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1856

## Memorial of the Senators and Representatives and the Constitution of the State of Kansas

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*Index*  
HOUSE OF REPRESENTATIVES U. S.

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MEMORIAL

OF THE

SENATORS AND REPRESENTATIVES,

AND THE

CONSTITUTION OF THE STATE OF KANSAS;

ALSO,

THE MAJORITY AND MINORITY REPORTS

OF THE

COMMITTEE ON TERRITORIES

ON

THE SAID CONSTITUTION.

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WASHINGTON:  
CORNELIUS WENDELL, PRINTER.  
1856.

*dup*  
*dup am*  
*P15, 655*  
*8-11-62 gp*

IN THE HOUSE OF REPRESENTATIVES, *June 28, 1856.*

*Resolved,* That 10,000 copies of the reports of the majority and minority of the Committee on Territories on the constitution of the people of Kansas, and the memorial of the members of the legislature elected under its authority, be printed for the use of the members of the House of Representatives.

Attest:

WM. CULLOM, *Clerk.*

# P A P E R S

PURPORTING TO BE

THE MEMORIAL OF SENATORS AND REPRESENTATIVES OF THE STATE OF KANSAS, AND THE CONSTITUTION OF THE STATE OF KANSAS.

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*To the honorable the Senate and House of Representatives of the United States in Congress assembled:*

This memorial of the undersigned senators and representatives in the General Assembly of the State of Kansas, now in session, respectfully sheweth: That, upon the organization of Kansas as a Territory, persons from all parts of the United States, wishing to make for themselves homes, and to aid in moulding the institutions of a new State, having confidence in the justice and fidelity of the general government, and believing that the rights guarantied by the constitution and the organizing act would be secured to them, subjected themselves to the hardships of a pioneer life, and assumed the responsibility of establishing the institutions of an enlightened people in a hitherto rude and uncultivated land. They came as law-abiding citizens, asking for nothing but what belonged to American citizens, and, as men proud of their attachment to the constitution, were willing to accept the government extended to them, until the population should justify the formation of a new State, in which formation they were willing to be governed by the will of the majority.

On the twenty-ninth day of November, 1854, the day which had been selected on which to elect a delegate to represent the people of the Territory in the Congress of the United States, several hundred persons from the adjacent State of Missouri came into the Territory and voted for such delegate. The man who was elected by their illegal votes was not the choice of the resident citizens of the Territory, and could not represent their will. They, however, not believing that such open and defiant aggression would be sanctioned by a government to which they should look for protection, quietly submitted, trusting to that government for redress.

On the thirtieth day of March, 1855, when the election of members of the first Territorial legislature was to be held, thousands of armed men from Missouri invaded the Territory and voted. Every district was controlled by their votes, except the Pawnee representative dis-

trict, which was entitled to but one representative. In the first district, about nine hundred armed men having come from Missouri on the day previous, with two pieces of artillery, and organized as if for war, on the morning of the election surrounded the polls, and held possession of the ballot-boxes until late in the afternoon, when, after completing their voting, they returned to Missouri. Some of them, when asked by the judges of election if they resided in the Territory, replied that they resided in the State of Missouri, that they had come to vote, and that they would vote or die in the attempt. In this district the judges of the election erased the word "legal" in their returns, and made them out so informal that they did not certify that any legal votes had been polled. Because of this informality in the returns, and the protest of the inhabitants in said district, the election was set aside by the governor, a vacancy declared, and a new election ordered.

In the second and third districts the judges of election were driven from the polls, and fled to escape death. The ballot-boxes were destroyed, the legal voters were overpowered and driven from the polls, and mob violence prevailed throughout. Similar attacks upon the people and the ballot-boxes were everywhere made. This invasion was led by some of the most distinguished men in Missouri, among whom was the late president of the United States Senate.

This election, upon which rested the liberty and only protection of the people, was a fraud and a forcible disfranchisement of them.

On the twenty-second day of May following, pursuant to a proclamation of the governor, new elections were held in six districts, and several hundred persons came from Missouri and voted in the twelfth precinct. In the other precincts, where they were not, there was no interference, and the legal voters, for the first time, were allowed the free exercise of their rights.

On the 2d day of July, following, the first Territorial legislature of Kansas assembled in Pawnee, pursuant to the proclamation of the governor, when the seats of the members elected at the second election, except those in the twelfth precinct, were contested. On the third day of the session, every member whose seat was contested, although he had a certificate of election from the governor, was ousted. All were ejected without an investigation of their claims, which was asked as a right, but was denied them.

These members were expelled on the ground that the governor had no right to declare a vacancy and order a new election; but your memorialists represent that such right is given to him in the act organizing the Territory, and could not be lawfully rescinded by the legislature; therefore, by such violation of the principles of the act, eight legally elected members were rejected, and their places supplied by men who had no certificates of election from the governor, nor proper credentials from any source.

On the third day of the session, the legislature located the temporary seat of government at the Shawnee Mission, and, as this power was not given to the legislature by the organic act, it being given to the governor alone, your memorialists believe all acts enacted at said



Mission to be invalid. They further believe that the legislature never had any legal existence, for nothing can be legal which is unconstitutional; and no legislature of a Territory or State in this Union can be constitutional, unless it be created in conformity with a republican form of government; hence, a legislature imposed upon the people by fraud, by force, by residents of another State, adversely to the will of the people, can have no legal existence, and no act of the governor can legalize a legislature thus created—especially when the said governor is not elected by the people, but appointed by other authority. In the opinion of your memorialists, the issuing of certificates by the governor to those not legally elected, cannot legalize the election. Hence, even admitting the right of Congress to extend a Territorial government over Territories, the legislature elected on the 30th of March, 1855, having been elected in violation of the organic act, and in the manner before described, can have no legal existence, and their enactments are a nullity.

Notwithstanding the injustice done to the people of Kansas, notwithstanding three invasions of the Territory for the purpose of controlling the elections, the people submitted, preferring to respect laws enacted by a body imposed upon them by fraud and violence, to living longer without government. Wishing to preserve the peace and quiet, and to promote the prosperity of the country, they took no measures for throwing off the burden thus forced upon them. But, when further developments of this system of tyranny were made—when the laws enacted by the legislature proved conclusively, to your memorialists, a determination to enslave the people, they, conscious of their rights as freemen, with the constitution for their guide, resolved to fall back upon their inalienable rights, and throw around themselves that protection which is afforded by a State government.

Your memorialists respectfully present, for your consideration, some selections from the acts of the Territorial legislature, which the people of Kansas, while conscious of their rights as American citizens, could not submit to.

The eleventh section of an act entitled "An act to regulate elections," says: "Every free white male citizen of the United States, and every free male Indian, who is made a citizen by treaty or otherwise, and over the age of twenty-one years, who shall be an inhabitant of the Territory, and of the county or district in which he offers to vote, and shall have paid a Territorial tax, shall be a qualified elector for all elective officers; and all Indians who are inhabitants of this Territory, and who may have adopted the customs of the white man, and who are liable to pay taxes, shall be deemed citizens."

As this does not require that voters shall have inhabited the Territory any stated time, it allows our enemies to take advantage of residents thereof, as they have done, in entering the Territory, voting, and returning to their homes in an adjoining State, on the same day; claiming at the same time, that those who were at the polls at the time of voting were actual inhabitants. It is believed that this act was intended to invite illegal voting; and it is feared, that so long as the people of Kansas remain under a Territorial government, the

right of the people to the elective franchise would be wrested from them by overpowering invaders.

The twelfth section of an act entitled "An act to punish offences against slave property," declares, that if any free person, by speaking or by writing, assert or maintain that persons have not the right to hold slaves in this Territory, or shall introduce into this Territory, print, publish, write, circulate, or cause to be introduced into this Territory, written, printed, published, or circulated in this Territory, any book, paper, magazine, pamphlet, or circular, containing any denial of the right of persons to hold slaves in this Territory, such person shall be deemed guilty of felony, and be punished by imprisonment at hard labor, for a term of not less than two years."

Your memorialists represent that this act destroys the freedom of speech, controls the liberty of the press, and is an innovation upon those rights guarantied by the constitution. Obedience to it would be an act unworthy an American citizen.

The thirteenth section of the same act reads as follows: "No person who is conscientiously opposed to holding slaves, or who does not admit the right to hold slaves in this Territory, shall sit as a juror on the trial of any prosecution for any violation of any of the sections of this act."

