, 1860
as enumerated by Charles Dimon.

Kansas State Election Returns, 1861-1868.

Legislature of 1861, Biographical Material.

New England Relief for Kansas, Emigrant Aid, 1860-61.

Proceedings of the High Court of Impeachment in the Case
of the State of Kansas vs John W. Robinson, Secretary
of State; George S. Hillyer, Auditor of State;
and Charles Robinson Governor of the State.

Public Documents of the State of Kansas, 1861, 1862.

Robinson, Charles, The Kansas Conflict.

Wyandotte Constitution.

Wyandotte Constitutional Convention Report of the
Committee, 1859.

The Miscellaneous MSS. are located in the Kansas State Historical Library, Topeka, Kansas.

GOVERNMENT DOCUMENTS: FEDERAL

Congressional Globe.

Richardson, J.S.D. (Ed.), A Compilation of the Messages and Papers of the Presidents, 1789-1897. 10 Vols. Washington, Govt. Print. Off. 1896-99.

Sanger, Geo.P., (Ed.), The Statutes at Large, Treaties ... of the United States of America. 39 Vols. Washington, Govt. Print. Off.

Senate Executive Document No. 32, 38th Congress 1st Session. Washington, Govt. Print. Off.

Senate Miscellaneous Document No. 39, 42d Congress 1st Session. Washington, Govt. Print. Off.

U.S. Census Office. 8th Census, 1860 Agriculture ...; Population ...; Statistics of the U.S. (including mortality, property, etc.) in 1860. Washington, Govt. Print. Off.

STATE DOCUMENTS

Acts and Regulations ... of the State of Iowa ... 1858.
Des Moines, Iowa, 1858.

Cooley, Thomas M. (Ed.), The Compiled Laws of the State of Michigan ... approved Feb. 2, 1857. 2 Vols. Lansing, Michigan, 1857.

Compiled Laws of Kansas ... 1879 based upon the General Statutes of 1868. St. Louis, Mo. W.J. Gilbert, 1879.

Council Journal of the Kansas Territory, 1855-61.

Deady, M.P. (Ed.), The Organic and Other General Laws of Oregon ... 1854-64. Portland, Ore., 1866.

Gavins, J.S. & Hord, O.B. (Editors), The Statutes of the State of Indiana containing the Revised Statutes of 1852 with the Amendments thereto, and subsequent legislation. 2d. Edition. 2 Vols. Indianapolis, 1862.

General Laws of the Territory of Kansas, 1855-61.

General Laws of the State of Kansas.

General Laws of the State of Kansas in force at the close of the Session ... ending March 6, 1862.

General Statutes of the State of Kansas ... 1868.

Hardin, Chas. H. (Ed.), Revised Statutes of ... Missouri...
1854-55. 2 Vols. Jefferson, Mo., 1856.

House Journal. Proceedings of the House of Representatives
of the Kansas Territory, 1855-61.

House Journal. Proceedings of the House of Representatives
of the State of Kansas, 1861-

Kansas Territorial Census of 1860.

Larimer, Harry G. (Compiler), Kansas Constitutional Conven-
tion. A Reprint of the Proceedings and Debates of
the Convention which framed the Constitution of
Kansas at Wyandotte in July 1859. Also ... historical
Sketches, etc. Kansas State Print. Plant. Topeka,
Kansas, 1920.

Laws of the General Assembly of the State of Pennsylvania,
1854.

Official Report of the Trial of the Hon. Albert Jackson
Judge of the Fifteenth Judicial District before the
Senate ... of the State of Missouri. Reported by
Thomas J. Henderson, Jefferson City, 1859.

Private Laws of the Kansas Territory, 1855-61.

Proceedings in the Cases of the Impeachment of Charles
Robinson, Governor; John W. Robinson, Secretary of State;
George S. Hillyer, Auditor of the State of Kansas
Kansas State Journal, Steam Press, 1862.

Public Documents. Kansas, 1862. J.F. Cummings, State Printer.

Public Statutes of the State of Minnesota, 1849-58. Saint
Paul, 1859.

Reports of Cases Argued and Determined in the Supreme
Court of the State of Kansas.

