

ANNUAL MESSAGE  
OF  
GOV. CHAS. ROBINSON.

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KANSAS, 1861.  
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*(Transcribed from the 1861 Journal of the Kansas State House of Representatives)*

Message from the Governor:

*To the Members of the Senate and House of Representatives of the State of Kansas:*

It is a source of congratulation that the people of Kansas, after a pupilage of more than six years, are permitted to inaugurate a government of their own. Probably no Territory of the United States has had such a varied history as that ceded by France, and of which Kansas is a part. From September 14, 1712, until ceded to the United States, April 30, 1803, the Civil Code, as modified by France and regulations of Spain, was the law of the Territory. In March, 1804, the Territory was divided by a line corresponding with the thirty-third degree of north latitude, and the northern portion called the District of Louisiana. The executive power of the Governor of Indiana was extended over the Territory, embracing the present State of Kansas and the Governor and Judges of Indiana were authorized to establish inferior courts, prescribe their jurisdiction and duties, and make laws for the government of the people. In 1805 a Territorial Government was granted to the Northern Province, and it was called the Territory of Louisiana Under this Government, the legislative power was vested in a Governor and three Judges. In 1812 this Territory was organized and named Missouri Territory, its legislative power consisting of a Governor, Council and House of Representatives. In 1820 Missouri was admitted into the Union, leaving Kansas without any organized government.

On the 30th of May, 1854, Kansas and Nebraska were organized, with an Executive and Judiciary appointed by the President, and a Legislature elected by the people. Under the Organic Act it was claimed that the people were left perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States. This perfect freedom resulted in an earnest contest upon the question of Slavery, which enlisted on one side or the other the sympathies of the people of the States generally. The temptation to plant the institution of Slavery in the Territory before consecrated to Freedom, was too strong to be resisted, and to carry out that purpose, the first Legislature was elected by non-residents, citizens of an adjoining State. This proceeding was earnestly protested against, and the Legislature thus elected, with its enactments, repudiated by the inhabitants. The usurping Legislature elected all county and local officers for a term of four years, and provided such tests and restrictions for voting as to exclude from the polls all Free State men with self respect, thus rendering their rule perpetual. The usurpation was endorsed by the President, and there was no way out of the difficulty short of revolution, except in the formation a State Constitution.

Accordingly, in October, 1855, a Delegate Convention met at Topeka, and framed a Constitution, and provided for a State Government. This instrument, although repeatedly ratified by the people, was rejected by the U.S. Senate. After vainly endeavoring to enforce the Territorial usurpation, and after the removal of several Governors, for their inability or refusal to enslave the people, the obnoxious tests and restrictions were removed from the ballot-box and the people allowed their rights under the Organic Act. In the mean time, a movement originated under the auspices of the usurpers, which resulted in the Constitution known as the Lecompton Constitution. This Constitution, like the Legislature providing for it, was repudiated by our citizens, and conditionally rejected by Congress, although approved by the President. While the Lecompton Constitution was pending in Congress, the people, in order to secure a Government of their own, called another Convention, which assembled at Leavenworth and passed a third Constitution that was also rejected Congress.

Persistent in their efforts to secure their political rights, another Convention was called by the people, through their Legislature, which met at Wyandot, July 5th, 1859, and framed the Constitution under which you were elected, and are called upon to legislate. This Constitution has been approved by Congress, and by the act of admission we are placed on an equal footing, politically, with all the States of the Union.

The necessity for so much Constitution-making and strife as Kansas has experienced during the past six years, has been caused chiefly by the question of Slavery. That question, so far as the Constitution and laws can settle it, is now settled. Whether or not there is a vestige of the institution remaining, is for the Judiciary to decide. It is truly a cause for rejoicing that this disturbing element is forever removed from our local politics, and that our domestic institutions are such as are best calculated to develop the resources and secure the highest good of the State.

The formation of so many Constitutions was made necessary by the Slavery contest. This contest was opened by the action of Congress in removing the Slavery Restriction, and continued by its rejection of the Topeka and Leavenworth Constitutions.

It is customary for Congress to pay the expenses of making one Constitution in all new States, and as it was owing to no fault or action of the people that Kansas was not admitted under the first or third Constitution, but to the failure of Congress to respond to the popular sentiment in the Territory, the General Government should pay the expense incurred in framing them.