It was the enactment of such laws that forced the people of Kansas to take the initiatory steps towards the formation of a State government; believing that by such organization they might throw off an oppressive burden, and secure their safety for the future.

The State organization to which your memorialists would now request the attention of your honorable bodies originated in a call, of which the following is a copy, and which was signed by many citizens, and circulated throughout the Territory:

"MASS MEETING.

"The squatters of Kansas Territory, without distinction of party, will assemble in mass meeting in Lawrence, on Wednesday, the 15th day of August, at 3 o'clock p. m., to take into consideration the propriety of calling a Territorial convention preliminary to the formation of a State government, and other subjects of interest."

Pursuant to this call, a large meeting from all parts of the Territory, irrespective of party distinctions, met to consult together upon the all-important subject before the people. Some of the officers of the meeting were "Free-state" men, and some were "pro-slavery," both of the Whig and Democratic parties; but party distinctions were lost sight of while consulting upon matters of such vital importance. Most of the leading men of this meeting were men of talent, integrity, and were decidedly conservative in their views. The following preamble and resolutions were adopted:

"Whereas the people of Kansas Territory have been, since its settlement, and are now, without any law-making power; therefore, be it

"*Resolved*, That we, the people of Kansas, in mass meeting assem-

bled, irrespective of party distinctions, influenced by a common necessity, and greatly desirous of promoting the common good, do hereby call upon and request all *bona-fide* citizens of Kansas Territory, of whatever politics, views, or predilections, to consult together in their respective election districts, and in mass convention or otherwise, elect three delegates for each representative to which such district is entitled in the House of Representatives of the legislative assembly by proclamation of Governor Reeder, of date the 10th of March, 1855; said delegates to assemble in convention at the town of Topeka, on the 19th day of September, 1855, then and there to consider upon all subjects of public interest, and particularly to that having reference to the speedy formation of a constitution, with an intention of an immediate application to be admitted as a State into the Union of the United States of America."

Pursuant to the above notice, meetings were held in nearly every neighborhood in the Territory; the grievances of the people and the subject of State organization were fully considered, and the feeling in favor of the State organization was almost unanimous. At these meetings delegates were elected to meet in convention, in accordance with the above call. On the nineteenth day of September, the convention of the people's delegates assembled at the town of Topeka, pursuant to the above resolution, and the following was among the proceedings. The report of the business committee was unanimously adopted, as follows:

"Whereas the constitution of the United States guaranties to the people of this republic the right of assembling together in a peaceable manner for the common good, to establish justice, insure domestic tranquillity, provide for a common defence, promote the general welfare, and secure the blessings of liberty to themselves and posterity; and whereas the citizens of Kansas Territory were prevented from electing members of the legislative assembly in pursuance of a proclamation of Governor Reeder on the thirtieth of March last, by an invading force from a foreign State coming into the Territory and forcing upon the people a legislature of non-residents and others inimical to the people of Kansas, thereby defeating the organic act, in consequence of which the Territorial government became a perfect failure, and the people were left without any legal government, until their patience has become exhausted, and endurance ceases to be a virtue, and they are compelled to resort to the only remedy left, that of forming a government for themselves; therefore, be it

"*Resolved by the people of Kansas Territory in convention assembled*, That an election shall be held in the several election precincts of this Territory on the second Tuesday of October next, under the regulations and restrictions hereinafter imposed, for members of a convention to form a constitution, adopt a bill of rights, and take all needful measures for organizing a State government preparatory to the admission of Kansas as a State.

"*Resolved*, That a committee of seven be appointed by the Chair, who shall organize by the appointment of a chairman and secretary; they shall keep a record of their proceedings, and shall have a general



superintendence of the affairs of the Territory, so far as the organization of a State government is concerned, which committee shall be styled the executive committee of Kansas."

In conformity with the above resolution, the executive committee issued the following proclamation, by J. H. Lane, their chairman :

"Whereas the Territorial government of Kansas as now constituted has proved a failure, squatter sovereignty, under its workings, a miserable delusion—in proof of which it is only necessary to refer to our past history, and our present deplorable condition ; our ballot-boxes have been taken possession of by bands of armed men from foreign States ; our people forcibly driven therefrom ; persons attempted to be foisted upon us as members of a so-called legislature, unacquainted with our wants, and hostile to our best interests ; some of them non-residents of our Territory ; misnamed laws of the most oppressive, insulting, and tyrannical character were passed, and are now attempted to be enforced by the citizens of foreign States ; the right of suffrage taken from us ; we were debarred the privilege of a voice in the election of even the most insignificant officers, and the right of free speech stifled, the muzzling of the press attempted ; and whereas the people of this country have heretofore exercised the right of changing their form of government whenever it becomes oppressive, and have at all times conceded this right to the people of this and all other governments ; and whereas a Territorial government is unknown to the constitution, and is the mere creature of necessity, awaiting the action of the people ; and whereas the debasing character of the slavery in which we now are impels to action, and leaves us as the only legal and peaceful alternative, the immediate establishment of a State government ; and whereas the organic act fails in pointing out the course to be adopted in an emergency like ours ; therefore you are requested to meet at your several precincts in said Territory, hereinafter mentioned, on the second Tuesday of October next, the ninth day of the month, and then and there cast your votes for delegates to a convention to meet at Topeka, on the fourth Tuesday of October next, to form a constitution, adopt a bill of rights for the people of Kansas, and take all needful measures for organizing a State government preparatory to the admission of Kansas into the Union as a State."

The elections were holden in the several precincts pursuant to the above proclamation, at which election two thousand eight hundred and sixty-four votes were polled, in conformity with the following qualifications : "All white male inhabitants, citizens of the United States, or who have declared their intentions before the proper authorities to become such, above the age of twenty-one years, who have had a *bona-fide* residence in the Territory for the space of thirty days immediately preceding the day of said election, shall be entitled to vote for delegates to said convention."

The elections were conducted strictly in conformity with the above qualifications, and with good order.

On the twenty-third day of October, the delegates elected to frame a constitution assembled at Topeka. The constitution framed at this convention speaks for itself. It shows the men of the convention to

## KANSAS.

be men of ability, patriotism, and character, to be devoted to their country, and uninvolved by sectionalism or fanaticism.

On the fifteenth day of December, the constitution was referred to the people for their acceptance, and, pursuant to the proclamation of the executive committee, the people met in their respective precincts; those in favor of the constitution depositing a ballot on which was printed "constitution," those opposed depositing one on which was "no constitution."

The constitution was ratified by the qualified voters, scarcely a vote against it; and although the entire vote was not polled, the reasons were, not a want of interest in favor of the movement, but because an invasion of a large armed force from Missouri had just occurred, and was still threatening, which kept many on military duty, and thereby deprived them of the privilege of voting.

Your memorialists deny the imputation that this movement of the people of Kansas was led and supported by a faction, and are prepared to substantiate, by the most reliable testimony, the facts herein set forth, and thereby prove that from first to last it has been the movement of the people, and not of a party, faction, or section; but few opposing it, except those holding office under Executive appointment, or by virtue of an election by a foreign and hostile people. The movement has been as unanimous as any important movement in the history of the country, and in it has been manifest a determination strengthened by a unanimity which cannot be baffled by the assaults of our enemies.

On the second day of October last, the Territory was invaded for the fourth time, and about fifteen hundred votes polled by non-residents. This infringement upon the ballot-box was under the operation of laws passed by the self-styled Territorial legislature. But the invasions at the several elections for the purpose of voting are not all. At the election for ratifying the constitution, bands of armed invaders not wishing to vote themselves, and determined that the actual settlers should not, destroyed the ballot boxes, and prevented voting in Leavenworth, Kickapoo, and other places—this being one cause of the smallness of the vote on the constitution. Also, at the election for State officers and members of the general assembly, the settlers were not permitted to vote in Leavenworth; and the judges of election having authority, postponed the election, a few of the voters going to Easton. Our enemies, determined that the right of elective franchise should not be exercised by our people, assailed the ballot-box and when the citizens resolved to protect themselves in this sacred right, an engagement ensued. On their return to Missouri from Easton, the invaders captured R. P. Brown, a member elect of the house of representatives of the State of Kansas, one of our own citizens, a man of unimpeachable character and unflinching courage, and brutally murdered him with knives and hatchets. But other invasions than those for the purpose of voting have been made upon this people.

