

MESSAGE

OF THE

PRESIDENT OF THE UNITED STATES,

COMMUNICATING

A constitution for Kansas as a State, and presenting his views in relation to the affairs of that Territory.

FEBRUARY 2, 1858.—Read. Motion by Mr. Bigler to print and refer to the Committee on Territories debated. Adjourned.

FEBRUARY 3, 1858.—Ordered to be printed, with constitution and papers.

To the Senate and House of Representatives of the United States :

I have received from J. Calhoun, esq., president of the late constitutional convention of Kansas, a copy, duly certified by himself, of the constitution framed by that body, with the expression of a hope that I would submit the same to the consideration of Congress, "with the view of the admission of Kansas into the Union as an independent State." In compliance with this request, I herewith transmit to Congress, for their action, the constitution of Kansas, with the ordinance respecting the public lands, as well as the letter of Mr. Calhoun, dated at Leocompton on the 14th ultimo, by which they were accompanied. Having received but a single copy of the constitution and ordinance, I send this to the Senate.

A great delusion seems to pervade the public mind in relation to the condition of parties in Kansas. This arises from the difficulty of inducing the American people to realize the fact that any portion of them should be in a state of rebellion against the government under which they live. When we speak of the affairs of Kansas, we are apt to refer merely to the existence of two violent political parties in that Territory, divided on the question of slavery, just as we speak of such parties in the States. This presents no adequate idea of the true state of the case. The dividing line there is not between two political parties, both acknowledging the lawful existence of the government, but between those who are loyal to this government and those who have endeavored to destroy its existence by force and by usurpation—between those who sustain and those who have done all in their power to overthrow the territorial government established by Congress. This government they would long since have subverted had it not been pro-

tected from their assaults by the troops of the United States. Such has been the condition of affairs since my inauguration. Ever since that period a large portion of the people of Kansas have been in a state of rebellion against the government, with a military leader at their head of a most turbulent and dangerous character. They have never acknowledged, but have constantly renounced and defied the government to which they owe allegiance, and have been all the time in a state of resistance against its authority. They have all the time been endeavoring to subvert it and to establish a revolutionary government, under the so-called Topeka constitution, in its stead. Even at this very moment the Topeka legislature are in session. Whoever has read the correspondence of Governor Walker with the State Department, recently communicated to the Senate, will be convinced that this picture is not overdrawn. He always protested against the withdrawal of any portion of the military force of the United States from the Territory, deeming its presence absolutely necessary for the preservation of the regular government and the execution of the laws. In his very first despatch to the Secretary of State, dated June 2, 1857, he says: "The most alarming movement, however, proceeds from the assembling on the 9th June of the so-called Topeka legislature, with a view to the enactment of an entire code of laws. Of course it will be my endeavor to prevent such a result, as it would lead to inevitable and disastrous collision, and, in fact, renew the civil war in Kansas." This was with difficulty prevented by the efforts of Governor Walker; but soon thereafter, on the 14th of July, we find him requesting General Harney to furnish him a regiment of dragoons to proceed to the city of Lawrence—and this for the reason that he had received authentic intelligence, verified by his own actual observation, that a dangerous rebellion had occurred, "involving an open defiance of the laws and the establishment of an insurgent government in that city."

In the governor's despatch of July 15, he informs the Secretary of State "that this movement at Lawrence was the beginning of a plan, originating in that city, to organize insurrection throughout the Territory; and especially in all towns, cities, or counties where the republican party have a majority. Lawrence is the hot bed of all the abolition movements in this Territory. It is the town established by the abolition societies of the east, and whilst there are respectable people there, it is filled by a considerable number of mercenaries who are paid by abolition societies to perpetuate and diffuse agitation throughout Kansas, and prevent a peaceful settlement of this question. Having failed in inducing their own so-called Topeka State legislature to organize this insurrection, Lawrence has commenced it herself, and, if not arrested, the rebellion will extend throughout the Territory."

And again: "In order to send this communication immediately by mail, I must close by assuring you that the spirit of rebellion pervades the great mass of the republican party of this Territory, instigated, as I entertain no doubt they are, by eastern societies, having in view results most disastrous to the government and to the Union; and that the continued presence of General Harney here is indispensable, as originally stipulated by me, with a large body of dragoons and several batteries."

On the 20th July, 1857, General Lane, under the authority of the Topeka convention, undertook, as Governor Walker informs us, "to organize the whole so-called free State party into volunteers, and to take the names of all who refuse enrolment. The professed object is to protect the polls, at the election in August, of the new insurgent Topeka State legislature."

"The object of taking the names of all who refuse enrolment is to terrify the free State conservatives into submission. This is proved by recent atrocities committed on such men by Topekaites. The speedy location of large bodies of regular troops here, with two batteries, is necessary. The Lawrence insurgents await the development of this new revolutionary military organization," &c., &c.

In the governor's despatch of July 27th, he says that "General Lane and his staff everywhere deny the authority of the territorial laws, and counsel a total disregard of these enactments."

Without making further quotations of a similar character from other despatches of Governor Walker, it appears by a reference to Mr. Stanton's communication to General Cass, of the 9th of December last, that the "important step of calling the legislature together was taken after I [he] had become satisfied that the election ordered by the convention on the 21st instant could not be conducted without collision and bloodshed." So intense was the disloyal feeling among the enemies of the government established by Congress, that an election which afforded them an opportunity, if in the majority, of making Kansas a free State, according to their own professed desire, could not be conducted without collision and bloodshed!

The truth is, that, up till the present moment, the enemies of the existing government still adhere to their Topeka revolutionary constitution and government. The very first paragraph of the message of Governor Robinson, dated on the 7th of December, to the Topeka legislature, now assembled at Lawrence, contains an open defiance of the Constitution and laws of the United States. The governor says: "The convention which framed the constitution at Topeka originated with the people of Kansas Territory. They have adopted and ratified the same twice by a direct vote, and also indirectly through two elections of State officers and members of the State legislature. Yet it has pleased the administration to regard the whole proceeding revolutionary."

This Topeka government, adhered to with such treasonable pertinacity, is a government in direct opposition to the existing government prescribed and recognized by Congress. It is a usurpation of the same character as it would be for a portion of the people of any State of the Union to undertake to establish a separate government, within its limits, for the purpose of redressing any grievance, real or imaginary, of which they might complain, against the legitimate State government. Such a principle, if carried into execution, would destroy all lawful authority and produce universal anarchy.

From this statement of facts, the reason becomes palpable why the enemies of the government authorized by Congress have refused to vote for delegates to the Kansas constitutional convention, and also afterwards on the question of slavery submitted by it to the people. It

is because they have ever refused to sanction or recognize any other constitution than that framed at Topeka.

Had the whole Lecompton constitution been submitted to the people, the adherents of this organization would doubtless have voted against it, because, if successful, they would thus have removed an obstacle out of the way of their own revolutionary constitution. They would have done this, not upon a consideration of the merits of the whole or any part of the Lecompton constitution, but simply because they have ever resisted the authority of the government authorized by Congress, from which it emanated.

Such being the unfortunate condition of affairs in the Territory, what was the right, as well as the duty, of the law abiding people? Were they silently and patiently to submit to the Topeka usurpation, or adopt the necessary measures to establish a constitution under the authority of the organic law of Congress?

That this law recognized the right of the people of the Territory, without any enabling act from Congress, to form a State constitution, is too clear for argument. For Congress "to leave the people of the Territory perfectly free," in framing their constitution, "to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States," and then to say that they shall not be permitted to proceed and frame a constitution in their own way, without an express authority from Congress, appears to be almost a contradiction in terms. It would be much more plausible to contend that Congress had no power to pass such an enabling act, than to argue that the people of a Territory might be kept out of the Union for an indefinite period, and until it might please Congress to permit them to exercise the right of self-government. This would be to adopt not "their own way," but the way which Congress might prescribe.

It is impossible that any people could have proceeded with more regularity in the formation of a constitution than the people of Kansas have done. It was necessary, first, to ascertain whether it was the desire of the people to be relieved from their territorial dependence and establish a State government. For this purpose, the territorial legislature, in 1855, passed a law "for taking the sense of the people of this Territory upon the expediency of calling a convention to form a State constitution" at the general election to be held in October, 1856. The "sense of the people" was accordingly taken, and they decided in favor of a convention. It is true that at this election the enemies of the territorial government did not vote, because they were then engaged at Topeka, without the slightest pretext of lawful authority, in framing a constitution of their own for the purpose of subverting the territorial government.