The attempt to fasten upon Kansas an institution distasteful to a large majority of the people, in direct violation of the letter and spirit of the Organic Act, caused much suffering and pecuniary loss. It is the duty of all Governments to preserve the peace. It is for this they are organized and supported. The citizen who is taxed to defray the expenses of a Government has a right to full protection to life and property, and the power that assumes the Government of a people is responsible for the peace of the same. It is notorious that the peace of Kansas was not preserved by the Government, but on the contrary in many instances the officers were the aggressors. In short, had it not been for the interference on the part of the Federal Administration, and its attempt to fasten Slavery upon us, in opposition to the wishes of a large majority of our people, but little, if any, loss would have been suffered by our citizens.

The Territorial Legislature of 1859 provided for a Commission to audit the losses incurred during the disturbances, and they award, as due to our people, five hundred thousand dollars. This amount it is clearly the duty of the Federal Government to pay, and it is believed that an appropriation will be made, at the next session of Congress, for that purpose. As the Legislature provided for issuing warrants on the Territorial Treasurer, for the amount of the awards of the Commissioners, it would avoid confusion, and do justice to all parties, should Congress provide that the money paid should be to the claimant in person, or his attorney, on the surrender of his warrant, or to the State Treasurer, who should pay it out in like manner. This method would protect all parties and relieve the State from liability, should any now exist, without loss to itself, and without incurring the odium inseparable from repudiation. The claimants are very numerous, for the most part worthy citizens, who suffered in a just cause, and it is highly proper that the State should render all aid possible, in procuring from Congress their due, while it protects all parties from loss.

From the report of the Territorial Auditor to the Territorial Legislature, it will be seen that the present indebtedness of the State cannot be less than \$100,000. On the principle that taxation and representation are inseparable, this debt should be assumed by Congress. Kansas has not only had no Representative in Congress, but the control of the Territorial Government has been with the Federal Administration. While we have furnished our full proportion of revenue to the Federal Treasury, without representation, it is not too much to ask that the expenses of the Territorial Government should be met by that Treasury. In the Act of Admission Congress rejected the ordinance attached to the Constitution, and proposed, instead, to give the State the 16th and 36th sections in each township, for Schools; 72 sections for a University; 10 sections for Public Buildings; 6 sections to each salt spring, not exceeding twelve in number, and five per cent of the sales of the Public

Lands, with the following proviso: "That the foregoing propositions, hereinbefore offered, are on the condition that the people of Kansas shall provide, by an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title in said soil to bonafide purchases thereof: and that the said State shall never tax the lands or the property of the United States in said State."

The right to tax the lands of the United States is thus virtually conceded, unless relinquished by an ordinance of the State. Such is the decision of the Supreme Court of the United States. In 1838, Judge McLean, of the Supreme Court, made the following decision: "It is true, the United States held the proprietary right, and also the right of sovereignty, until the State Government was established ; but mere proprietary right, if it exists, gives no right of sovereignty. The United States may own land within a State, but political jurisdiction does not follow this ownership. Where jurisdiction is necessary, as for forts and arsenals, a cession of it is obtained from the State. Even the lands of the United States, within the State, are exempted from taxation by compact."

Gov. Robert J. Walker, in his Inaugural Address to the people of Kansas, said: "I do not dispute the title of the Government to the Public Lands of Kansas, but I do say that this right is that of an owner only, and that when Kansas becomes a State, the Public Lands are subject to taxation by State authority, like those of any individual proprietor, unless that power is relinquished by the State in the ordinance assuming the form of a compact, by which the State is admitted into the Union."

It is a serious detriment to the revenue and prosperity of any State, to have within it large tracts of land not subject to taxation, and more especially to a new State. Should Kansas relinquish the right to tax the Public Lands, a fair equivalent should be granted. While no exorbitant demands should be made, and the most friendly relations to the Federal Government be cherished, it is the right and duty of the Legislature to ask such terms as are just and equitable. The terms proposed by Congress are for our "free acceptance or rejection," and may be accepted absolutely or conditionally. Should the Legislature accept the proposition, and exempt the Public Lands from taxation, on condition that the expenses of the several Constitutional Conventions, the awards of the Claim Commissioners, and the indebtedness of the Territory, should be paid, and a grant of money and land for public institutions, buildings and railroads should be made, equal to grants made to other States, these conditions would doubtless be readily acceded to by Congress.