Late in November, about two thousand armed men, with seven pieces of artillery, made an attack upon the town of Lawrence, and held it in a state of siege for about two weeks. They made the attack without any provocation or illegal act on the part of the inhabitants

of Lawrence. The enemy declared their intentions to destroy the town and slaughter its inhabitants ; and nothing but the firmness and patriotic courage of those who rallied to protect the town saved it from destruction.

The facts herein set forth by your memorialists will show to your honorable bodies the grievances which compelled this State organization, and the principles which guided them in effecting it.

The principles of self-government inherent in the people, constitute in them, and in them alone, the right to establish their own government.

The wrongs inflicted upon the people by the slave power, in total disregard of the constitution and organic act, having become too grievous to be borne, it was their duty to provide such a government of their own as might rid them of this oppression, and make them free and prosperous.

Believing that the past outrages will be repeated ; knowing that the Territorial government has, thus far, proved a failure, and expecting no relief from the Executive department, there was left but one course to pursue.

The foregoing are the reasons for the State organization.

The wrongs which the people of Kansas have endured, and the outrages yet threatened, have compelled them thus early to assume the burdens of a State government ; and they come to you in neither the spirit of servility nor of arrogance, but as American citizens, knowing their own rights, and asking them at your hands ; and in requesting the attention of your honorable bodies to the constitution adopted by them at a State convention, held at Topeka on the twenty-third of October last, and ratified by the people on the fifteenth day of December following, your memorialists respectfully pray for the admission of Kansas as a State into the confederacy, upon an equal footing with those States which have preceded her.

W. Y. Roberts.  
Lyman Allen.  
James M. Dunn.  
Henry J. Adams.  
J. M. Irvin.  
Thos. G. Thornton.  
Lucien Fish.  
Joel C. Green.  
Bryer W. Miller.  
John Curtis.  
S. B. McKenzie.  
W. W. Updegraff.  
Jos. M. Cole.  
John Daily.  
B. Harding.  
Darwin E. Jones.  
G. S. Hillyer.  
John D. Jones.  
John W. Stevens.

Perry Fuller.  
Thos. A. Minard.  
James McGhee.  
Stephen Sparks.  
William Hicks.  
W. R. Frost.  
Wm. Pennock.  
James B. Abbott.  
J. A. Blood.  
James K. Edsell.  
Wm. Crosby.  
A. A. Jamason.  
Samuel Mewhinny.  
Samuel T. Shore.  
Wm. H. Toothman.  
Isaac Saunders.  
E. B. Purdom.  
J. M. Arthur.  
Samuel Walker.

Jacob Buyer.  
Henry Todd.  
Horace W. Tabor.  
D. W. Cannon.  
Wm. M. McClure.  
H. H. Williams.  
Abm. Barry.  
Andrew B. Marshall.  
David Reese.  
Jno. Brown, jr.  
M. C. Dickey.

Patrick R. Orr.  
Isaac Codey.  
A. Curtis.  
J. B. Higgins.  
Thos. Bowen.  
J. M. Fulton.  
H. F. Saunders.  
C. C. Hornsby.  
John Hutchinson.  
S. W. Heartwell.



KANSAS.

Patrick B. Orr  
James O'Leary  
A. C. Orr  
J. D. Hixson  
T. D. Hixson  
J. M. Hixson  
H. T. Hixson  
J. C. Hixson  
J. W. Hixson

James Hixson  
Hixson  
Hixson  
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Hixson

## CONSTITUTION

OF

## THE STATE OF KANSAS.

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### PREAMBLE.

We, the people of the Territory of Kansas, by our delegates in convention assembled at Topeka, on the 23d day of October, A. D. 1855, and of the independence of the United States the eightieth 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, 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 and independent State, by the name and style of the State of Kansas, bounded as follows, to wit: 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; and do ordain and establish the following Constitution and Bill of Rights for the government thereof.

### ARTICLE I.

#### *Bill of Rights.*

SECTION 1. All men are, by nature, free and independent, and have certain inalienable rights; among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

SEC. 2. All political power is inherent in the people; government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same whenever they may deem it necessary; and no special privileges or immunities shall ever be granted that may not be altered, revoked, or repealed by the general assembly.

SEC. 3. The people have the right to assemble together, in a peaceable manner, to consult for their common good; to instruct their representatives; and to petition the general assembly for the redress of grievances.

SEC. 4. The people have the right to bear arms for their defence and security, but standing armies in time of peace are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.

SEC. 5. The right of trial by jury shall be inviolate.

SEC. 6. There shall be no slavery in this State, nor involuntary servitude, unless for the punishment of crime.

SEC. 7. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given by law to any religious society, nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office, nor shall any person be incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools, and the means of instruction.

SEC. 8. The privilege of the writ of *habeas corpus* shall not be suspended, unless in cases of rebellion or invasion the public safety require it.

SEC. 9. All persons shall be bailable by sufficient sureties, unless for capital offences where the proof is evident, or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

SEC. 10. Except in cases of impeachment, and cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and in cases of petit larceny and other inferior offences, no person shall be held to answer for a capital or other infamous crime, unless on presentment or indictment of a grand jury. In any trial in any court, the party shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and a copy thereof; to meet the witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offence is alleged to have been committed. Nor shall any person be compelled, in any criminal case, to be a witness against himself, or be twice put in jeopardy for the same offence.

SEC. 11. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence to the jury; and if it shall appear

to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted.

SEC. 12. No person shall be transported out of the State for any offence committed within the same, and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 13. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

SEC. 14. The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

SEC. 15. No person shall be imprisoned for debt in any civil action or mesne or final process, unless in cases of fraud.

SEC. 16. All courts shall be open, and every person, for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law and justice, administered without denial or delay.

SEC. 17. No hereditary emoluments, honors, or privileges shall ever be granted or conferred by this State.

SEC. 18. No power of suspending laws shall ever be exercised, except by the general assembly.

SEC. 19. The payment of a tax shall not be a qualification for exercising the right of suffrage.

SEC. 20. Private property shall ever be held inviolate, but subservient to the public welfare; when taken in time of war, or other public exigency imperatively requiring its immediate seizure, or for the purpose of making or repairing roads—which shall be open to the public use without toll or other charge therefor—a compensation shall be made to the owner in money; and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposite in money, and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

SEC. 21. No indenture of any negro or mulatto, made and executed out of the bounds of the State, shall be valid within the State.

SEC. 22. This enumeration of rights shall not be construed to impair others retained by the people, and all powers not herein delegated remain with the people.

## ARTICLE II.

### *Elective Franchise.*

SECTION 1. In all elections by the people, the vote shall be by ballot; and in all elections in the general assembly the vote shall be *viva voce*.

SEC. 2. Every white male person, and every civilized male Indian who has adopted the habits of the white man, of the age of twenty-one years and upwards, who shall be at the time of offering to vote a citizen of the United States; who shall have resided and had his hab-



itation, domicil, home, and place of permanent abode in the State of Kansas for six months next preceding the election at which he offers to vote; who at such time, and for thirty days immediately preceding said time, shall have had his actual habitation, domicil, home, and place of permanent abode in the county in which he offers to vote; and who shall have resided in the precinct or election district for at least ten days immediately preceding the election, shall be deemed a qualified elector at all elections under this constitution, except in elections by general ticket in the State or district prescribed by law, in which cases the elector must have the aforesaid qualifications, but a residence in said district for ten days will entitle him to vote: *Provided*, That no soldier, seaman, or mariner of the regular army or navy of the United States shall be considered a resident of the State in consequence of being stationed in the same.

SEC. 3. The general assembly shall, at its first session, provide for the registration of all qualified electors in each county, and thereafter, from time to time, of all who may become qualified electors.

SEC. 4. The legislature shall have power to exclude from every office of honor, trust, or profit, within the State, and from the right of suffrage, all persons convicted of any infamous crime.

SEC. 5. No person shall be deemed capable of holding or being elected to any post of honor, profit, trust, or emolument, civil or military, or exercise the right of suffrage under the government of this State, who shall hereafter fight a duel, send or accept a challenge to fight a duel, or who shall be a second to either party, or who shall in any manner aid or assist in such duel, or who shall be knowingly the bearer of such challenge or acceptance, whether the same occur or be committed in or out of the State.

SEC. 6. No person who may hereafter be collector or holder of public moneys shall be eligible to any office of trust or profit in the State until he shall have accounted for, and paid into the proper public treasury, all sums for which he may be accountable.

SEC. 7. No State officer, or member of the general assembly of this State, shall receive a fee, or be engaged as counsel, agent, or attorney, in any case or claim against the State.