In pursuance of this decision of the people in favor of a convention, the territorial legislature, on the 27th day of February, 1857, passed an act for the election of delegates on the third Monday of June, 1857, to frame a State constitution. This law is as fair in its provisions as any that ever passed a legislative body for a similar purpose. The right of suffrage at this election is clearly and justly defined. "Every *bona fide* inhabitant of the Territory of Kansas" on the third Monday of June, the day of the election, who was a citizen of the United States

above the age of twenty-one, and had resided therein for three months previous to that date, was entitled to vote. In order to avoid all interference from neighboring States or Territories with the freedom and fairness of the election, provision was made for the registry of the qualified voters; and, in pursuance thereof, nine thousand two hundred and fifty-one voters were registered. Governor Walker did his whole duty in urging all the qualified citizens of Kansas to vote at this election. In his inaugural address, on the 27th May last, he informed them that "under our practice the preliminary act of framing a State constitution is uniformly performed through the instrumentality of a convention of delegates chosen by the people themselves. That convention is now about to be elected by you under the call of the territorial legislature, created and still recognized by the authority of Congress, and clothed by it, in the comprehensive language of the organic law, with full power to make such an enactment. The territorial legislature, then, in assembling this convention, were fully sustained by the act of Congress, and the authority of the convention is distinctly recognized in my instructions from the President of the United States."

The governor also clearly and distinctly warns them what would be the consequences if they should not participate in the election. "The people of Kansas, then, (he says) are invited by the highest authority known to the Constitution, to participate, freely and fairly, in the election of delegates to frame a constitution and State government. The law has performed its entire appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage authorize those who do vote to act for them in that contingency; and the absentees are as much bound, under the law and Constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative."

It may also be observed, that at this period any hope, if such had existed, that the Topeka constitution would ever be recognized by Congress, must have been abandoned. Congress had adjourned on the 3d March previous, having recognized the legal existence of the territorial legislature in a variety of forms, which I need not enumerate. Indeed, the delegate elected to the House of Representatives, under a territorial law, had been admitted to his seat, and had just completed his term of service on the day previous to my inauguration.

This was the propitious moment for settling all difficulties in Kansas. This was the time for abandoning the revolutionary Topeka organization, and for the enemies of the existing government to conform to the laws, and to unite with its friends in framing a State constitution. But this they refused to do, and the consequences of their refusal to submit to lawful authority and vote at the election of delegates may yet prove to be of a most deplorable character. Would that the respect for the laws of the land which so eminently distin-

guished the men of the past generation could be revived! It is a disregard and violation of law which have for years kept the Territory of Kansas in a state of almost open rebellion against its government. It is the same spirit which has produced actual rebellion in Utah. Our only safety consists in obedience and conformity to law. Should a general spirit against its enforcement prevail, this will prove fatal to us as a nation. We acknowledge no master but the law; and should we cut loose from its restraints, and every one do what seemeth good in his own eyes, our case will indeed be hopeless.

The enemies of the territorial government determined still to resist the authority of Congress. They refused to vote for delegates to the convention, not because, from circumstances which I need not detail, there was an omission to register the comparatively few voters who were inhabitants of certain counties of Kansas in the early spring of 1857, but because they had predetermined, at all hazards, to adhere to their revolutionary organization, and defeat the establishment of any other constitution than that which they had framed at Topeka. The election was, therefore, suffered to pass by default; but of this result the qualified electors who refused to vote can never justly complain.

From this review, it is manifest that the Lecompton convention, according to every principle of constitutional law, was legally constituted and was invested with power to frame a constitution.

The sacred principle of popular sovereignty has been invoked in favor of the enemies of law and order in Kansas. But in what manner is popular sovereignty to be exercised in this country, if not through the instrumentality of established law? In certain small republics of ancient times the people did assemble in primary meetings, passed laws, and directed public affairs. In our country this is manifestly impossible. Popular sovereignty can be exercised here only through the ballot-box; and if the people will refuse to exercise it in this manner, as they have done in Kansas at the election of delegates, it is not for them to complain that their rights have been violated.

The Kansas convention, thus lawfully constituted, proceeded to frame a constitution, and, having completed their work, finally adjourned on the 7th day of November last. They did not think proper to submit the whole of this constitution to a popular vote, but they did submit the question whether Kansas should be a free or a slave State to the people. This was the question which had convulsed the Union and shaken it to its very centre. This was the question which had lighted up the flames of civil war in Kansas, and had produced dangerous sectional parties throughout the confederacy. It was of a character so paramount in respect to the condition of Kansas as to rivet the anxious attention of the people of the whole country upon it, and it alone. No person thought of any other question. For my own part, when I instructed Governor Walker, in general terms, in favor of submitting the constitution to the people, I had no object in view except the all-absorbing question of slavery. In what manner the people of Kansas might regulate their other concerns was not a subject which attracted any attention. In fact, the general provisions of our recent State

constitutions, after an experience of eighty years, are so similar and so excellent that it would be difficult to go far wrong at the present day in framing a new constitution.

I then believed, and still believe, that, under the organic act, the Kansas convention were bound to submit this all-important question of slavery to the people. It was never, however, my opinion that, independently of this act, they would have been bound to submit any portion of the constitution to a popular vote, in order to give it validity. Had I entertained such an opinion, this would have been in opposition to many precedents in our history, commencing in the very best age of the republic. It would have been in opposition to the principle which pervades our institutions, and which is every day carried out into practice, that the people have the right to delegate to representatives, chosen by themselves, their sovereign power to frame constitutions, enact laws, and perform many other important acts, without requiring that these should be subjected to their subsequent approbation. It would be a most inconvenient limitation of their own power, imposed by the people upon themselves, to exclude them from exercising their sovereignty in any lawful manner they think proper. It is true that the people of Kansas might, if they had pleased, have required the convention to submit the constitution to a popular vote; but this they have not done. The only remedy, therefore, in this case, is that which exists in all other similar cases. If the delegates who framed the Kansas constitution have in any manner violated the will of their constituents, the people always possess the power to change their constitution or their laws, according to their own pleasure.

The question of slavery was submitted to an election of the people of Kansas on the 21st December last, in obedience to the mandate of the Constitution. Here, again, a fair opportunity was presented to the adherents of the Topeka constitution, if they were the majority, to decide this exciting question "in their own way," and thus restore peace to the distracted Territory; but they again refused to exercise their right of popular sovereignty, and again suffered the election to pass by default.

I heartily rejoice that a wiser and better spirit prevailed among a large majority of these people on the first Monday of January; and that they did, on that day, vote under the Lecompton constitution for a governor and other State officers, a member of Congress, and for members of the legislature. This election was warmly contested by the parties, and a larger vote was polled than at any previous election in the Territory. We may now reasonably hope that the revolutionary Topeka organization will be speedily and finally abandoned, and this will go far towards the final settlement of the unhappy differences in Kansas. If frauds have been committed at this election, either by one or both parties, the legislature and the people of Kansas, under their constitution, will know how to redress themselves and punish these detestable but too common crimes without any outside interference.

The people of Kansas have, then, "in their own way," and in strict accordance with the organic act, framed a constitution and State

government; have submitted the all-important question of slavery to the people, and have elected a governor, a member to represent them in Congress, members of the State legislature, and other State officers. They now ask admission into the Union under this constitution, which is republican in its form. It is for Congress to decide whether they will admit or reject the State which has thus been created. For my own part, I am decidedly in favor of its admission, and thus terminating the Kansas question. This will carry out the great principle of non-intervention recognized and sanctioned by the organic act, which declares in express language in favor of "non-intervention by Congress with slavery in the States or Territories," leaving "the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States." In this manner, by localizing the question of slavery, and confining it to the people whom it immediately concerned, every patriot anxiously expected that this question would be banished from the halls of Congress, where it has always exerted a baneful influence throughout the whole country.

It is proper that I should briefly refer to the election held under an act of the territorial legislature, on the first Monday of January last, on the Lecompton constitution. This election was held after the Territory had been prepared for admission into the Union as a sovereign State, and when no authority existed in the territorial legislature which could possibly destroy its existence or change its character. The election, which was peaceably conducted under my instructions, involved a strange inconsistency. A large majority of the persons who voted against the Lecompton constitution were at the very same time and place recognizing its valid existence in the most solemn and authentic manner, by voting under its provisions. I have yet received no official information of the result of this election.