Revision of 1860, containing all the Statutes of a General
nature of the State of Iowa, ... now in force ...
as the result of the Legislation of the Eighth
General Assembly. Des Moines, Iowa, 1860.

Revised Statutes of Kansas (Annotated) 1923.... Kansas
State Printing Plant, 1923.

Rules for the Government of the Constitutional Convention of the Territory of Kansas, adopted by the Convention at Wyandotte July 5, 1859. Commercial Gazette Job Office, 1859.

Senate Journal. Proceedings of the Senate of the State of the State of Kansas, 1861.

Statutes of Oregon (Territory) ... Enacted ... at the 5th and 6th Regular Sessions. Oregon, 1855.

Swan, Joseph R. (Ed.), The Revised Statutes of the State of Ohio ... in force August 1, 1860. 2 Vols. Cincinnati, Ohio.

Swan, Joseph R. (Ed.), The Revised Statutes of ... Ohio...1854. Cincinnati, Ohio, 1854.

Thorpe, Francis Newton, The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the State... 7 Vols. Washington Govt. P.O., 1909.

Treat, Sam. H. et. al. (Compilers), The Statutes of Illinois, Embracing the General Laws of the State in force Dec. 1, 1857.... Chicago, Ill., 1858.

Official Publications Relating to American State Constitutional Conventions. University of Chicago Press, 1936.
This is a bibliography of State Constitutional Conventions, publications.

NEWSPAPERS

Atchison Champion, 1873-1909. 30 Vols.

Atchison Union; June 1859-June 1861. 3 Vols.

Americus Sentinel.

Big Blue Union, April 1862-August 1863.

Elwood Advertiser, June 25, 1857-1858. 1 Vol.

Elwood Free Press, June 1859-October 1861. 2 Vols.

Emporia News, August 1, 1857-1889. 24 Vols.

Fort Scott Bulletin, September 6, October 4, 1862.

Fort Scott Democrat, January 12, 26, September 21, 1861.

Freedom's Champion, Atchison. February 20, 1858-1863. 4 Vols.

- Herald of Freedom, Lawrence. 1854-1859. 4 Vols.
- Kansas Daily Tribune, Lawrence. June 14, 1855; November 29, 1863-1890. 45 Vols.
- Kansas City Journal of Commerce.
- Kansas City Star.
- Kansas National Democrat, Lecompton. July 30, 1857-1861. 1 Vol.
- Kansas State Journal, Lawrence. February 1861-1868. 4 Vols.
- Kansas State Record, Topeka, (Daily). March 26, 1861-2. 2 Vols.
- Kansas State Record, Topeka, (Weekly). October 1859-75. 9 Vols.
- Kansas Weekly Herald, Leavenworth. September 15, 1854- October 9, 1859. 5 Vols.
- Kansas Tribune, Lawrence & Topeka. September 1855-June 1861; 1866-67. 6 Vols. (Known as Topeka Tribune).
- Lawrence Daily Journal. 1886-1909. 22 Vols.
- Lawrence Republican (Weekly). May 28, 1857-1862. 6 Vols.
- Leavenworth Daily Conservative. January 1861-June 1868. 14 Vols.
- Leavenworth Conservative, (Weekly). Few issues in 1858
- Leavenworth Herald. March 10, 1860.
- Leavenworth Times, (Daily). January 1859-64. Scattered issues.
- Leavenworth Inquirer, (Daily). 1862. Few issues.
- Minneola Statesman.
- Neosho Valley Register, Burlington. October, 1859- March 1860. 1 Vol.
- New York Times.
- New York Daily Tribune.
- Paola Chief.
- Quindaro Chindowan. May 13, 1857-1858. 1 Vol.

- Topeka Daily Capital. April 21, 1879-
- Truth Teller, Topeka, (Daily). February 17 to March 4, 1862.
- Weekly Western Argus, Wyandotte. May 20, 1858-61. 2 Vols.
- Western Kansas Express, Manhattan. August, 1859-October, 1862. 3 Vols.
- White Cloud Kansas Chief, (Weekly). June 4, 1857-1916. 58 Vols.
- Wyandotte Commercial Gazette, (Weekly). May, 1858-61.
- Connelley, William E., History of Kansas Newspapers ... Magazines published in Kansas from the Organization of Kansas Territory 1854 to January 1, 1916 ... Kansas State Printing Plant, Topeka, 1916.
This is a bibliography of Kansas Newspapers.