SEC. 8. No senator or representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit in this State which shall have been created, or the emoluments of which shall have been increased, during such term, except such offices as may be filled by election by the people.

SEC. 9. All officers, civil and military, in this State, before they enter upon the duties of their respective offices, shall take the following oath or affirmation:

I, ———, do swear (or affirm) that I will support the constitution of the United States and of the State of Kansas; that I am duly qualified according to the constitution to exercise the office to which I have been elected, (or appointed,) and will, to the best of my abilities, discharge the duties thereof faithfully and impartially, according to law.

SEC. 10. Every person shall be disqualified from holding any office of honor or profit in this State who shall have been convicted of having

given or offered any bribe to procure his election, or shall have made use of any undue influence from power, tumult, or other improper practices.

SEC. 11. All civil officers of the State shall reside within the State, and all district or county officers within their respective districts and counties, and shall have their respective offices at such places therein as may be required by law.

SEC. 12. Returns of elections for members of Congress, the general assembly, and all officers not hereinafter provided, shall be made to the secretary of state, in such manner as may be prescribed by law.

SEC. 13. Electors shall, in all cases, be privileged from arrest during their attendance on elections, and in going to and returning therefrom, except in cases of felony, treason, and breach of the peace.

### ARTICLE III.

#### *Distribution of powers.*

SECTION 1. The powers of the government shall be divided into three separate departments—the legislative, the executive, including the administrative, and the judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this constitution expressly provided.

### ARTICLE IV.

#### *Legislative.*

SECTION. 1. The legislative power of this State shall be vested in the general assembly, which shall consist of a senate and house of representatives.

SEC. 2. The senators and representatives shall be chosen annually by the qualified electors of the respective counties or districts for which they are chosen on the first Monday of August for one year, and their term of office shall commence on the first day of January next thereafter.

SEC. 3. There shall be elected at the first election, twenty senators and sixty representatives, and the number afterwards shall be regulated by law.

SEC. 4. No person shall be eligible to the office of senator or representative who shall not possess the qualifications of an elector.

SEC. 5. No person holding office under the authority of the United States, or any lucrative office under the authority of this State, shall be eligible to, or have a seat in the general assembly; but this provision shall not extend to township officers, justices of the peace, notaries public, postmasters, or officers of the militia.

SEC. 6. Each house, except as otherwise provided in this constitution, shall choose its own officers, determine its own rules of proceeding, punish its members for disorderly conduct, and, with the concurrence of two-thirds, expel a member, but not the second time for the same cause; and shall judge of the qualification, election, and return of its

own members, and shall have all other powers necessary for its safety and the undisturbed transaction of business.

SEC. 7. Each house shall keep a journal of its proceedings, and publish the same. The yeas and nays on any question shall, at the request of any two members, be entered on the journal.

SEC. 8. Any member of either house shall have the right to protest against any act or resolution thereof, and such protest, and the reasons therefor, shall, without alteration, commitment or delay, be entered on the journal.

SEC. 9. All vacancies which may occur in either house shall, for the unexpired term, be filled by election, as prescribed by law.

SEC. 10. Senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during the session of the general assembly, and in going to and returning from the same; and for words spoken in debate they shall not be questioned in any other place.

SEC. 11. A majority of all the members elected to each house shall be necessary to pass every bill or joint resolution, and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective houses, and presented to the governor for his approval.

SEC. 12. The doors of each house, and of committees of the whole, shall be kept open. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting, except for personal safety.

SEC. 13. Every bill shall be read by sections, on three several days, in each house, unless in case of emergency two-thirds of the house where such bill may be pending shall, by a vote of yeas and nays, deem it expedient to dispense with the rule; but the reading of a bill by sections, on its final passage, shall in no case be dispensed with; and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

SEC. 14. Every act shall contain but one subject, which shall be clearly expressed in its title. Bills may originate in either house, but may be altered, amended, or rejected by the other.

SEC. 15. In all cases where a general law can be made applicable, the laws shall be general, and of uniform operation throughout the State.

SEC. 16. No act shall ever be revived or amended by mere reference to its title; but the act revived, or the section amended, shall be set forth and published at full length.

SEC. 17. No act shall take effect until the same shall have been published and circulated in the counties of the State, by authority, except in case of emergency, which emergency shall be declared in the preamble or the body of the law.

SEC. 18. The election and appointment of all officers, and the filling of all vacancies, not otherwise provided for by this constitution or the constitution of the United States, shall be made in such manner as shall be prescribed by law; but no appointing power shall be exercised by the general assembly, except as provided in the constitution.



and in the election of the United States senators, and in these cases the vote shall be taken *viva voce*.

SEC. 19. The general assembly shall not have power to enact laws annulling the contracts of marriage in any case where by law the courts of this State may have power to decree a divorce.

SEC. 20. The general assembly shall have no power to pass retro-active laws, or laws impairing the obligation of contracts, but may by general laws authorize courts to carry into effect, upon such terms as shall be just and equitable, the manifest intention of parties and officers, by curing omissions, defects, and errors in instruments and proceedings, arising out of a want of conformity with the laws of this State.

SEC. 21. The style of the laws of this State shall be : " Be it enacted by the general assembly of the State of Kansas."

SEC. 22. The house of representatives shall have the sole power of impeachment. All impeachments shall be tried by the senate, and when sitting for the purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of all the senators present.

SEC. 23. The governor, and all other civil officers under the laws of this State, 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 disqualification to hold any office of honor, profit, or trust under this State. The party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment, and punishment according to law.

SEC. 24. Within one year after the ratification of this constitution, and within every subsequent two years thereafter for the term of ten years, an enumeration of all the white inhabitants of this State shall be made in such manner as shall be directed by law.

SEC. 25. All regular sessions of the general assembly shall be held at the capital of the State, and shall commence on the first Tuesday of January annually.

SEC. 26. All bills for raising revenue shall originate in the house of representatives, subject, however, to amendments or rejection, as in other cases.

SEC. 27. The members of the general assembly shall receive for their services the sum of four dollars per day for each and every day they are actually in attendance at any regular or special session, and four dollars for every twenty miles they shall travel in going to and returning from the place of meeting by the most usually travelled route; and no session of the general assembly, except the first under this constitution, shall extend beyond the term of sixty days, nor any special session more than forty days.

#### ARTICLE V.

##### *Executive.*

SECTION 1. The executive department shall consist of a governor, a lieutenant governor, secretary of state, treasurer, auditor, and attor-



ney general, who shall be chosen by the electors of the State at the same time and places of voting as for the members of the general assembly.

SEC. 2. The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, and state printer, shall hold their offices for two years. Their terms of office shall commence on the first Tuesday of January next after their election, and continue until their successors are elected and qualified, neither of which officers shall be eligible for re-election more than two out of three consecutive terms, nor shall any person be eligible for the office of governor who shall not have attained the age of thirty years.

SEC. 3. The returns of every election for the officers named in the foregoing section shall be sealed up and transmitted to the seat of government by the returning officers, directed to the secretary of state, who shall lay the same before the general assembly at their first meeting thereafter, when they shall open, publish, and declare the result thereof, in the presence of a majority of the members of both houses. The person having the highest number of votes shall be declared duly elected, and a certificate thereof given to such person, signed by the presiding officers of both bodies; but if any two or more shall be highest and equal in votes for the same office, one of them shall be chosen by the joint vote of both houses.

SEC. 4. The supreme executive power shall be vested in a governor.

SEC. 5. He may require information in writing from the officers in the executive department, upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

SEC. 6. He shall communicate at every session, by message, to the general assembly, the condition of the affairs of the State, and recommend such measures as he shall deem expedient for their action.

SEC. 7. He may, on extraordinary occasions, convene the general assembly by proclamation, and shall state to both houses, when assembled, the purposes for which they were convened.

SEC. 8. In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the general assembly to such time as he may think proper, but not beyond the regular meetings thereof.

SEC. 9. He shall be the commander-in-chief of the military of the State, except when they shall be called into the service of the United States.

SEC. 10. The pardoning power shall be vested in the governor, under such regulations and restrictions as may be prescribed by law.

SEC. 11. There shall be a seal of the State, the device of which shall be fixed upon by the governor and other State officers, be kept by the governor, and used by him officially, and shall be called "the great seal of the State of Kansas."

SEC. 12. All grants and commissions shall be issued in the name and by the authority of the State of Kansas, sealed with the "great seal," signed by the governor, and countersigned by the secretary of state.