As a question of expediency, after the right has been maintained, it may be wise to reflect upon the benefits to Kansas and to the whole country which would result from its immediate admission into the Union, as well as the disasters which may follow its rejection. Domestic peace will be the happy consequence of its admission, and that fine Territory, which has hitherto been torn by dissensions, will rapidly increase in population and wealth, and speedily realize the blessings and the comforts which follow in the train of agricultural and mechanical industry. The people will then be sovereign, and can regulate their own affairs in their own way. If a majority of them desire to abolish domestic slavery within the State, there is no other possible mode by which this can be effected so speedily as by prompt admission. The will of the majority is supreme and irresistible when expressed in an orderly and lawful manner. They can make and unmake constitutions at pleasure. It would be absurd to say that they can impose fetters upon their own power which they cannot afterwards remove. If they could do this, they might tie their own hands for a hundred as well as for ten years. These are fundamental principles of American freedom, and are recognized, I believe, in some form or other, by every State constitution; and if Congress, in the act of admission, should think proper to recognize

them, I can perceive no objection to such a course. This has been done emphatically in the constitution of Kansas. It declares in the bill of rights that "all political power is inherent in the people, and all free governments are founded on their authority and instituted for their benefit, and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper." The great State of New York is at this moment governed under a constitution framed and established in direct opposition to the mode prescribed by the previous constitution. If, therefore, the provision changing the Kansas constitution, after the year one thousand eight hundred and sixty-four, could by possibility be construed into a prohibition to make such a change previous to that period, this prohibition would be wholly unavailing. The legislature already elected may, at its very first session, submit the question to a vote of the people whether they will or will not have a convention to amend their constitution and adopt all necessary means for giving effect to the popular will.

It has been solemnly adjudged by the highest judicial tribunal known to our laws, that slavery exists in Kansas by virtue of the Constitution of the United States. Kansas is, therefore, at this moment as much a slave State as Georgia or South Carolina. Without this the equality of the sovereign States composing the Union would be violated, and the use and enjoyment of a Territory acquired by the common treasure of all the States would be closed against the people and the property of nearly half the members of the confederacy. Slavery can therefore never be prohibited in Kansas except by means of a constitutional provision, and in no other manner can this be obtained so promptly, if a majority of the people desire it, as by admitting it into the Union under its present constitution.

On the other hand, should Congress reject the constitution, under the idea of affording the disaffected in Kansas a third opportunity of prohibiting slavery in the State, which they might have done twice before if in the majority, no man can foretell the consequences.

If Congress, for the sake of those men who refused to vote for delegates to the convention when they might have excluded slavery from the constitution, and who afterwards refused to vote on the 21st December last, when they might, as they claim, have stricken slavery from the constitution, should now reject the State because slavery remains in the constitution, it is manifest that the agitation upon this dangerous subject will be renewed in a more alarming form than it has ever yet assumed.

Every patriot in the country had indulged the hope that the Kansas and Nebraska act would put a final end to the slavery agitation, at least in Congress, which had for more than twenty years convulsed the country and endangered the Union. This act involved great and fundamental principles, and if fairly carried into effect will settle the question. Should the agitation be again revived, should the people of the sister States be again estranged from each other with more than their former bitterness, this will arise from a cause, so far as the interests of Kansas are concerned, more trifling and insignificant than has ever stirred the elements of a great people into commotion. To

the people of Kansas, the only practical difference between admission or rejection depends simply upon the fact whether they can themselves more speedily change the present constitution if it does not accord with the will of the majority, or frame a second constitution to be submitted to Congress hereafter. Even if this were a question of mere expediency, and not of right, the small difference of time, one way or the other, is of not the least importance, when contrasted with the evils which must necessarily result to the whole country from a revival of the slavery agitation.

In considering this question, it should never be forgotten that, in proportion to its insignificance, let the decision be what it may, so far as it may affect the few thousand inhabitants of Kansas, who have from the beginning resisted the constitution and the laws, for this very reason the rejection of the constitution will be so much the more keenly felt by the people of fourteen of the States of this Union, where slavery is recognized under the Constitution of the United States.

Again: The speedy admission of Kansas into the Union would restore peace and quiet to the whole country. Already the affairs of this Territory have engrossed an undue proportion of public attention. They have sadly affected the friendly relations of the people of the States with each other, and alarmed the fears of patriots for the safety of the Union. Kansas once admitted into the Union, the excitement becomes localized, and will soon die away for want of outside aliment. Then every difficulty will be settled at the ballot-box.

Besides—and this is no trifling consideration—I shall then be enabled to withdraw the troops of the United States from Kansas, and employ them on branches of service where they are much needed. They have been kept there, on the earnest importunity of Governor Walker, to maintain the existence of the territorial government and secure the execution of the laws. He considered that at least two thousand regular troops, under the command of General Harney, were necessary for this purpose. Acting upon his reliable information, I have been obliged, in some degree, to interfere with the expedition to Utah, in order to keep down rebellion in Kansas. This has involved a very heavy expense to the government. Kansas once admitted, it is believed there will no longer be any occasion there for troops of the United States.

I have thus performed my duty on this important question, under a deep sense of responsibility to God and my country. My public life will terminate within a brief period; and I have no other object of earthly ambition than to leave my country in a peaceful and prosperous condition, and to live in the affections and respect of my countrymen. The dark and ominous clouds which now appear to be impending over the Union, I conscientiously believe may be dissipated with honor to every portion of it by the admission of Kansas during the present session of Congress; whereas, if she should be rejected, I greatly fear these clouds will become darker and more ominous than any which have ever yet threatened the Constitution and the Union.

JAMES BUCHANAN.

WASHINGTON, *February 2*, 1858.

[Received on Saturday night, 30th ultimo, from Colonel Clarkson —J B.]

LECOMPTON, K. T., *January* 14, 1858.

SIR: The bearer of this, Colonel J. J. Clarkson, will deliver to you an authentic copy of the constitution recently framed by the convention which assembled at Lecompton on the 5th day of September, 1857. By the terms of that constitution, and the action of the people under it, it is made my duty to have the same submitted to the action of the Congress of the United States, with the view of the admission of Kansas into the Union as an independent State. It is hoped, therefore, that it will be presented by you to the consideration of Congress, with such suggestions as you may think advisable to submit.

The question whether this constitution should contain a clause making Kansas a slave State or not was submitted to a vote of the people of the Territory on the 21st day of December, 1857, and resulted as follows:

For the constitution with slavery.....	6,226
For the constitution with no slavery.....	569
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Total vote for the constitution..	6,795
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The votes for the two sides of the constitution is a majority over any vote previously given at any election holden in the Territory.

The constitution is, therefore, by its own requirements, presented to the consideration of Congress, and Kansas asks for admission into the Union as a sovereign State.

I am, very respectfully, your obedient servant,

J. CALHOUN,

President of the Constitutional Convention.

His Excellency JAMES BUCHANAN,

President of the United States.

CONSTITUTION OF THE STATE OF KANSAS.

PREAMBLE.

We, the people of the Territory of Kansas, by our representatives in convention assembled at Lecompton, in said Territory, on Monday the fourth day of September, one thousand eight hundred and fifty-seven, and of the independence of the United States of America the eighty-second year, having the right of admission into the Union as one of the United States of America, consistent with the federal Constitution and by virtue of the treaty of cession by France to the United States of the province of Louisiana, made and entered into on the thirtieth day of April, one thousand eight hundred and three, and by virtue of, and in accordance with, the act of Congress passed March the thirtieth, one thousand eight hundred and fifty-four, entitled "An act to organize the Territories of Nebraska and Kansas," in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty, and property, and the free pursuit of happiness, do mutually agree with each other to form ourselves into a free, independent, and sovereign State by the name and style of the State of Kansas, and do ordain and establish the following constitution for the government thereof :

ARTICLE I.—*Boundaries.*

We do declare and establish, ratify and confirm the following as the permanent boundaries of the said State of Kansas, that is to say : Beginning at a point on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same ; thence west on said parallel to the eastern boundary of New Mexico ; thence north on said boundary to latitude thirty-eight ; thence following said boundary westward to the east boundary of the Territory of Utah, on the summit of the Rocky mountains ; thence northward on said summit to the fortieth parallel of latitude ; thence east on said parallel to the western boundary of the State of Missouri ; thence south with the western boundary of said State, to the place of beginning.