The Act of Admission provides that where either, or any part of sections 16 or 36, have been sold or otherwise disposed of; other lands equivalent thereto, and as contiguous as may be, shall be granted to said State for the use of Schools. No provision is made for making this selection of equivalent lands for School purposes and it is important that it should be made by this Legislature. The lands for University, Public Buildings and Salt Springs are to be selected by the Governor, subject to the approval of the Commissioner of the General Land Office, and to be disposed of in such manner as the Legislature may prescribe. These lands not having been selected, their value cannot, as yet, be estimated, nor can they be intelligently disposed of.

The School Lands, by the Constitution, cannot be sold, unless authorized by a vote of the people at a general election, although they are subject to valuation and lease for any number of years, not exceeding twenty-five, at a rate established by law. It is important to obtain a revenue from these lands as soon as may be, without sacrifice, and some legislation is demanded on this subject. In addition to a provision for leasing School Lands, it may be desirable to submit proposition to the people to authorize the disposal of a limited amount of the most valuable land. Care, however, should be taken to guard against sacrificing them at a low price for the benefit of speculation. It is only in the more thickly populated portions of the State that School Lands should be sold, and then at a valuation with a minimum of eight or ten dollars an acre. Posterity will hold the present generation to a strict accountability for the disposition of the School Lands, and the income secured from their sale.

With proper management of the School Funds, Kansas, in a few years, can have the most munificent endowment for her Common Schools of any State in the Union, save Minnesota.

The Constitution contemplates legislation upon the following subjects:

The times and places of holding District Courts, and their jurisdiction;  
Jurisdiction of Supreme Court;  
Duties of the Clerk of the District Court;  
Jurisdiction of the Probate Court and Justices of the Peace;  
The selections of *pro tem.* Judge of District Court;  
Duties of the State and County Superintendent of Public Instruction;  
Establish uniform system of Schools;  
State University;  
Benevolent Institutions;  
Penitentiary;  
Provision for the Poor;  
Organization of Militia;  
Apportionment; Assessment of Taxes; Public Printing  
Property rights of married women;  
Location of Capitol;  
Removal of Suits from Territorial to State Courts;  
A State Seal.

The present Militia Law provides for the organization of militia companies, but for no regimental or brigade officers. If amended in this respect, it would make the present law sufficiently effective. The election of field officers by commissioned officers of the companies comprising the respective regiments or brigades would be more satisfactory to the rank and-file, and a surer reward of merit, than elections by the Legislature, or appointments by the Executive.

As all laws or parts of laws in force in the Territory, at the time of our admission, not inconsistent with the Constitution, remain in force until they expire or shall be repealed, it may not be necessary or expedient for the Legislature to act upon all the subjects above enumerated at its first session. It is made the duty of the first Legislature, however, to provide for an apportionment of the members of the Legislature, and for submitting the question of permanent location of the Capital to a vote of the people. Some legislation concerning the jurisdiction of the several Courts is called for once, that this branch of the Government may have no doubts thrown over its action.

Although the Constitution continues in force, the Territorial laws, until they shall expire or are repealed, there is not one that does not require some change in phraseology or otherwise, to make it harmonize with the State Government. This being the case, and as the laws, in many instances, are contradictory and obscure, no time can be more appropriate than the present, for a complete revision and codification of all the laws. A Codifying Committee, composed of the best legal talent in the State, to sit during the recess, would save expense and hurried legislation. Should such a Committee be appointed, the first session could be limited to a few days, and all legislation, excepting such as may be necessary to the harmonious working of the Government, postponed until the regular session.

The Constitution declares that "the Legislature shall provide, each year, for raising revenue sufficient to defray the current expenses of the State;" but for "extraordinary expenses," the State may contract debts.

The subject of Finances will call for early, earnest and careful consideration. With the most rigid economy, the taxes, for a few years, must be onerous, especially when the comparatively impoverished condition of the people is considered. It is, therefore, important to provide for funding the extraordinary expenses attending the change from a Territorial to a State Government, including the expenses of the Legislature.

The current expenses of the Government might be greatly diminished without detriment, by reducing the number of members of the Legislature. Until our population shall have largely increased, forty-five members of the House, and fifteen members of the Senate, would subserve the public interests quite as well as the present number, and reduce the per diem aggregate nearly one-half.

To lessen the tax for the support of the Judiciary, which cannot be less [sic!] by the terms of the Constitution than twelve thousand dollars, annually, the Legislature might provide that each suitor should pay to the Clerk, for the use of the State, a small fee of one or two dollars, to be reckoned as costs against the delinquent party. As parties to suits are the persons chiefly benefited by the Courts, no injustice is done them if they are taxed proportionally.