SEC. 13. No member of either house of Congress, or other persons holding office under the authority of this State, or of the United

States, shall exercise the office of governor, except as herein provided.

SEC. 14. In the case of death, impeachment, resignation, removal, or other disability of the governor, the lieutenant-governor shall exercise the duties of the office of governor, until another governor shall be duly qualified; but in such case another governor shall be chosen at the next annual election for members of the general assembly, unless such death, resignation, impeachment, removal, or other disability shall occur within three calendar months immediately preceding such next annual election; in which case a governor shall be chosen at the second succeeding annual election for members of the general assembly; and in case of the death, impeachment, resignation, removal, or other disability of the lieutenant-governor, the president of the senate *pro tem.* shall exercise the office of governor until a governor shall be duly qualified as aforesaid.

SEC. 15. The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided, and shall be entitled to the same pay as the speaker of the house of representatives; and in case of his death, impeachment, resignation, removal from office, or when he shall exercise the office of governor, the senate shall choose a president *pro tem.*

SEC. 16. Should the office of secretary of state, treasurer, auditor, or attorney general, become vacant for any of the causes specified in the fourteenth and fifteenth sections, the governor shall fill the vacancy or vacancies until the disability is removed, or a successor is elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after such vacancy shall have occurred, and the person chosen shall hold the office for the full term fixed in the second section of this article.

SEC. 17. The officers mentioned in this article shall, at stated times, receive for their services a compensation to be fixed by law, which shall be neither increased nor diminished during the period for which they shall have been elected.

SEC. 18. The officers of the executive department and of the public State institutions shall, at least ten days preceding each regular session of the general assembly, severally report to the governor, who shall transmit the same to the general assembly.

SEC. 19. Every bill which shall have passed both houses shall be presented to the governor. If he approve, he shall sign the same; but if he shall not approve, he shall return it, with his objections, to the house in which it shall have originated, who shall enter the objections at large upon the journals, and proceed to reconsider the same. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which likewise it shall be reconsidered, and, if approved by two-thirds of that house, it shall be a law. But in such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons 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 five days (Sundays excepted) after it shall have been presented to him, it shall be a law, in like manner as if he had

signed it, unless the general assembly, by their adjournment, prevent its return ; in which case it shall also be a law, unless sent back within two days after the next meeting.

SEC. 20. Contested elections for governor, lieutenant-governor, judges of the supreme court, and all other State officers, shall be determined by the general assembly, in such manner as may be prescribed by law.

SEC. 21. The general assembly shall have power to provide by law for the election of a surveyor-general, State geologist, and superintendent of common schools, whose duties shall be prescribed by law.

#### ARTICLE VI.

##### *Judicial.*

SECTION 1. The judicial power of the State shall be vested in a supreme court, courts of common pleas, justices of the peace, and in such other courts inferior to the supreme court as the general assembly may establish.

SEC. 2. The supreme court shall consist of three judges, a majority of whom shall form a quorum. It shall have such original and appellate jurisdiction as may be provided by law. It shall hold at least one term each year at the seat of government, and such other terms as may be provided by law. The judges of the supreme court shall be elected by the electors of the State at large.

SEC. 3. The State shall be divided by the first general assembly under this constitution into three common pleas districts, of compact territory, bounded by county lines, and as nearly equal in proportion as practicable ; and a judge for each district shall be chosen by the electors thereof, and their term of office shall be for three years.

SEC. 4. The courts of common pleas shall consist of one judge each, who shall reside within the district for which he is chosen during his continuance in office.

SEC. 5. The jurisdiction of the court of common pleas and of the judges thereof shall be fixed by law.

SEC. 6. A competent number of justices of the peace shall be elected by the electors in each township of the several counties. Their term of office shall be for three years, and their powers and duties shall be fixed by law.

SEC. 7. All judges, other than those provided for in this constitution, shall be elected by the electors of the judicial district for which they may be created, but not for a longer term of office than three years.

SEC. 8. The judges of the supreme court shall immediately after the first election under this constitution be classified by lot, so that one shall hold for the term of one year, one for the term of two years, and one for the term of three years ; and at all subsequent elections the term of each of said judges shall be for three years.

SEC. 9. In case the office of any judge shall become vacant before the expiration of the term for which he was elected, the vacancy shall be filled by appointment by the governor, until a successor is elected



and qualified ; and such successor shall be elected for the residue of the unexpired term, at the first annual election that occurs more than thirty days after such vacancy shall have happened.

SEC. 10. The judges of the supreme court, and of the court of common pleas, shall, at stated times, receive such compensation as may be provided by law, which shall not be increased or diminished during their term of office ; but they shall receive no fees or perquisites, nor hold any office of profit and trust under the State, other than a judicial office.

SEC. 11. The general assembly may increase or diminish the number of the judges of the supreme court, the number of the districts of the court of common pleas, the number of judges in any district, or establish other courts, whenever two-thirds of the members elected to each house shall concur therein ; but no such change, addition, or diminution shall vacate the office of any judge.

SEC. 12. There shall be elected in each county, by the electors thereof, one clerk of the court of common pleas, who shall hold his office for the term of three years, and until his successor shall be elected and qualified.

SEC. 13. The general assembly shall provide, by law, for the speedy publication of the decisions of the supreme court made under this constitution.

SEC. 14. The supreme court shall, upon the decision of every case, give an opinion in writing of each question arising in the record in such case, and the decision of the court thereon.

SEC. 15. There shall be elected by the voters of the State a clerk and a reporter for the supreme court, who shall hold their offices for three years, and whose duties shall be prescribed by law.

SEC. 16. Judges may be removed from office by a concurrent resolution of both houses of the general assembly, if two-thirds of the members elected to each house concur therein ; but no such removal shall be made, except upon complaint, the substance of which shall be entered upon the journal, nor until the party charged shall have had notice thereof, and an opportunity to be heard.

SEC. 17. The several judges of the supreme court, of the court of common pleas, and of such other courts as may be created by law, shall respectively have and exercise such powers and jurisdiction at chambers, or otherwise, as may be provided by law.

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

#### ARTICLE VII.

##### *Education.*

SECTION 1. The principal of all funds arising from the sale or other disposition of lands, or other property, granted or intrusted to this State for educational and religious purposes, shall forever be preserved inviolate and undiminished ; and the income arising therefrom



shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 2. The general assembly shall make such provision, by taxation or otherwise, as with the income arising from the school trust-fund will secure a thorough and efficient system of common schools throughout the State; but no religious or other sect or sects shall ever have any exclusive right to, or control of, any part of the school-funds of this State.

SEC. 3. The general assembly may take measures for the establishment of a university, with such branches as the public convenience may hereafter demand, for the promotion of literature, the arts, sciences, medical and agricultural instruction.

SEC. 4. Provision may be made by law for the support of normal schools, with suitable libraries and scientific apparatus.

#### ARTICLE VIII.

##### *Public Institutions.*

SECTION 1. It shall be the duty of the general assembly, at as early a date as possible, to provide State asylums for the benefit, treatment, and instruction of the blind, deaf and dumb, and insane.

SEC. 2. The general assembly shall make provision for the establishment of an asylum for idiots, to be regulated by law.

SEC. 3. The respective counties of the State shall provide in some suitable manner for those inhabitants who, by reason of age, infirmity, or other misfortune, may have claims upon the sympathy and aid of society, under provision to be made by the laws of the general assembly.

SEC. 4. The general assembly shall make provision for the establishment of houses of refuge for the correction, reform, and instruction of juvenile offenders.

SEC. 5. It shall be the duty of the general assembly to make provision as soon as possible for a State general hospital.

#### ARTICLE IX.

##### *Public Debt and Public Works.*

SECTION 1. No money shall be paid out of the treasury, except in pursuance of an appropriation by law.

SEC. 2. The credit of the State shall never be given or loaned in aid of any individual, association, or corporation.

SEC. 3. For the purpose of defraying extraordinary expenditures, the State may contract public debts; but such debts shall never, in the aggregate, exceed one hundred thousand dollars, unless authorized by a direct vote of the people at a general election. Every such debt shall be authorized by law, and every such law shall provide for the payment of the annual interest of such debt, and the principal within ten years from the passage of such law; and such appropriation shall not be repealed until the principal and interest shall have been wholly paid.

SEC. 4. The legislature may also borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or repayment of the debts thereby created.