ARTICLE II.—*County Boundaries.*

No county now established which borders upon the Missouri river, or upon either bank of the Kansas river, shall ever be reduced by the formation of new counties to less than twenty miles square ; nor shall any other county now organized, or hereafter to be organized, be reduced to less than five hundred square miles.

ARTICLE III.—*Distribution of Powers.*

The power of the government of the State of Kansas shall be divided into three separate departments—the executive, the legislative, and the judicial ; and no person charged with the exercise of powers pro-

perly belonging to one of these departments shall exercise any functions appertaining to either of the others, except in the cases hereinafter expressly directed or permitted.

ARTICLE IV.—*Executive Department.*

SECTION 1. The chief executive power of this State shall be vested in a governor, who shall hold his office for two years from the time of his installation.

SEC. 2. The governor shall be elected by the qualified electors of the State. The returns of every election for governor shall be sealed up and transmitted to the seat of government, directed to the secretary of state, who shall deliver them to the speaker of the house of representatives at the next ensuing session of the legislature, during the first week of which session the speaker shall open and publish them in the presence of both houses of the legislature. The person having the highest number of votes shall be governor; but if two or more shall be equal, and having received the highest number of votes, then one of them shall be chosen governor by the joint ballot of both houses of the legislature; contested elections for governor shall be determined by both houses of the legislature in such manner as may be prescribed by law.

SEC. 3. The governor shall be at least thirty years of age, shall have been a citizen of the United States for twenty years, shall have resided in this State at least five years next preceding the day of his election, or from the time of the formation of this constitution, and shall not be capable of holding the office more than four years in any term of six years.

SEC. 4. He shall, at stated terms, receive for his services a compensation which shall be fixed by law, and shall not be increased or diminished during the term for which he shall be elected.

SEC. 5. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

SEC. 6. He may require information in writing from officers in the executive department on any subject relating to the duties of their respective offices.

SEC. 7. He may, in cases of emergency, convene the legislature at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy or disease; and in case of disagreement between the two houses with respect to the time of adjournment, adjourn them to such time as he may think proper, not beyond the next stated meeting of the legislature.

SEC. 8. He shall, from time to time, give the legislature information of the state of the government, and recommend to their consideration such measures as he may deem necessary and expedient.

SEC. 9. He shall take care that the laws be faithfully executed.

SEC. 10. In all criminal and penal cases, except in those of treason and impeachment, he shall have power to grant reprieves and pardons and remit fines; and in cases of forfeitures, to stay the collection until the end of the next session of the legislature, and to remit for

feitures by and with the advice and consent of the senate. In cases of treason he shall have power to grant reprieves by and with the advice and consent of the senate, but may respite the sentence until the end of the next session of the legislature.

SEC. 11. All commissions shall be in the name and by the authority of the State of Kansas, be sealed with the great seal, and signed by the governor, and attested by the secretary of state.

SEC. 12. There shall be a seal of this State, which shall be kept by the governor and used by him officially, and the present seal of this Territory shall be the seal of the State until otherwise directed by the legislature.

SEC. 13. All vacancies not provided for in this constitution shall be filled in such manner as the legislature may prescribe.

SEC. 14. The secretary of state shall be elected by the qualified electors of the State, and shall continue in office during the term of two years, and until his successor is qualified. He shall keep a fair register of all the official acts and proceedings of the governor, and shall, when required, lay the same and all papers, minutes, and vouchers relative thereto, before the legislature, and shall perform such other duties as may be required by law.

SEC. 15. Every bill which shall have passed both houses of the legislature shall be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it shall have originated, which shall enter the objections at length upon their journals, and proceed to reconsider it. If, after such reconsideration, two-thirds of the house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which it shall likewise be reconsidered; if approved by two-thirds of that house, it shall become a law; but in such case, the votes of each house shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journals of each house, respectively. If any bill shall not be returned by the governor within six days (Sundays excepted) after it shall have been presented to him, the same shall become a law in like manner as if he had signed it, unless the legislature, by their adjournment, prevent its return, in which case it shall not become a law.

SEC. 16. Every order, resolution, or vote, to which the concurrence of both houses may be necessary, except resolutions for the purpose of obtaining the joint action of both houses, and on questions of adjournment, shall be presented to the governor, and, before it shall take effect, be approved by him; or, being disapproved, shall be repassed by both houses, according to the rules and limitations prescribed in case of a bill.

SEC. 17. A lieutenant governor shall be elected at the same time and for the same term as the governor, and his qualifications and the manner of his election shall be the same in all respects.

SEC. 18. In case of the removal of the governor from office, or of his death, failure to qualify, resignation, removal from the State, or inability to discharge the powers and duties of the office, the said office, with its compensation, shall devolve upon the lieutenant gov-

ernor, and the legislature shall provide by law for the discharge of the executive functions in other necessary cases.

SEC. 19. The lieutenant governor shall be president of the senate, but shall have no vote except in the case of a tie, when he may give the casting vote; and while acting as such shall receive a compensation equal to that allowed to the speaker of the house of representatives.

SEC. 20. A sheriff, and one or more coroners, a treasurer and surveyor shall be elected in each county by the qualified electors thereof, who shall hold their offices for two years, unless sooner removed, except that the coroner shall hold his office until his successor be duly qualified.

SEC. 21. A state treasurer and auditor of public accounts shall be elected by the qualified electors of the State, who shall hold their offices for the term of two years, unless sooner removed.

ARTICLE V — *Legislative Department.*

SECTION 1. The legislative authority of this State shall be vested in a legislature, which shall consist of a senate and house of representatives.

SEC. 2. No person holding office under the authority of the United States, except postmasters, or any lucrative office under the authority of this State, shall be eligible to or have a seat in the legislature; but this provision shall not extend to township officers, justices of the peace, notaries public, or military officers.

SEC. 3. No person who has been, or may hereafter be convicted of a penitentiary offence, or of an embezzlement of the public funds, shall hold any office in this State; nor shall any person holding public money for disbursement or otherwise have a seat in the legislature until he shall have accounted for and paid such money into the treasury.

SEC. 4. The members of the house of representatives shall be elected by the qualified electors, and shall serve for the term of two years from the close of the general election and no longer.

SEC. 5. The senators shall be chosen for the term of four years at the same time, in the same manner, and at the same places as are herein provided for members of the house of representatives.

SEC. 6. At the first session of the legislature the senate shall, by lot, divide their senators into two classes; and the seats of the senators of the first class shall be vacated at the expiration of the second year, and of the second class at the expiration of the fourth year, so that one half, as near as may be, may be chosen thereafter every two years for the term of four years.

SEC. 7. The number of senators shall not be less than thirteen nor more than thirty-three; and at any time when the number of senators is increased, they shall be annexed by lot to one of the two classes, so as to keep them as nearly equal in number as possible.

SEC. 8. The number of members of the house of representatives shall not be less than thirty-nine, nor more than one hundred.

SEC. 9. The style of the laws of this State shall be, "Be it enacted by the legislature of the State of Kansas."

SEC. 10. Each house may determine the rules of its own proceedings, punish its members for disorderly behaviour, and, with the consent of two-thirds, may expel a member; but not a second time for the same offence. The names of the members voting on the question shall be spread upon the journal.

SEC. 11. Each house during the session may, in its discretion, punish by fine or imprisonment, or both, any person not a member, for disrespectful or disorderly behavior in its presence, or for obstructing any of its proceedings: provided such fine shall not exceed two hundred dollars, or such imprisonment shall not extend beyond the end of the session.

SEC. 12. Each house of the legislature shall keep a journal of its proceedings, and cause the same to be published as soon after the adjournment as may be provided by law.

SEC. 13. Neither house during the session of the legislature shall, without the consent of the other, adjourn for more than three days, (Sundays excepted,) nor to any other place than that in which they may be sitting.

SEC. 14. The senate when assembled shall choose its officers, and the house of representatives shall choose a speaker and its other officers, and each branch of the legislature shall be the judge of the qualifications, elections, and returns of its members.

SEC. 15. A majority of each house of the legislature shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner as each house may prescribe.

SEC. 16. Each member of the legislature shall receive from the public treasury such compensation for his services as may be fixed by law; but no increase of compensation shall take effect during the term for which the members are elected when such law passed.

SEC. 17. Bills may originate in either house, but may be altered, amended, or rejected by the other, and all bills shall be read by sections on three several days, except on an extraordinary occasion; two-thirds of the members may dispense with such reading, but in no case shall a bill be passed without having once been read; and every bill having passed both houses shall be signed by the speaker and president in the presence of their respective houses.