NEWSPAPER CLIPPINGS

- Governors of Kansas, Clippings, 1855-1926.
- Kansas Constitutions, Clippings. 2 Vols.
- Kansas History, Clippings. 4 Vols.
- Kansas Legislature, Biography.
- Kansas Legislature, Clippings. 2 Vols.
- Kansas Reminiscences by Kansas Authors.
- Kansas Scrap Book, Biography.
- Kansas State House, Clippings.
- Kansas Territory, Clippings. 3 Vols.
- Sherman, Hon. John, Scrap Book.
- Webb, Thomas H., Scrap Book. 17 Vols.

PERIODICALS AND PAMPHLETS

- Brown, George W., The People's Choice for Governor. Hon. Charles Robinson, the Old War Governor of Kansas, 1890.
- Collections of the Kansas State Historical Society. 17 Vols.
This includes the first ten volumes known as Transactions....
- Congregational Record, January 1859-67. 8 Vols.

Connelley, William E. (Ed.), "The Provisional Government of Nebraska Territory and the Journals of William Walker." A Special Publication of the Nebraska State Historical Society. Vol. III. Lincoln, Nebr., 1899.

Ewing, Thomas, "The Struggle for Freedom in Kansas." Cosmopolitan Magazine, May 1894.

Kansas Educational Journal.

Kansas History Pamphlets. 6 Vols.

Kansas Historical Quarterly. 5 Vols. Kansas State Historical Society, Topeka, Kansas.

Malin, James C., "Colonel Harvey and his Forty Thieves." Mississippi Valley Historical Review. XIX No. 1, June, 1932.

Sanborn, F. B., "The Early History of Kansas." Massachusetts Historical Society Proceedings, 1907-8. 3d Series Vol. I.

Stephenson, Wendell Holmes, "The Political Career of General James H. Lane." Publications of the Kansas State Historical Society. Vol. III. Topeka, 1930.

Sweet, William W., "Some Religious Aspects of the Kansas Struggle." Journal of Religious Education. VII, No. 5 & 6. Oct., 1927.

BOOKS

Andreas, A. T., History of the State of Kansas... Chicago, 1883.

Barrows, L. J., An Outline of County Government in Kansas. Master's Thesis, Univ. of Kansas. MS.

Becker, Carl, "Kansas." Essays in American History Dedicated to Frederick Jackson Turner.

Blackmar, F. W., Charles Robinson: The First Free State Governor of Kansas. Topeka, Crane Co., 1900.

Blanchard, Leole, Conquest of Southwestern Kansas.

Clark, Carroll D. & Roberts, Roy L., People of Kansas. A Demographic and Sociological Study. Kansas State Planning Board, Topeka.

Connelley, William E., An Appeal to the Record Topeka, Kansas, 1903.