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

#### ARTICLE X.

##### *Militia.*

SECTION 1. The militia shall consist of all able-bodied white male persons between the ages of eighteen and forty years, except such as may be exempt by the laws of the United States, or of this State; and shall be organized, officered, armed, equipped, and trained in such manner as may be provided by law.

SEC. 2. The governor shall appoint the adjutant, quartermaster, and commissary generals.

SEC. 3. All militia officers shall be commissioned by the governor, and shall hold their offices not longer than three years.

SEC. 4. The general assembly shall determine the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and fix the rank of all officers.

SEC. 5. The militia may be divided into classes, in such manner as shall be prescribed by law.

SEC. 6. No person conscientiously opposed to bearing arms shall be compelled to do militia duty, but such person shall pay an equivalent for such exemption, the amount to be prescribed by law.

SEC. 7. The first general assembly shall offer inducements for the formation, uniforming, and drilling independent volunteer companies in the different cities and counties in this State.

#### ARTICLE XI.

##### *Finance and Taxation.*

SECTION 1. The general assembly shall provide, by law, for a uniform and equal rate of assessment and taxation, and taxes shall be levied upon all such property, real and personal, as the general assembly may, from time to time, prescribe; but all property appropriated and used exclusively for municipal, literary, educational, scientific, or charitable purposes, and personal property, to an amount not exceeding one hundred dollars for each head of a family, and all property appropriated and used exclusively for religious purposes to an amount not exceeding twenty thousand dollars, may, by general laws, be exempt from taxation.

SEC. 2. The general assembly shall provide, by law, for an annual tax, sufficient to defray the estimated ordinary expenses of the State for each year.

SEC. 3. Every law imposing a tax, shall state distinctly the object of the same to which it shall be applied.

SEC. 4. On the passage, in either house of the general assembly, of any law which imposes, continues, or renews a tax, or makes, continues, or renews an appropriation of public or trust money, or releases, discharges, or commutes a claim or demand of the State, the question shall be taken by yeas and nays, which shall be duly entered on the journal. And three-fifths of all the members elected to each house shall, in all cases, be required to constitute a quorum.

#### ARTICLE XII.

##### *County and Township Officers.*

SECTION 1. The general assembly shall provide by law for the election of county, city, town, and township officers.

SEC. 2. All officers, whose election or appointment is not provided for by this constitution, shall be elected by the people, or appointed as the general assembly may by law direct.

SEC. 3. Provision shall be made by law for the removal, for misconduct or malversation in office, of all officers whose powers and duties are not local or legislative, and who shall be elected at general elections, and also for supplying vacancies created by such removal.

SEC. 4. The legislature may declare the cases in which any office may be deemed vacant, where no provision is made for that purpose in this constitution.

#### ARTICLE XIII.

##### *Corporations.*

SECTION 1. The general assembly shall not create corporations by special act, except for municipal purposes.

SEC. 2. Corporations may be formed under general laws, but such laws may at any time be altered or repealed.

#### ARTICLE XIV.

##### *Jurisprudence.*

SECTION 1. The general assembly at its first session shall constitute three commissioners, whose duty it shall be to revise, reform, simplify, and abridge the rules of practice, pleadings, forms, and proceedings of the courts of record of this State, and to provide, so far as practicable and expedient, that justice shall be administered by intelligible and uniform proceedings, without any distinction between law and equity.

SEC. 2. The proceedings of the commissioners shall be reported to the general assembly, and be subject to the action of that body.

#### ARTICLE XV.

##### *Miscellaneous.*

SECTION 1. The first general assembly shall locate the permanent seat of government.



SEC. 2. Lotteries, and the sale of lottery tickets for any purpose whatever, shall forever be prohibited in this State.

SEC. 3. No person shall be elected or appointed to any office in this State, unless he possesses the qualifications of an elector.

SEC. 4. There may be established in the secretary of state's office a bureau of statistics and agriculture, under such regulations as may be prescribed by law, and provision shall be made by the general assembly for the organization and encouragement of State and county agricultural associations.

SEC. 5. The first general assembly shall provide, by law, for securing to the wife the separate property acquired by her before or after coverture, and the equal right with the husband to the custody of the children during their minority; and in case of the death, insanity, intemperance, or gross impropriety of the husband, their exclusive custody.

#### ARTICLE XVI.

##### *Amendments to the Constitution.*

SECTION 1. All propositions for amendments to the constitution shall be made by the general assembly.

SEC. 2. A concurrence of two-thirds of the members elected to each house shall be necessary; after which, such proposed amendments shall be entered upon the journals, with the yeas and nays; and the secretary of state shall cause the same to be published, in at least one newspaper in a county in the State where a newspaper is published, for at least six months preceding the next election for senators and representatives, when such proposed amendments shall be again referred to the legislature elected next succeeding said publication. If passed by the second legislature by a majority of two-thirds of the members elected to each house, such amendments shall be republished as aforesaid, for at least six months prior to the next general election, at which election such proposed amendments shall be submitted to the people for their approval or rejection; and if a majority of the electors voting at such election shall adopt such amendments, the same shall become a part of the constitution.

SEC. 3. When more than one amendment is submitted at the same time, they shall be so submitted as to enable the electors to vote upon each amendment separately. No convention for the formation of a new constitution shall be called, and no amendment to the constitution shall be, by the general assembly, made before the year 1865, nor more than once in five years thereafter.

#### ARTICLE XVII.

##### *Banking and Currency.*

SECTION 1. No banks shall be established otherwise than under a general banking law.



SEC. 2. If the general assembly shall enact a general banking law, such law shall provide for the registry and countersigning, by the auditor of the State, of all paper credit designed to be circulated as money, and ample collateral security, readily convertible into specie, for the redemption of the same in gold or silver, shall be required; which collateral security shall be under the control of the proper officer or officers of the State. Such law shall restrict the aggregate amount of all paper credit to be circulated as money, and the aggregate amount to be put in circulation in any one year; and no note issued under the provision of this section shall be of a less denomination than ten dollars.

SEC. 3. The stockholders in every bank or banking company shall be individually liable to an amount, over and above their stock, equal to their respective shares of stock, for all debts and liabilities of said bank or banking company.

SEC. 4. All bills or notes issued as money shall be at all times redeemable in gold and silver; and no law shall be passed sanctioning, directly or indirectly, the suspension by any bank or banking company of specie payments.

SEC. 5. Holders of bank notes shall be entitled, in case of insolvency, to preference of specie payment over all other creditors.

SEC. 6. No bank shall receive, directly or indirectly, a greater rate of interest than shall be allowed by law to individuals loaning money.

SEC. 7. Every bank or banking company shall be required to cease all banking operations within twenty years from the time of its organization, and promptly thereafter to close its business.

SEC. 8. The State shall not be a stockholder in any bank or banking institution.

SEC. 9. All banks shall be required to keep officers and proper offices for the issue and redemption of their paper, at some accessible and convenient point within the State.

SEC. 10. The said banking law shall contain a provision reserving the power to alter, amend, and repeal said law.

SEC. 11. At the time of submitting this constitution to the electors for their approval or disapproval, the article numbered in relation to a general banking law shall be submitted as a distinct proposition, in the following form: "General Banking Law: Yes or No;" and if a majority of the votes cast shall be in favor of said article, then the same shall form a part of this constitution; otherwise it shall be void, and form no part thereof.

#### SCHEDULE.

SECTION 1. In order that no inconvenience may arise from the organization and establishment of a State government, and that the wishes of the people may be fully accomplished, it is declared:

1. That no existing rights, suits, prosecutions, claims, and contracts shall be affected by a change in the form of government.

2. That this constitution shall be submitted to the people of Kansas for ratification on the 15th day of December next. That each qualified elector shall express his assent or dissent to the constitution by

voting a written or printed ticket, labelled "Constitution," or "No constitution;" which election shall be held by the same judges, and conducted under the same regulations and restrictions, as is hereinafter provided for the election of members of the general assembly. And the judges therein named shall, within ten days after said election, seal up and transmit to the chairman of the executive committee of Kansas Territory the result of said election, who shall forthwith make proclamation of the same; and in case the constitution be ratified by the people, the chairman of the executive committee shall cause publication to be made by proclamation, that an election will be held on the third Tuesday of January, A. D. 1856, for governor, lieutenant-governor, secretary of state, treasurer, auditor, judges of the supreme court, State printer, attorney general, reporter of the supreme court, clerk of the supreme court, and members of the general assembly; which said election shall be held by the same judges, under the same restrictions, and conducted in the same manner, as is hereinafter provided for the election of members of the general assembly; and the judges therein named are hereby required, within ten days after said election, to seal up and transmit duplicate copies of the returns of said election to the chairman of the executive committee, one of which shall be laid before the general assembly at its first meeting.