SEC. 18. The legislature shall provide by law for filling all vacancies that may occur in either house by the death, resignation, or otherwise, of any of its members.

SEC. 19. The doors of each house shall be open, except on such occasions as, in the opinion of the house, the public safety may require secrecy.

SEC. 20. Every law enacted by the legislature shall embrace but one subject, and that shall be expressed in its title, and any extraneous matter introduced in a bill which shall pass shall be void; and no law shall be amended by its title, but in such case the act or section amended shall be enacted and published at length.

SEC. 21. Every act and joint resolution shall be plainly worded, avoiding, as far as practicable, the use of technical terms.

SEC. 22. The legislature shall meet every two years at the seat of government.

SEC. 23. The legislature shall provide for an enumeration of inhabitants by law. An apportionment of representatives in the legislature shall be provided by law according to population, as nearly equal as may be.

SEC. 24. The legislature shall have no power to grant divorces, to change the names of individuals, or direct the sales of estates belonging to infants or other persons laboring under legal disabilities, by special legislation, but by general laws shall confer such powers on the courts of justice.

SEC. 25. It shall be the duty of all civil officers of this State to use due diligence in the securing and rendition of persons held to service or labor in this State, either of the States or Territories of the United States; and the legislature shall enact such laws as may be necessary for the honest and faithful carrying out of this provision of the constitution.

ELECTION DISTRICTS.

At the first election holden under this constitution for members of the State legislature, the representative and senatorial districts shall be as follows: The first representative district shall consist of Doniphan county, and be entitled to four representatives; the second, Atchison, four representatives; the third, Leavenworth, eight representatives; the fourth, Brown and Nemaha, one representative; the fifth, Calhoun and Pottawatomie, one representative; the sixth, Jefferson, two representatives; the seventh, Marshall and Washington, one representative; the eighth, Riley, one representative; the ninth, Johnson, four representatives; the tenth, Lykins, one representative; the eleventh, Linn, two representatives; the twelfth, Bourbon, two representatives; the thirteenth, McGee, Dorn, and Allen, one representative; the fourteenth, Douglas, five representatives; the fifteenth, Anderson and Franklin, one representative; the sixteenth, Shawnee, two representatives; the seventeenth, Weller and Coffee, one representative; the eighteenth, Woodson, Wilson, Godfrey, Greenwood, and Madison, one representative; the nineteenth, Breckenridge and Richardson, one representative; the twentieth, Davis, Wise, Butler, Hunter, and that portion of country west, one representative. In all, forty-four representatives. The first senatorial district shall be Doniphan county, and be entitled to one senator; the second, Atchison, one senator; the third, Doniphan and Atchison, one senator; the fourth, Leavenworth, three senators; the fifth, Brown, Nemaha, and Pottawattomie, one senator; the sixth, Riley, Marshall, Dickinson, and Washington, one senator; the seventh, Jefferson and Calhoun, one senator; eighth, Johnson, two senators; the ninth, Lykins, Anderson, and Franklin, one senator; the tenth, Linn, one senator; the eleventh, Bourbon and McGee, one senator; the twelfth, Douglas, two senators; the thirteenth, Shawnee, one senator; the fourteenth, Dorn, Allen, Wilson, Woodson, Godfrey, Greenwood, Madison, and Coffee, one senator; the fifteenth, Richardson, Davis, Wise, Brecken-

ridge, Butler, Hunter, and all west of Davis, Wise, Butler, and Hunter, one senator. The entire number of senators, nineteen.

ARTICLE VI.—*Judiciary.*

SECTION 1. The judicial powers of this State shall be vested in one supreme court, circuit courts, chancery courts, courts of probate, and justices of the peace, and such other inferior courts as the legislature may, from time to time, ordain and establish.

SEC. 2. The supreme court, except in cases otherwise directed in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the State, under such restrictions and regulations, not repugnant to this constitution, as may from time to time be prescribed by law: *Provided*, That the supreme court shall have power to issue writs of injunction, mandamus, quo warranto, habeas corpus, and such other remedial and original writs as may be necessary to give a general superintendence and control of inferior jurisdictions.

SEC. 3. There shall be held annually, at the seat of government, two sessions of the supreme court, at such times as the legislature may direct.

SEC. 4. The supreme court shall consist of one chief justice and two associate justices.

SEC. 5. The supreme court may elect a clerk and reporter, who shall respectively receive such compensation as the legislature may prescribe.

SEC. 6. The State shall be divided into convenient circuits, and for each circuit there shall be elected a judge, who shall, at the time of his election, and as long as he continues in office, reside in the circuit for which he has been elected.

SEC. 7. The circuit courts shall have original jurisdiction of all matters, civil and criminal, within this State not otherwise excepted in this constitution; but in civil cases only where the matter in controversy shall exceed the sum of one hundred dollars.

SEC. 8. A circuit court shall be held in each county in this State twice in every year, at such times and places as may be prescribed by law; and the judges of the several circuit courts may hold courts for each other when they may deem it advisable, and shall do so when directed by law.

SEC. 9. The legislature may establish a court or courts of chancery with original and appellate equity jurisdiction, and until the establishment of such court or courts the said jurisdiction shall be vested in the judges of the circuit courts respectively; but the judges of the several circuit courts shall have power to issue writs of injunction returnable to the court of chancery.

SEC. 10. The legislature shall establish within each county in the State a court of probate for the granting of letters testamentary of the administration, and orphan's business, and the general superintendence of the estates of deceased persons, and such other duties as may be prescribed by law; but in no case shall they have jurisdiction in matters of civil or criminal law.

SEC. 11. A competent number of justices of the peace in and for each county shall be elected in such mode and for such term of office as the

legislature may direct. Their jurisdiction in civil matters shall be limited to cases in which the amount does not exceed one hundred dollars; and in all cases tried by justices of the peace the right of appeal shall be secured under such rules and regulations as may be prescribed by law.

SEC. 12. The chief justice and associate justices of the supreme court, and judges of the circuit court, and courts of chancery, shall, at stated times, receive for their services a compensation which shall be fixed by law, and shall not be diminished during their continuance in office; but they shall receive no fees, no perquisites of office, nor hold any other office of profit or trust under this State, the United States, or either of the other States, or any other power during their continuance in office.

SEC. 13. The chief justice and associate justices of the supreme court shall be elected by the qualified voters of the whole State, the judges of the circuit courts by the qualified voters of their respective circuits, and the judges of the chancery courts shall be elected by the qualified voters of their respective chancery divisions, at such times and places as may be prescribed by law; but said election shall not be on the same day that the election of members of the legislature is held.

SEC. 14. All vacancies in the office of chief justice and associate justices of the supreme court, and judges of the circuit court, court of chancery, and probate court, shall be filled by appointment made by the governor for the time being, but the governor shall, immediately upon the receipt of information of a vacancy aforesaid, order an election to fill such vacancy, first giving sixty days' notice of such election.

SEC. 15. The chief justice and associate justices of the supreme court shall hold their offices for and during the period of six years from the date of their election, and until their successors shall be qualified, and provision shall be made by law for classifying those elected, so that the chief justice or one of the said associate justices of the supreme court shall be elected every two years. The judges of the circuit, chancery, and probate courts shall hold their offices for and during the term of four years from the date of their election, and until their successors shall be qualified.

SEC. 16. Clerks of the circuit courts and courts of probate shall be elected by the qualified electors in each county, and all vacancies in such office shall be filled in such manner as the law may direct.

SEC. 17. The chief justice and associate justices of the supreme court, by virtue of their offices, shall be conservators of the peace throughout the State, the judges of the circuit court throughout their respective circuits, and the judges of the inferior courts throughout their respective counties.

SEC. 18. The style of all process shall be, the State of Kansas, and all prosecutions shall be carried on in the name and by the authority of the State of Kansas, and shall conclude against the peace and dignity of the same.

SEC. 19. There shall be an attorney general of the State, who shall be elected by the qualified voters thereof, and as many district attorneys as the legislature may deem necessary, to be elected by the

qualified voters of their respective circuits, who shall hold their offices for the term of four years from the date of their election, and shall receive for their services such compensation as may be established by law, which shall not be diminished during their continuance in office.

SEC. 20. Vacancies occurring in the office of attorney general, district attorneys, clerk of the circuit court, clerk of the court of probate, justices of the peace, and constables, shall be filled in such manner as shall be provided by law.

SEC. 21. The house of representatives shall have the sole power of impeachment.