- Connelley, William E., History of Kansas State and People. Kansas at the First Quarter Post of the Twentieth Century. 5 Vols. N.Y. American Hist. Soc., Inc. 1928.
- Cooley, Thomas M., A Treatise on the Constitutional Limitations which rest upon the Legislative Power of the States of the American Union. 2 Vols. Boston, Little Brown & Co. 8th Edition, 1927.
- Dealey, J.Q., Growth of American State Constitutions from 1776-1914. N.Y. Ginn & Co., 1915.
- Dodd, Walter F., Revision and Amendment of State Constitutions. Baltimore, Johns Hopkins Press, 1910.
- Frederickson, O.F., The Liquor Question Among the Indian Tribes in Kansas, 1804-1881. Lawrence, Dept. of Journalism Press, 1932.
- Greene, J.E., The Government of Illinois.
- Hodder, F.H., The Government of the People of the State of Kansas. Phila., Eldridge and Bros., 1895.
- Hoar, Roger Sherman, Constitutional Conventions. Their Nature, Powers and Limitations. Boston, Little Brown & Co., 1917.
- Holloway, J.M., History of Kansas; from the first Exploration of the Mississippi Valley to its Admission into the Union. ... Lafayette, Ind., 1868.
- Ise, John, Sod and Stubble, the Story of a Kansas Homestead. N.Y., Wilson-Erickson Inc., 1936.
- Isely, Bliss, Sunbonnet Days, by Elise Dubach Isely as told to her son Bliss Isely. Caldwell Id., 1935.
- Jameson, John A., A Treatise on Constitutional Conventions; their History, Powers, and Modes of Proceeding. 4th Edition. Chicago, Callaghan & Co., 1887.
- McMaster, J.B., History of the People of the United States, from the Revolution to the Civil War. 8 Vols. N.Y., Appleton & Co.
- McNeal, T.A., When Kansas was Young. N.Y., 1922.
- Nicolay, John G. & Hay, John, The Works of Abraham Lincoln. 8 Vols. N.Y., G. Putnam's Son.
- Redpath, James, The Roving Editor or Talks with Slaves in the Southern States. A.B. Burdick Publ., 1859.

- Rhodes, James Ford, History of the United States from the Compromise of 1850. 8 Vols. N.Y., Macmillan Co.
- Robinson, Sara T.D., Kansas; its Interior and Exterior Life. Including a full view of its Settlement, Political History, Social Life, Climate, Soil, etc. 8th Edition. Boston, 1857.
- Spring, L.W., Kansas: The Prelude to the War for the Union. Boston, Houghton Mifflin Co., 1890.
- Stanwood, Edward, History of the Presidency. N.Y. Houghton Mifflin and Co., 1898.
- Throckmorton, R.I. & Wood, P.O., Soil Survey of Cherokee County, Kansas. Washington Govt. Print. Off., 1914.
- Webb, Walter Prescott, The Great Plains. Boston, Ginn and Co., 1931.
- White, William Allen, The Real Issue. Chicago, Way and William, 1896.
- Wilder, D.W., Annals of Kansas. Topeka, Kansas Publ. House, 1886.
- Villard, O.G., John Brown 1800-1859; A Biography of Fifty Years After. N.Y., Houghton Mifflin Co., 1910.

APPENDIX # G

A Tabulated Report of the Distribution of Provisions by Counties, Distributed by the New York Kansas Relief Committee, October 1860 to March 15, 1861.

<u>County</u>	<u>Distribution in pounds</u>	<u>Population</u>
Shawnee	361,165	3,513
Douglas	342,564	8,637
Allen	299,365	3,082
Breckenridge	291,298	3,197
Anderson	249,495	2,400
Jefferson	248,924	4,459
Atchison	245,015	7,729
Pottawatomie	237,210	1,529
Nemaha	198,585	2,436
Jackson	196,750	1,936
Coffey	194,855	2,842
Browne	183,440	2,607
Bourbon	172,560	6,101
Franklin	156,050	3,030
Marshall	154,945	2,280
Greenwood	145,460	759
Woodson	139,990	1,488
Lykins	138,875	4,980
Doniphan	138,750	8,083
Johnson	123,094	4,364
Osage	121,540	1,113
Madison	97,265	636
Leavenworth	79,845	12,606
Riley	79,370	1,224
Morris	61,830	770
Wabaunsee	61,120	1,023
Chase	60,775	808
Butler	53,630	437
Linn	44,445	6,336
Washington	43,250	383
Dickinson	39,650	378
Davis	39,100	1,163
Clay	22,635	163
Otoe	19,950	238
Saline	18,980	
Hunter	18,050	158
Wyandotte	17,105	2,609
Ottawa	11,010	
Marion	2,910	74
Cherokee	630	1,501
Godfrey		19
Wilson		27
Dorn		88

Population is based on Federal Census Report of 1860.

APPENDIX # H

Kansas Newspapers in 1860.