3. The general assembly shall meet on the fourth day of March, A. D. 1856, at the city of Topeka, at 12 m.; at which time and place the governor, lieutenant-governor, secretary of state, judges of the supreme court, treasurer, auditor, State printer, reporter, and clerk of the supreme court, and attorney general shall appear, take the oath of office, and enter upon the discharge of the duties of their respective offices under this constitution; and shall continue in office in the same manner, and during the same period, they would have done had they been elected on the first Monday of August, A. D. 1856.

4. At the same time and place the qualified voters shall, under the same regulations and restrictions, elect a member of Congress, to represent the State of Kansas in the thirty-fourth Congress of the United States; the returns of said election to be made to the chairman of the executive committee, who shall deposite the same in the office of the secretary of state, as soon as he shall enter upon the discharge of the duties of his office.

SEC. 2. Until otherwise provided by law, the State shall be divided into election districts; and the senators and representatives shall be apportioned among the several districts as follows:

#### *First District.*

Commencing in the Kansas river, at the mouth of Cedar creek; thence up said river to the first tributary above the town of Lawrence; thence up said tributary to its source; thence by a direct line to the west side of Johnson's house; thence by a due south line to the Santa Fé road, and along the middle of said road to a point due south of the source of said Cedar creek, and down the same to the place of beginning.

*Second District.*

Commencing at the mouth of Big Spring branch, on the south bank of the Kansas river; thence up said branch to its furthest source; thence by a southerly line, crossing the Wakarusa river, on the east side of the house of Charles Matney, to the middle of the Santa Fé road; thence along the middle of said road to the line of the first district; thence by the same, along the west side of the house of ——— Johnson, to the head of the first tributary of the Kansas river above the town of Lawrence; and thence by the same tributary to the Kansas river, and up the south bank of said river to the mouth of Big Spring branch, the place of beginning.

*Third District.*

Commencing at the mouth of Big Spring branch, on the south side of Kansas river; thence up the same to its furthest source; thence by a southerly line to the north bank of the Wakarusa river, on the east side of the house of Charles Matney; thence up said river and its main branch to the line of the Pottawatomie reservation; and thence by the southern and western line of said reservation to the Kansas river, and down the said river to the place of beginning.

*Fourth District.*

Commencing at the Missouri State line, in the middle of the Santa Fé road; thence along the middle of said road to Rock creek, near the sixty-fifth mile of said road; thence south to the line of the Shawnee reservation ceded by the treaty of 1854; thence due east, along the south line of said reservation and the north lines of the existing reservations of the Sacs and Foxes, the existing reservations of the Chipewas and Ottawas, and the reservations of the Piankeshaws, Weas, Peorias, and Kaskaskias, to the Missouri State line; thence up the Missouri State line to the place of beginning.

*Fifth District.*

Commencing at the Missouri State line, at the southern boundary of the fourth district; thence west along the same to the northwest corner of the Sac and Fox reservation; thence due south, along the western line thereof, and due south to the south branch of the Neosho river, about seventy miles above the Catholic Osage Mission; thence down said river to the north line of the reserve for the New York Indians, and east along said line to the headwaters of Little Osage river, or the nearest point thereto; and thence down said river to the Missouri State line, and up said line to the place of beginning.

*Sixth District.*

Commencing on the Missouri State line, in Little Osage river; thence up the same to the line of the reserve for the New York Indians, or the nearest point thereto; thence to and by the north line of said reserve to the Neosho river, and up said river and the south branch thereof to the head; thence by a due south line to the southern



line of the Territory ; thence by the southern and eastern lines of said Territory to the place of beginning.

*Seventh District.*

Commencing at the east side of the house of Charles Matney, on the Wakarusa river ; thence due south to the middle of the Santa Fé road ; thence westwardly along the middle of said road to Rock creek, near the 65th mile of said road ; thence due south to the north line of the Sac and Fox reservation ; thence along the north and west lines thereof, and due south to the Neosho river ; thence up said river to a point due south of the mouth of Elm creek ; thence due north to the mouth of Elm creek, and up said creek to the Santa Fé road ; and thence by a direct line in a northerly direction to the southwest corner of the Pottawatomie reservation ; thence along the southern line of said reservation to the headwaters of the Wakarusa river, or the point nearest thereto ; thence to and down the said river to the place of beginning.

*Eighth District.*

Commencing at the mouth of Elm creek, one of the branches of the Osage river ; thence up the same to the Santa Fé road ; thence by a direct northerly line to the southwest corner of the Pottawatomie reservation ; thence up the western line thereof to the Kansas river ; thence up said river and the Smoky Hill Fork beyond the most westerly settlements ; thence due south to the line of the Territory ; thence by the same to the line of the sixth district ; thence due north to the head of the south branch of the Neosho river ; thence down said river to the line of the seventh district ; thence due north to the place of beginning.

*Ninth District.*

Commencing on the Smoky Hill Fork, beyond the most westerly settlements ; thence down the same and the Kansas river to the mouth of the Wild Cat creek ; thence up said creek to the headwaters thereof ; thence due north to the Independence emigrant road ; thence up said road to the north line of the Territory ; thence west along the same, beyond the most westerly settlements ; and thence due south to the place of beginning.

*Tenth District.*

Commencing at the mouth of Vermillion river ; thence up the same, beyond the house of Josiah D. Adams ; thence due north to the Independence emigrant road ; thence up the middle of said road to the line of the ninth district ; thence by the same to the head of Wild Cat creek, and down said creek to the Kansas river ; thence down said river to the place of beginning.

*Eleventh District.*

Commencing on the Vermillion river, opposite the north side of the house of Josiah D. Adams ; thence up said river to the head of the



main branch ; thence due north to the military road from Fort Leavenworth to Fort Kearney ; thence along the middle of said road to the crossing of the Vermillion branch of the Blue ; thence due north to the northern line of the Territory ; thence west along said line to the Independence emigrant road ; thence down said road to a point due west of the north end of the house of Josiah D. Adams ; and due east to the place of beginning.

*Twelfth District.*

Commencing at the mouth of Soldier creek, in the Kansas river ; thence up said creek to the head of the main branch ; thence due north to the military road from Fort Leavenworth to Fort Kearney ; thence along the middle of said road to the line of the eleventh district ; thence due south to the head of Vermillion river, down Vermillion river to the mouth, and down Kansas river to the place of beginning.

*Thirteenth District.*

Commencing in the Kansas river, at a point three miles above the mouth of Stranger creek ; thence in a northerly direction by a line corresponding to, and three miles west of the several courses of said creek, to the line of the late Kickapoo reservation ; thence by the southern and western lines of said reservation to the military road from Fort Leavenworth to Fort Kearney ; thence along the middle of said road to the line of the twelfth district ; thence due south to the head of Soldier creek, down Soldier creek to the mouth, and down Kansas river to the place of beginning.

*Fourteenth District.*

Commencing at the mouth of Independence creek ; thence up said creek to the head of the main branch ; and thence due west to the line of the late Kickapoo reservation ; thence north along said line, and along the line of the late Sac and Fox reservation, to the north line of the Territory ; thence along said line eastwardly to the Missouri river, and down said river to the place of beginning.

*Fifteenth District.*

Commencing at the mouth of Salt creek, on the Missouri river ; thence up said creek to the military road, and along the middle of said road to the lower crossing of Stranger creek ; thence up said creek to the line of the late Kickapoo reservation ; and thence along the southern and western line thereof to the line of the fourteenth district ; thence by the same, and down Independence creek to the mouth thereof ; and thence down the Missouri river to the place of beginning.

*Sixteenth District.*

Commencing at the mouth of Salt creek ; thence up said creek to the military road ; thence along the middle of said road to the lower

crossing of Stranger creek ; thence up said creek to the line of the late Kickapoo reservation, and thence along the same to the line of the thirteenth district ; and thence by the same, along a line corresponding to the course of Stranger creek, and keeping three miles west thereof, to the Kansas river ; thence down the Kansas river to the Missouri, and up the Missouri river to the place of beginning.

*Seventeenth District.*

Commencing at the mouth of Kansas river ; thence up the south bank thereof to the mouth of Cedar creek ; thence up Cedar creek to its source, and thence due south to the Santa Fé road ; along the middle of said road to the Missouri State line, and along said line to the place of beginning.