SEC. 22. All impeachments shall be tried by the senate; when sitting for that purpose the senators shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 23. The governor and all civil officers shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall not extend further than to removal from office, and of disqualification from office of honor, trust, or profit under the State; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, and punishment according to law.

ARTICLE VII.—*Slavery.*

SECTION 1. The right of property is before and higher than any constitutional sanction, and the right of the owner of a slave to such slave and its increase is the same, and as inviolable as the right of the owner of any property whatever.

SEC. 2. The legislature shall have no power to pass laws for the emancipation of slaves without the consent of the owners, or without paying the owners previous to their emancipation a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to the State from bringing with them such persons as are deemed slaves by the laws of any one of the United States or Territories, so long as any person of the same age or description shall be continued in slavery by the laws of this State: *Provided*, That such person or slave be the bona fide property of such emigrants: *And provided, also*, That laws may be passed to prohibit the introduction into this State of slaves who have committed high crimes in other States or Territories. They shall have power to pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a public charge. They shall have power to oblige the owners of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all injuries to them extending to life or limb, and, in case of their neglect or refusal to comply with the direction of such laws, to have such slave or slaves sold for the benefit of the owner or owners.

SEC. 3. In the prosecution of slaves for crimes of higher grade than petit larceny, the legislature shall have no power to deprive them of an impartial trial by a petit jury.

SEC. 4. Any person who shall maliciously dismember, or deprive a

slave of life shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person, and on the like proof, except in case of insurrection of such slave.

ARTICLE VIII.—*Elections and Rights of Suffrage.*

SECTION 1. Every male citizen of the United States, above the age of twenty-one years, having resided in this State one year, and in the county, city, or town in which he may offer to vote, three months next preceding any election, shall have the qualifications of an elector, and be entitled to vote at all elections. And every male citizen of the United States, above the age aforesaid, who may be a resident of the State at the time that this constitution shall be adopted, shall have the right of voting as aforesaid; but no such citizen or inhabitant shall be entitled to vote except in the county in which he shall actually reside at the time of the election.

SEC. 2. All voting by the people shall be by ballot.

SEC. 3. Electors, during their attendance at elections, going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony, and breach of the peace.

SEC. 4. No elector shall be obliged to do militia duty on the days of election, except in time of war or public danger.

SEC. 5. No elector shall be deemed to have lost his residence in this State by reason of his absence on business of his own, or of the United States, or of this State.

SEC. 6. No person employed in the military, naval, or marine service of the United States stationed in this State shall, by reason of his services therein, be deemed a resident of this State.

SEC. 7. No person shall be elected or appointed to any office in this State, civil or military, who shall not be possessed of the qualifications hereinbefore prescribed for an elector.

SEC. 8. The legislature shall have power to exclude from the privilege of voting, or being eligible to office, any person convicted of bribery, perjury, or other infamous crimes.

SEC. 9. The first general election in this State shall be held on the day and year provided by this constitution, and all general elections thereafter on the day and year provided by subsequent legislative enactment.

ARTICLE IX.—*Finance.*

SECTION 1. The rule of taxation shall be uniform, and taxes shall be levied upon such property as the legislature shall from time to time prescribe.

SEC. 2. The legislature shall provide for an annual tax sufficient to defray the estimated expenses of the government for each year; and whenever the expenses of any one year shall exceed the income, the legislature shall provide for levying a tax for the ensuing year sufficient, with other sources of income, to pay the deficiency as well as the estimated expenses for such ensuing year.

SEC. 3. For the purpose of defraying extraordinary expenditures,

the State may contract public debts ; but such debts, in the aggregate, shall never exceed five hundred thousand dollars. Every such debt shall be authorized by law for some purpose or purposes, to be distinctly specified therein, and a vote of a majority of all the members elected to both houses shall be necessary to the passage of such law, and such law shall provide for an annual tax to be levied sufficient to pay the interest of such debt created, and such appropriation shall not be repealed, nor the taxes postponed, until the principal and interest of such debt shall have been wholly paid.

SEC. 4. The legislature may also borrow money for the purpose of repelling invasion, suppressing insurrection, and defending the State in time of war ; but the money thus raised shall be applied exclusively to the purposes for which it was raised.

SEC. 5. No scrip, certificate or other evidence of State debt shall be issued, except for such debts as are authorized by the third or fourth sections of this article.

SEC. 6. The property of the State and counties, both real and personal, and such other property as the legislature may deem necessary for school, religious, or charitable purposes, may be exempted from taxation.

SEC. 7. No money shall at any time be paid out of the treasury except in pursuance of an appropriation by law.

SEC. 8. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the legislature.

ARTICLE X.—*Revenue.*

SECTION 1. All bills for raising revenue shall originate in the house of representatives.

SEC. 2. Taxation shall be equal and uniform, and all property on which taxes shall be levied shall be taxed in proportion to its value, to be ascertained as directed by legislative enactment, and no one species of property shall be taxed higher than another species of property of equal value on which taxes shall be levied.

SEC. 3. The legislature shall have power to levy an income tax, and to tax all persons pursuing any occupation, trade, or profession.

SEC. 4. The legislature shall provide for the classification of the lands of this State into three distinct classes, to be styled respectively Class One, Two, Three, and each of these classes shall have a fixed value in so much money, upon which there shall be assessed an *ad valorem* tax.

SEC. 5. The legislature shall provide for a capitation or poll tax, to be paid by every able bodied male citizen over twenty-one years and under sixty years of age, but nothing herein contained shall prevent the exemption of taxable polls in cases of bodily infirmity.

SEC. 6. The legislature shall levy a tax on all railroad incomes proceeding from gifts of public lands at the rate of ten cents on the one hundred dollars.

SEC. 7. No lotteries shall be authorized by law as a source of revenue.

SEC. 8. Whatever donations of lands or money that may be received from the general government by this State shall be regarded as a source of revenue subject to a compact made with the United States by special ordinance.

ARTICLE XI.—*Public Domain and Internal Improvement.*

SECTION 1. It shall be the duty of the legislature to provide for the prevention of waste and damage of the public land now possessed or that may hereafter be ceded to the Territory or State of Kansas, and it may pass laws for the sale of any part or portion thereof, and, in such case, provide for the safety, security, and appropriation of the proceeds.

SEC. 2. A liberal system of internal improvements being essential to the development of the resources of the country, shall be encouraged by the government of this State; and it shall be the duty of the legislature, as soon as practicable, to ascertain by law proper objects of improvement, in relation to roads, canals, and navigable streams, and to provide for a suitable application of such funds as may be appropriated for such improvements.

ARTICLE XII.—*Corporations.*

SECTION 1. Corporations may be formed under a general law, but the legislature may by special act create bodies politic for municipal purposes, where the objects of the corporations cannot be attained under it; all general laws or special acts enacted under the provisions of this section may be altered, amended, or repealed by the legislature at any time.

SEC. 2. No corporation shall take private property for public use without first having the consent of the owner, or where the necessity thereof being first established by a verdict of a jury, and the value thereof assessed and paid.

SEC. 3. It shall be the duty of the legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses.

SEC. 4. The legislature may incorporate banks of deposit and exchange, but such banks shall not issue any bills, notes, checks, or other paper as money.

SEC. 5. The legislature may incorporate one bank of discount and issue, with not more than two branches, provided that the act incorporating the said bank and branches thereof shall not take effect until it shall be submitted to the people at the general election next succeeding the passage of the same, and shall have been approved by a majority of the electors voting at such election.

SEC. 6. The said bank and branches shall be mutually liable for each other's debts or liabilities for all paper credits or bills issued representing money; and the stockholders in said bank or branches shall be individually responsible to an amount equal to the stock held by them for all debts or liabilities of said bank or branches, and no

law shall be passed sanctioning directly or indirectly the suspension by said bank or its branches of specie payment.

SEC. 7. The State shall not be a stockholder in any bank, nor shall the credit of the State be given or loaned in aid of any person, association, or incorporation, nor shall the State become a stockholder in any corporation or association.

ARTICLE XIII.—*Militia.*

SECTION 1. The militia of this State shall consist of all the able-bodied male citizens of the State between the ages of eighteen and forty-five years, except such citizens as are now, or hereafter may be, exempted by the laws of the United States or of this State.

SEC. 2. Any citizen whose religious tenets conflict with bearing arms, shall not be compelled to do militia duty in time of peace, but shall pay such an equivalent for personal services as may be prescribed by law.