<u>County</u>	<u>Paper</u>	<u>Kind</u>	<u>Party</u>	<u>Circulation</u>
Douglas ----	German Republican	--Weekly---	R --	2,000
	National Democrat	-- " --	D --	1,000
	Herald of Freedom	--- " ---	I --	2,000
Johnson ----	Olathe Herald	----- " -----	D --	530
Coffee ----	Neosho Valley Register	" --	R --	500
Breckenridge	Emporia News	----- " -----	--	950
	American Sentinel	---	--	
Morris -----	Thomas Press	----- " -----	--	1,200
Wyandotte --	Western Argus	----- " -----	D --	500
	Kansas Tribune	-- " --	R --	400
Leavenworth	Herald	-----Daily	D --	600
	Herald	-----Weekly	D --	2,000
	Times	-----Daily	D --	400
	Times	-----Weekly	D --	900
	Despatch	-----Daily	D --	650
	Despatch	-----Weekly	D --	1,000
Atchison Union	Zeitung	----- " -----	R --	400
	Freedom's Champion	----- " -----	D --	1,000
Doniphan	Palmyra Trader	---- " ----	R --	800
	Elwood Free Press	- " -	--	500
	White Cloud Chief	- " -	--	1,000
Lykins --	Paola Chief	----- " -----	I --	400
	Southern Kans. Herald	" --	D --	400
Shawnee ----	State Record	----- " -----	R --	
	Topeka Tribune	---- " ----	R --	1,000
Riley -----	Manhattan Express	- " -	D --	1,400
Jefferson --	Oskaloosa Independent	" --	R --	800
		" --	I --	500

R--Republican.
D--Democrat.
I--Independent.

APPENDIX # I

Apportionment of delegates to the Wyandotte Constitutional Convention: 1, as based on the bill passed by the Legislature. (Taken from House Journal 1859 p.212, as amended by the Senate.) 2nd, as enforced. (Based on Convention Jrnl. p.8.)

No.1.

No.2.

<u>District</u>	<u>Delegates</u>	<u>District</u>	<u>Delegates</u>
1-Wyandotte -----	2	1-Jeavenworth -----	10
2-Leavenworth -----	7	2-Atchison -----	3
3-Atchison -----	3	3-Doniphan -----	5
4-Doniphan -----	4	4-Brown -----	1
5-Brown -----	1	5-Nemaha -----	1
6-Nemaha -----	1	6-Marshall, Washington, & Arapahoe -----	1
7-Marshall, Washington & Arapahoe -----	1	7-Jefferson -----	1
8-Jefferson -----	2	8-Calhoun -----	1
9-Calhoun -----	1	9-Riley -----	1
10-Riley -----	1	10-Pottowatomie -----	1
11-Pottowatomie -----	1	11-Johnson -----	2
12-Johnson -----	2	12-Douglas -----	7
13-Douglas -----	7	13-Shawnee -----	3
14-Shawnee -----	3	14-Richardson, Davis, Dickinson, Clay ----	1
15-Richardson, Davis, Dickinson & Clay ---	1	15-Lykins -----	2
16-Lykins -----	2	16-Franklin -----	1
17-Franklin -----	1	17-Weller, Breckenridge, Wise -----	2
18-Breckenridge, Mad- ison -----	2	18-Linn -----	2
19-Wise, Butler -----	1	19-Anderson -----	1
20-Linn -----	2	20-Coffee, Woodson ----	2
21-Anderson -----	1	21-Madison, Butler, Hunter, Greenwood, Godfrey, Wilson -----	1
22-Coffee, Woodson ----	2	22-Bourbon, McGee, Dorn--	2
23-Hunter, Greenwood, Gdfrey, Wilson -----	1	23-Allen -----	1
24-Bourbon, McGee ---- Dorn -----	2		
25-Allen -----	1		

In No.1, Weller was detached from Shawnee but was not reported what they did with it.

APPENDIX # J

Vote Of The United States Senate On The Admission
Of Kansas.