Although it is believed that the General Government will assume and pay the Territorial indebtedness, amounting to about \$100,000, in the mean time it should be funded, payable some years hence, that the credit of the State may not suffer, and that the taxes already levied may be appropriated for current State expenses.

The past year has been one of unprecedented drouth and consequent scarcity in Kansas. Our farmers, encouraged by the bountiful return for labor bestowed upon the soil in years past, had an unusual quantity of land under cultivation. With an ordinary supply of rain, a large amount of produce would have been raised for export, and no people would have been more highly favored than our own. Instead, however, of plenty, and consequent prosperity, many of our citizens have been recipients of foreign charity. For the prompt and generous relief afforded by States and individuals, a suitable acknowledgment should be made by the Legislature, and it is proper to inquire if our State is not able to provide for its own poor in future. No spirited and energetic people will be recipients of charity when able to procure their own subsistence. Such a course would be demoralizing and degrading. If the State has sufficient credit, it would be better to use it for the relief of her citizens, should it be necessary, than longer live upon the generosity of others. Seed has already been furnished in abundance, for spring planting, and by the first of June the stock that abounds upon our prairies will be suitable for food; it is, therefore, to be hoped that a general call for charity will soon cease.

Although the past year has been one of adversity to our people, yet, with stern integrity and mutual co-operation of the several departments of the Government, together with a firm reliance upon that Providence which has thus far sustained and directed us, and whose promise that seed time and harvest shall not fail, inspires us with hope and courage in the darkest hour, we may confidently look forward to a happy and prosperous future for our new State.

When Kansas applied for admission into the Union, it was supposed there was a Federal Government that would endure until the present generation, at least, should pass away. Recent developments, however, have given rise to serious doubts as to its existence. Theoretically, there is such a Government extended over thirty-four States, but practically there is none. In seven States the laws are openly repudiated---the forts are seized---the revenue stolen---the Federal officers defied, and the flag of the Nation insulted with impunity; while eight others threaten to do likewise, if the Government attempts to assert its authority by force in any rebellious State. Such is the condition of affairs as bequeathed by the late Administration to the present. The future none can predict. Should matters progress as for a few months past, and coercion be decried as at present, not a prominent seaboard State will remain in the Union, and not a law of the United States will be enforced anywhere. Our Government, once regarded as a power in the earth, will become a hissing and a by-word among the Nations---a stench in the nostrils of all men. This Nation occupies a very remarkable position before the civilized world. It has heretofore been prompt and efficient in putting down treason and rebellion, and the whole force of the army and navy has been called into requisition at once whenever danger threatened. Shay's rebellion, the whisky insurrection, South Carolina nullification, and the John Brown raid, were all summarily disposed of, with no cry against "coercion." Now, when certain persons in the South have seized upon the revenues, forts ships, post office, mints, arms and army and navy stores, waged war upon the United States troops, set up an Independent Government, and bid defiance to all law, the position of the authorities have been simply that of non-resistance. Two independent and hostile Governments cannot long exist at the same time over the same territory without conflict and either the Confederate States of the South or the Federal Government must succumb, or civil war is inevitable.

A demand is made by certain States, that new concessions and new guaranties be made to Slavery, or the Union must be destroyed. The present Constitution, however faithfully adhered to, is declared to be incompatible with the existence of Slavery: its change is demanded, or the Government under it must be overthrown. If it is true that the continued existence of Slavery requires the destruction of the Union, it is time to ask if the existence of the Union does not require the destruction of Slavery. If such an issue be forced upon the Nation, it must be met, and met promptly. The people of Kansas, while they are willing to fulfill their Constitutional obligations toward their brethren in the sister States to the letter, even to the yielding of the "pound of flesh," cannot look upon the destruction of the fairest and most prosperous Government on earth with indifference. If the issue is presented to them---the overthrow of the Union, or the destruction of Slavery---they will not long hesitate as to their choice. But it is to be hoped that this issue will be withdrawn, and the Nation still go on in its career of prosperity and power---the just pride of every citizen, and envy of the world.

The position of the Federal Executive is a trying one. The Government, when assumed by him, was rent in twain; the cry against coercion was heard in every quarter: while his hands were tied, having neither men nor money, nor the authority to use either. While it is the duty of each loyal State to see that equal and exact justice is done to the citizens of every other State, it is equally its duty to sustain the Chief Executive of the Nation in defending the Government from foes, whether from within or without; and Kansas though last and least of the States in the Union, will ever be ready to answer the call of her Country.

C. ROBINSON.

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