SEC. 3. All militia officers shall be elected by the persons subject to military duty within the bounds of their several companies, battalions, regiments, brigades and divisions, under such rules and regulations as the legislature may, from time to time, direct and establish.

ARTICLE XIV.—*Education.*

SECTION 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, schools and the means of education shall be forever encouraged in this State.

SEC. 2. The legislature shall take measures to preserve from waste and damage such lands as have been, or hereafter may be, granted by the United States, or lands or funds which may be received from other sources, for the use of schools within this State, and shall apply the funds which may arise from such lands, or from any other source, in strict conformity with the object of the grant.

SEC. 3. The legislature shall, as soon as practicable, establish one common school (or more) in each township in the State, where the children of the township shall be taught *gratis*.

SEC. 4. The legislature shall have power to make appropriations from the State treasury for the support and maintenance of common schools whenever the funds accruing from the lands donated by the United States, or the funds received from other sources, are insufficient for that purpose.

SEC. 5. The legislature shall have power to pass laws for the government of all common schools within this State.

ARTICLE XV.—*Miscellaneous.*

SECTION 1. Lecompton shall be the seat of government until otherwise directed by law, two-thirds of each house of the legislature concurring in the passage of such law.

SEC. 2. Every person chosen or appointed to any office under this State before entering upon the discharge of its duties shall take an

oath or affirmation to support the Constitution of the United States, the constitution of this State, and all laws made in pursuance thereof, and faithfully to demean himself in the discharge of the duties of his office.

SEC. 3. The laws, public records, and the written, judicial, and legislative proceedings of the State, shall be conducted, promulgated, and preserved in the English language.

SEC. 4. Aliens who are or who may hereafter become *bona fide* residents of this State, shall enjoy the same rights, in respect to the possession, inheritance, and enjoyment of property, as native born citizens.

SEC. 5. No county seat shall be removed until the point to which it is proposed to be removed shall be fixed by law, and a majority of the votes of the county voting on the question shall have voted in favor of its removal to such point.

SEC. 6. All property, both real and personal, of the wife, owned or claimed by marriage, and that acquired afterwards by gift, devise, or descent, shall be her separate property, and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property.

SEC. 7. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

SEC. 8. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or his own confession in open court.

BILL OF RIGHTS.

That the great and essential principles of liberty and free government may be recognized and established, we declare—

1. That all freemen, when they form a social compact, are equal in rights, and that no man or set of men are entitled to exclusive separate public emoluments or privileges, but in consideration of public services.

2. All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit; and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper.

3. That all persons have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience, and no person can of right be compelled to attend, erect, or support any place of worship, or maintain any ministry, against his consent. That no human authority can in any case whatever interfere with the rights of conscience, and that no preference shall ever be given to any religious establishment or mode of worship.

4. That the civil rights, privileges, or capacities of a citizen shall in nowise be diminished or enlarged on account of his religion.

5. That all elections shall be free and equal.

6. That the right of trial by jury shall remain inviolate.

7. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right.

8. The people shall be secure in their persons, houses, papers, and possessions from unreasonable seizures and searches, and no warrant to search any place, or to seize any person or thing, shall issue without probable cause, supported by oath or affirmation. In all criminal prosecutions the accused has a right to be heard by himself or counsel; to demand the nature and cause of the accusation, and have a copy thereof; to be confronted by the witness or witnesses against him; to have compulsory process for obtaining witnesses in his favor, and in all prosecutions by indictments or informations a speedy public trial by an impartial jury of the county or district in which the offence shall have been committed. He shall not be compelled to give evidence against himself, nor shall he be deprived of his life, liberty, or property, but by due course of law.

9. That no freeman shall be taken or imprisoned, or dis seized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty, or property, but by the judgment of his peers or the law of the land.

10. No person, for the same offence, shall twice be put in jeopardy of life, limb, or liberty, nor shall any person's property be taken or applied to the public use, unless compensation be made therefor.

11. That all penalties shall be reasonable, and proportionate to the nature of the offence.

12. No person shall be held to answer a capital or otherwise infamous crime, unless on the presentment or indictment of a grand jury, or by impeachment, except in cases of rebellion, insurrection, or invasion.

13. That no conviction shall work corruption of blood or forfeiture of estate.

14. That all prisoners shall be bailable by sufficient securities unless in capital offences, where the proof is evident or the presumption great, and the privileges of habeas corpus shall not be suspended unless when in the case of rebellion (insurrection) or invasion the public safety may require it.

15. That excessive bail shall in no case be required nor excessive fines imposed.

16. That no "ex post facto" law, nor any law impairing the obligations of contracts shall ever be made.

17. That forfeitures and monopolies are contrary to the genius of a republic, and shall not be allowed, nor shall any hereditary emolument, privileges or honors ever be granted or conferred in this State.

18. That the citizens have a right, in a peaceable manner, to assemble together for their common good; to instruct their representatives, and to apply to those entrusted with the power of government for redress of grievances or other purposes, by address or remonstrance.

19. That the citizens of this State shall have a right to keep and bear arms for their common defence.

20. That no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

21. The military shall be kept in strict subordination to the civil power.

22. Emigration to or from this State shall not be prohibited.

23. Free negroes shall not be permitted to live in this State under any circumstances.

24. This enumeration of rights shall not be construed to deny or disparage others retained by the people, and to guard against any encroachments on the rights herein retained, or any transgression of any of the higher power herein delegated, we declare that everything in this article is excepted out of the general powers of government, and shall forever remain inviolate, and that all laws contrary thereto, or to the other provisions herein contained, shall be void.

SCHEDULE.

SECTION 1. That no inconvenience may arise by reason of a change from a territorial to a permanent State government, it is declared that all rights, actions, prosecutions, judgments, claims, and contracts, as well of individuals as of bodies corporate, except the bill incorporating banks by the last territorial legislature, shall continue as if no such change had taken place, and all processes which may have issued under the authority of the Territory of Kansas shall be as valid as if issued in the name of the State of Kansas.

SEC. 2. All laws now in force in the Territory of Kansas which are not repugnant to this constitution, shall continue and be of force until altered, amended, or repealed, by a legislature assembled under the provisions of this constitution.

SEC. 3. All fines, penalties, and forfeitures, to the Territory of Kansas shall enure to the use of the State of Kansas.

SEC. 4. All recognizances heretofore taken shall pass to, and be prosecuted in, the name of the State of Kansas, and all bonds executed to the governor of the Territory, or to any other officer of the court in his or their official capacity, shall pass to the governor and corresponding officers of the State authority and their successors in office, and for the use therein expressed, and may be sued for and recovered accordingly; and all the estates or property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, and claims or debts of whatever description, of the Territory of Kansas, shall enure to, and rest in, the State of Kansas, and be sued for and recovered in the same manner, and to the same extent, as the same could have been by the Territory of Kansas.

SEC. 5. All criminal prosecutions and penal actions which may have arisen before the change from a territorial to a State government, and which shall then be pending, shall be prosecuted to judgment in the name of the State of Kansas. All actions at law and suits in equity which may be pending in the courts of the Territory of Kansas, at the time of a change from a territorial to a State government, may be

continued and transferred to any court of the State which shall have jurisdiction of the subject matter thereof.

SEC. 6. All officers, civil and military, holding their offices under authority of the Territory of Kansas, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SEC. 7. This constitution shall be submitted to the Congress of the United States at its next ensuing session, and as soon as official information has been received that it is approved by the same, by the admission of the State of Kansas, as one of the sovereign States of the United States, the president of this convention shall issue his proclamation to convene the State legislature at the seat of government, within thirty-one days after publication. Should any vacancy occur, by death, resignation, or otherwise, in the legislature, or other office, he shall order an election to fill such vacancy: *Provided*, however, in case of removal, absence or disability of the president of this convention to discharge the duties herein imposed on him, the President *pro tempore* of this convention shall perform said duties, and in case of absence, refusal, or disability of the president *pro tempore*, a committee consisting of seven, or a majority of them, shall discharge the duties required of the president of this convention.