State	Senator	1	2	3	4	State	Senator	1	2	3	4		
Me.	Fessended	-	a	a	n	n	Minn.	Rice	----	n	a	a	a
	Hamlin	----	a	a				Wilkinson		a	a		
N.H.	Clark	----	a	a	n	n	Ore.	Lane	----	n		a	a
	Hale	-----	a	a	n	n		Baker	----		a		
Vt.	Collamore	-	a	a	n	n	Md.	Kennedy	--	n	n		a
	Foot	-----	a	a	n	n		Pearce	---	n			a
Mass.	Sumner	---	a	a	n	n	Mo.	Green	----	n	n	a	a
	Wilson	---	a	a	n	n		Polk	-----	n	n	a	a
Conn.	Dixon	-----	a	a	n	n	Ky.	Crittenden		a	a	n	
	Foster	----	a	a	n	n		Powell	----	n	n	a	a
R.I.	Anthony	---	a	a	n	n	Tenn.	Nickolson		n	a	a	a
	Simmons	---	a	a	n	n		Johnson	--	n	a	a	a
N.Y.	King	-----	a	a	n	n	Va.	Hunter	---	n	n	a	a
	Seward	----	a	a	n	n		Mason	----	n	n	a	a
Pa.	Bigler	----	n	a	a	a	N.C.	Bragg	----	n	n	a	a
	Cameron	---	a	a	n	n		Clingman	-	n	n	a	a
N.J.	Ten Eyck	--	a	a	n	n	S.C.	Chestnut	-	n			
	Thomson	--		a				Hammond	--	n			
Del.	Bayard	----	n		a	a	Ga.	Tombs	----	n			
	Saulsbury	-	n		a	a		Iverson	--	n	n	a	a
Ohio	Wade	-----	a	a	n	n	Miss.	Brown	----	n			
	Pugh	-----	a	a	a	a		Davis	----	n			
Ind.	Bright	----	n	a	a	a	Ala.	Fitzpatrick	n				
	Fitch	-----	n	a	a	a		Clay	-----				
Ill.	Douglas	---		a	n	n	Tex.	Hemphill	-	n	n	a	a
	Trumbull	--	a	a	n	n		Wigfall	--	n	n	a	a
Mich.	Bingham	---	a	a	n	n	Fla.	Yulee	----	n			
	Chandler	--	a	a	n	n		Mallory	--	n			
Iowa	Grimes	----	a	a	n	n	Ark.	Johnson	--	n	n	a	a
	Harlan	----	a	a	n	n		Sebastian	-	n	n	a	a
Wisc.	Doolittle	-	a	a	n	n	La.	Slidell	--	n	n		a
	Durkee	----	a	a	n	n		Benjamin	-	n	n	a	a
Calif.	Latham	----	a	a		a							
	Gwin	-----	n		a	a							

Vote # 1- June 5 1860 to postpone House Bill #23 (Admission Bill).

Vote # 2- January 21 1861, to pass House Bill # 23.

Vote # 3- To pass the Judicial Amendment. First attempt.

Vote # 4- Vote on Judicial Amendment. Second attempt.

In the first two votes -a- represents a vote to admit Kansas, -n- not to admit.

In the last two votes -a- represents a vote for the amendment and -n- a vote against it.

APPENDIX # K.