Before this constitution shall be sent to Congress, asking for admission into the Union as a State, it shall be submitted to all the white male inhabitants of this Territory, for approval or disapproval, as follows: The president of this convention shall, by proclamation, declare that on the twenty-first day of December, one thousand eight hundred and fifty-seven, at the different election precincts now established by law, or which may be established as herein provided, in the Territory of Kansas, an election shall be held, over which shall preside three judges, or a majority of them, to be appointed as follows: The president of this convention shall appoint three commissioners in each county in the Territory, whose duty it shall be to appoint three judges of election in the several precincts of their respective counties, and to establish precincts for voting, and to cause polls to be opened, at such places as they may deem proper in their respective counties, at which election the constitution framed by this convention shall be submitted to all the white male inhabitants of the Territory of Kansas in the said Territory upon that day, and over the age of twenty-one years, for ratification or rejection, in the following manner and form: The voting shall be by ballot. The judges of said election shall cause to be kept two poll books by two clerks, by them appointed. The ballots cast at said election shall be endorsed, "constitution with slavery" and "constitution with no slavery." One of said poll books shall be returned within eight days to the president of this convention, and the other shall be retained by the judges of election and kept open for inspection. The president, with two or more members of this convention, shall examine said poll books, and if it shall appear upon said examination that a majority of the legal votes cast at said election be in favor of the "constitution with slavery," he shall immediately have the same transmitted to Congress of the United States, as hereinbefore provided; but if, upon such examination of said poll books, it shall appear that a majority of the legal votes cast at said election be in

favor of the "constitution with no slavery," then the article providing for slavery shall be stricken from this constitution by the president of this convention, and slavery shall no longer exist in the State of Kansas, except that the right of property in slaves now in this Territory shall, in no manner, be interfered with, and shall have transmitted the constitution, so ratified, (to Congress the constitution, so ratified,) to the Congress of the United States, as hereinbefore provided. In case of the failure of the president of this convention to perform the duties imposed upon him in the foregoing section, by reason of death, resignation, or otherwise, the same duties shall devolve upon the president *pro tem*.

SEC. 8. There shall be a general election upon the first Monday in January, eighteen hundred and fifty-eight, to be conducted as the election provided for in the seventh section of this article, at which election there shall be chosen a governor, lieutenant governor, secretary of State, State treasurer and members of the legislature, and also a member of Congress.

SEC. 9. Any person offering to vote at the aforesaid election upon said constitution shall be challenged to take an oath to support the Constitution of the United States, and to support this constitution, under the penalties of perjury under the territorial laws.

SEC. 10. All officers appointed to carry into execution the provisions of the foregoing sections shall, before entering upon their duties, be sworn to faithfully perform the duties of their offices, and in failure thereof be subject to the same charges and penalties as are provided in like cases under the territorial laws.

SEC. 11. The officers provided for in the preceding sections shall receive for their services the same compensation as given to officers performing similar duties under the territorial laws.

SEC. 12. The governor and all other officers shall enter upon the discharge of their respective duties as soon after the admission of the State of Kansas, as one of the independent and sovereign States of the Union, as may be convenient.

SEC. 13. Oaths of office may be administered by any judge, justice of the peace, or clerk of any court of record of the Territory or the State of Kansas, until legislature may otherwise direct.

SEC. 14. After the year one thousand eight hundred and sixty-four, whenever the legislature shall think it necessary to amend, alter, or change this constitution, they shall recommend to the electors at the next general election, two-thirds of the members of each house concurring to vote for or against calling a convention, and if it shall appear that a majority of all citizens of the State have voted for a convention, the legislature shall at its next regular session call a convention, to consist of as many members as there may be in the house of representatives at the time, to be chosen in the same manner, at the same places, and by the same electors that choose the representatives; said delegates so elected shall meet within three months after said election, for the purpose of revising, amending, or changing the constitution, but no alteration shall be made to affect the rights of property in the ownership of slaves.

SEC. 15. Until the legislature elected in accordance with the provisions of this constitution shall otherwise direct, the salary of the

governor shall be three thousand dollars, and the salary of lieutenant governor shall be double the pay of a State senator, and the pay of members of the legislature shall be five dollars per diem, until otherwise provided by the first legislature, which shall fix the salaries of all officers other than those elected by the people at first election.

SEC. 16. This constitution shall take effect and be in force from and after its ratification by the people, as hereinbefore provided.

Done in convention at Leecompton, in the Territory of Kansas, on the seventh day of November, in the year of our Lord one thousand eight hundred and fifty seven, and of the independence of the United States of America the eighty-second. In testimony whereof, we have hereunto subscribed our names.

Atchinson County.

Jun. T. Hereford.
Isaac S. Hascal.
Jas. Adkins.

Bourbon County.

H. T. Wilson.
B. Little.

Leavenworth County.

Jesse Cormell.
John Dale Henderson.
Hugh M. Moore.
Jarret Todd.
Wilburn Christison.
Samuel J. Kookogee.
Lucian J. Eastin.
Wm. Walker.
John W. Martin.
Green B. Redmon.

Brown and Nemaha Counties.

Cyrus Dolman.
Henry Smith.

Douglas County.

W. S. Wells.
Alfred W. Jones.
Owen C. Stewart.
L. S. Boling.
W. T. Spicely.
H. Butcher.

Lykins County.

Jacob T. Bradford.
Wm. A. Haskell.

Jefferson County.

Thos. D. Chiles.
Alexander Bayne.
W. H. Swift.

Johnson County.

G. W. McKown.
Batt Jones.
J. H. Danforth.

Marshall County.

Wm. H. Jenkins.

Riley County.

John S. Randolph.
C. K. Mobley.

Doniphan County.

Thos. J. Key.
Samuel P. Blair.
James J. Rennolds.
William Mathews.
D. Vanderslice.
Harvey W. Forman.

Linn County.

Milton E. Bryant.

Calhoun County.

Henry D. Oden.

Shawnee County.

Samuel G. Reed.
Rusk Elmore.

J. CALHOUN,

*President of the convention and delegate from the
county of Douglas.*

CHARLES J. McILVAINE,

Secretary of the convention.

LECOMPTON, K. T., *January 14, 1858.*

The within is a true and perfect copy, as compared by me, of the constitution of the State of Kansas, prepared and submitted by the constitutional convention at Lecompton, on the seventh day of November A. D. 1857.

J. CALHOUN,

President constitutional convention.

ORDINANCE.

Whereas, the government of the United States is the proprietor, or will become so, of all or most of the lands lying within the limits of Kansas, as determined under the constitution; and whereas the State of Kansas will possess the undoubted right to tax such lands for the support of her State government, or for other proper and legitimate purposes connected with her existence as a State: Now, therefore, be it ordained by this convention, on behalf of and by the authority of the people of Kansas, that the right aforesaid to tax such lands shall be, and is hereby, forever relinquished, if the conditions following shall be accepted and agreed to by the Congress of the United States.

SECTION 1. That sections numbered 8, 16, 24, and 36, in every township in the State, or in case either of said numbered sections are or shall be otherwise disposed of, that other lands, equal thereto in value and as contiguous as may be, shall be granted to the State to be applied exclusively to the support of common schools.

SEC. 2. That all salt springs, and gold, silver, copper, lead, or other valuable mines, together with the lands necessary for their full occupation and use, shall be granted to said State for the use and benefit of said State; and the same shall be used or disposed of under such terms and conditions and regulations as the legislature of said State shall direct.

SEC. 3. That five per centum of the proceeds of the sales of all public lands sold or held in trust or otherwise lying within the said State, whether sold before or after the admission of the State into the Union, after deducting all expenses incidental to the same, shall be paid to the said State of Kansas for the purpose following, to wit: two-fifths to be disbursed under the direction of the legislature of the State for

the purpose of aiding the construction of railroads within said State, and the residue for the support of common schools.

SEC. 4. That seventy-two sections, or two entire townships, shall be designated by the President of the United States, which shall be reserved for the use of a seminary of learning, and appropriated by the legislature of said State solely to the use of said seminary.

SEC. 5. That each alternate section of land now owned, or which may hereafter be acquired by the United States, for twelve miles on each side of a line of railroad to be established or located from some point on the northern boundary of the State, leading southerly through said State in the direction of the Gulf of Mexico, and on each side of a line of railroad to be located and established from some point on the Missouri river westwardly through said State in the direction of the Pacific ocean, shall be reserved and conveyed to said State of Kansas for the purpose of aiding in the construction of said railroad, and it shall be the duty of the Congress of the United States, in conjunction with the proper authorities of this State, to adopt immediate measures for carrying the several provisions herein contained into full effect.

LECOMPTON, K. T., *January 14, 1858.*

The within is a true and perfect copy of the *ordinance* adopted by the constitutional convention, and submitted as part of the constitution by the convention which assembled at Lecompton on the 5th day of September, A. D. 1857.

J. CALHOUN,
President Constitutional Convention.