<u>Place</u>	<u>Senator</u>	<u>Politics</u>	1	2	3	4	5	6	<u>7</u>	
Emporia	Bancroft ----	R	---	S	N	A	A	A	A	P S
Mound City	Broadhead ---	R	---	S	N	A	A	N	A	S Pom.
Bourbon	Burnett -----	R	---	P	A	A	A	A		L Pom.
Leavenworth	Connell -----	D	---	S	N	A	A	A	A	P I
"	Denman -----	D	---	S	N	A	A	A	A	P I
Brown Co.	Dutton -----	R	---	S	N	N	N	N	A	P S
Franklin	Elder -----	R	---	P	A	A	A	A		L Pom.
Topeka	Farnsworth --	R	---	L	A	A	N	A		L Pom.
Wyandotte	Gunn -----	R	---	S	N	N	N	N	A	N S Pom.
Neosho F.	Hoffman -----	R	---	S	N	N	N	N	A	P Pom.
Manhattan	Houston -----	R	---	L	A	A	N	A		L Pom.
Wabaunsee	Hubbard -----	R	---	S	N	A	A	A	A	S Pom.
Nemaha	Lappin -----	R	---	S	N	N	A	A	N	P S
Johnson	Lockhart ----	R	---	L	A	A	A	A	A	L P
Grasshopper Falls	Lynde -----	R	---	P	A	A	N	N	N	P S
Leavenworth	McDowell ----	D	---	S	N	A	A	N		P I
Atchison	Martin -----	R	---	S	A	N	A	A	N	L Pom.
Lawrence	Miller -----	R	---	L	A	A	A	N	A	L D
Breckenridge	Sleeper -----	R	---	L	A	N	N	N	A	L P
Anderson	Spriggs -----	R	---	L	A	A	A	N	A	L P
Lawrence	Morrow -----	R	---	S	N	A	A	A	A	P Pom.
"	Osborn -----	R	---	P	A	A	A	A	A	L P
Paola	Phillips ----	R	---	P	A	A	A	A	A	L P
Doniphan	Seaver -----	R	---	L	A	A	A	A	A	S Pom.
Chase Co.	Wood -----	R	---	S	N	A	A	A	N	S Pom.

- Vote # 1 -Vote in Senate for Senators April 1. S-Stanton, P-Parrott, L-Lane.
- Vote # 2 -Vote on motion to go into Joint Session. A-affirmative. N-negative.
- Vote # 3 -Vote on Penitentiary Bill. A-affirmative. N-negative. 19 to 6.
- Vote # 4 -Vote on Capital Bill May 23, 1861, affirmative 18, negative 7.
- Vote # 5 -Vote on Bill to locate State University at Manhattan, affirmative 17, negative 8.
- Vote # 6 -Senate vote to recede from amendment on Capital Bill # 141, voted May 31, 1861, affirmative 15, negative 5.
- Vote # 7 -Senate vote April 4, 1861, while in Joint Session for United States Senators. L-Lane, Pom.-Pomeroy, P-Parrott, S-Stanton, I-Isaacs, D-Delahay.

APPENDIX # I.

<u>Post Office</u>	<u>Senators</u>	1	2	3	4
Emporia	Bancroft -----	N		A	N
"	Rankin -----		N		
Hiawatha	Barnett -----	A	A	A	
Mound City	Broadhead -----	N		A	N
Leavenworth	Connell -----	A	A		A
Mound City	Curtis -----	N	N	N	A
Leavenworth	Denman -----	A	A	A	A
Manhattan	Essick -----	N	A	A	
Wyandotte	Gunn -----	A		A	N
Neosho Falls	Hoffman -----	N	N	A	N
Topeka	Holliday -----	A	A	N	A
Wabaunsee	Hubbard -----	A	A	N	A
Atchison	Ingalls -----	A	A	A	N
Shawnee	Keeler -----	N	N	N	A
Mound City	Knowles -----		A		
Senaca	Lappin -----		A		
Grasshopper Falls	Lynde -----	A	N	A	N
Chelsea	Lambdin -----	N	N	N	A
Leavenworth	McDowell -----	A	A	N	A
Lawrence	Morrow -----	N	N	A	N
Elwood	Osborn -----	A	A	N	A
Paola	Phillips -----			A	
Paola	Roberts -----	N	N		
Mount Gilead	Rees -----	N	N	N	A
Highland	Seaver -----				
Neosho Rapids	Sleeper -----	N	N	N	A
Scipio	Spriggs -----	N	N	N	A
Lawrence	Stevens -----	N	N	A	N

- Vote # 1- First vote in Senate on Manhattan Bill, affirmative 10, negative 13. Feb.27,1862.
- Vote # 2- Second vote in Senate on Manhattan Bill, March 3, 1862, affirmative 11, negative 12.
- Vote # 3- Hoffman's resolution to postpone the consideration of the right of Messrs. Bancroft, Broadhead, Gunn and Phillips to seats in the Senate one week, affirmative 12, negative 10. (Feb.18,1862-Feb.25,1862.)
- Vote # 4- Resolution admitting Roberts to a seat in Senate Feb.21,1862, affirmative 12, negative 8.