*Eighteenth District.*

Commencing in the military road at the crossing of the Vermillion branch of Blue river ; thence due north to the line of the Territory ; thence east along said line to the fourteenth district ; thence due south along said line to the aforesaid military road, and along the middle of said road to the place of beginning.

*Senatorial and Representative Districts.*

1. The first election district shall be entitled to three senators and eight representatives.

2. The second election district shall be entitled to one senator and three representatives.

3. The third election district shall be entitled to one senator and three representatives.

4. The fourth and seventeenth election districts shall constitute the fourth senatorial and representative district, and be entitled to one senator and two representatives.

5. The fifth election district shall be entitled to three senators and nine representatives.

6. The sixth, seventh, and eighth election districts shall constitute the sixth senatorial and representative district, and be entitled to two senators and five representatives.

7. The ninth and tenth election districts shall constitute the seventh senatorial district, and be entitled to one senator and four representatives.

8. The eleventh and twelfth election districts shall constitute the eighth senatorial and representative district, and be entitled to one senator and three representatives.

9. The thirteenth election district shall constitute the ninth senatorial and representative district, and be entitled to one senator and two representatives.

10. The fourteenth and eighteenth election districts shall constitute the tenth senatorial and representative district, and be entitled to two senators and seven representatives.

11. The fifteenth election district shall constitute the eleventh senatorial and representative district, and be entitled to one senator and five representatives.

12. The sixteenth election district shall constitute the twelfth senatorial and representative district, and be entitled to three senators and nine representatives.

SEC. 3. Until otherwise provided by law, the elections in the several districts shall be held at the following places, and the following named persons are hereby appointed as judges of the elections.

*Places of voting.*

SEC. 4. *First senatorial district.*—Lawrence precinct, at the Free State hotel ; A. D. Searl, Lyman Allen, Henry Bronson, judges.

Franklin precinct, at the store of Mr. Purdam ; James McGee, Horace L. Enos, J. Purdam, judges.

Blanton precinct, at the house of J. B. Abbott ; John Stewart, R. Vaughn, P. T. Hupp, judges.

Palmyra precinct, at the house of H. Barricklow ; H. Barricklow, Louis Green, A. Pierson, judges.

*Second senatorial district.*—Bloomington precinct, at the house of H. Burson ; Samuel Smith, Daniel Vancil, J. M. Dunn, judges.

*Third senatorial district.*—Washington precinct, at the house of W. R. Frost ; W. Riley, Caleb Antram, Eli Allen, judges.

Tecumseh precinct, at the house of J. Taylor ; Chas. Jordon, John Morris, Francis Grassmuck, judges.

Topeka precinct, at the law office of E. C. K. Garvey ; Dr. F. L. Crain, Milton C. Dickey, J. F. Cummings, judges.

Brownsville precinct, at the house of G. W. Brown ; G. W. Brown, Mr. Simmerwell, Dr. Bowen, judges.

*Fourth senatorial district.*—Prairie City precinct, at the house of Samuel Mewhinney ; W. Moore, Samuel Workman, Amos Hanna, judges.

Mission precinct, at the Baptist mission building ; G. L. Osborn, S. M. Cornatzer, Lewis Dougherty, judges.

Wakarusa precinct, at the store of Paschal Fish ; L. H. Bascom, Ellis Bond, A. G. Green, judges.

*Fifth senatorial district.*—Ossawatimie precinct, at the house of Samuel Geer ; Wm. Chestnut, B. Woodbury, Wm. Sailing, judges.

Stanton precinct, at the house of Mr. Staniford ; J. Wollard, Mr. Morse, W. G. Nichols, judges.

Pottawatomie precinct, at the meeting-house ; F. Brown, J. Grant, S. B. Morse, judges.

Hampden precinct, at the house of W. A. Ela ; W. A. Ela, Chancy Moore, George Law, judges.

Sugar Creek precinct, at the house of Silas Young ; Silas Young, James W. Dudley, William Dyer, judges.

Little Sugar Creek precinct, at the house of Isaac D. Stocton ; Isaac D. Stocton, Thomas Fars, James Coburn, judges.

Little Osage precinct, at Miller's store ; Thomas Osburn, Mr. Miller, Mr. Fowlers, judges.



Osage precinct, at the house of Thomas Polk ; Mr. Wyckoff, ———, ———, judges.

*Sixth senatorial district.*—Scott's town precinct, at the house of Mr. Vandever ; T. Crabtree, Isaac Chatam, F. S. Frossel, judges.

Titus precinct, at the house of J. B. Titus, on the Santa Fé road.

Council Grove precinct, at the Mission-house ; J. Goodell, G. H. Rees, B. Wright, judges.

Wabausea precinct, at the house of John H. Nesbitt, in Wabausea ; E. R. McCurdy, J. M. Bisbee, D. B. Haitt, judges.

Mill Creek precinct, at some suitable house at Mill creek ; Mr. Holnick, ———, ———, judges.

Ashland precinct, at some suitable house in Ashland ; Mr. Adams, ———, ———, judges.

Clark's Creek precinct, at some suitable place near the junction of Clark's and Humboldt's creek ; Wm. McCurdy, Mr. Berry, Mr. Mitchell, judges.

*Seventh senatorial district.*—Pawnee precinct, at Loder & Shaw's store in Pawnee ; S. P. Higgins, W. M. McClure, L. Knapp, judges.

Big Blue precinct, at the house of S. D. Dyer, in Juniatta ; J. Stewart, S. D. Houston, J. T. Goodnow, judges.

Rock Creek precinct, at the house of Mr. Haitt ; James Durnell, Chas. Jenkins, Henry Remmell, judges.

*Eighth senatorial district.*—Black Vermillion precinct, at some suitable house in said precinct, on the Vermillion branch of the Blue river ; John Schmidt, Mr. Hollingburgh, Mr. Alvey, judges.

St. Mary's precinct, at the house of B. F. Bertrand ; Dr. Palmer, C. Garrett, C. Dean, judges.

Silver Lake precinct, at some suitable house at Indianola ; E. Kennedy, J. W. Hopkins, John G. Thompson, judges.

*Ninth senatorial district.*—Dayton precinct, at the store of Bainter & Hoover ; Lewis Hoover, Nathan Adams, G. B. Hall, judges.

Grasshopper Falls precinct, at the house of the Mill Company ; S. H. Dunn, John W. Clark, J. R. Ross, judges. .

Whitfield precinct, at the house of J. B. Chapman ; Thomas Jenners, Vincent D. Coher, James A. Gray, judges.

*Tenth senatorial district.*—California precinct, at the house of W. W. Moore ; W. W. Moore, W. Jackson, judges.

St. Jo Bottom precinct, at the house of B. Harden ; George Bryant, H. Smallwood, A. A. Jameson, judges.

Burr Oak precinct, at the house of Mr. Wilson ; Mr. Brock, Mr. Wilson, Thomas McCulloch, judges.

Palermo precinct, at the house of R. Martin ; John White, R. Ladd, N. White, judges.

Doniphan precinct, at Collin's Mill ; David Lee, D. W. Fields, J. McNamer, judges.

Wolf River precinct, at the house of Mr. Searl ; Mr. Searl, Mr. Vloe, Mr. Richardson, judges.

Iowa Point precinct, at the house of Mr. McCall ; Mr. Handy, Mr. Pacter, Mr. ———, judges.

*Eleventh senatorial district.*—Kickapoo precinct, at some suitable



house in Kickapoo city ; Dr. McCormas, Mr. Zimmerman, Mr. Boyd, judges.

Port William precinct, at the house of Dr. Hathaway ; Dr. Hathaway, Mr. Oliphant, Mr. Potter, judges.

Mount Pleasant precinct, at the house of M. A. Potter ; Mr. Ridgeway, B. Elliot, M. A. Potter, judges.

Oceana precinct, at the store of Crosby & Co. ; Archibald Elliot, A. Landrum, S. J. H. Snyder, judges.

*Twelfth senatorial district.*—Leavenworth precinct, at the office of Gardiner & Dodge ; Adam Fisher, Thomas M. Doyle, H. M. Hook, judges.

Wyandot precinct, at the Council-house in Wyandot city ; Abelard Guthrie, G. J. Clark, Ebenezer Lane, judges.

Easton precinct, at the house of Thomas A. Maynard ; G. J. Clark, Wm. Pennock, judges.

Atchison precinct, at the house of B. R. McCubbins ; Mr. Bay, Henry Williams, judges.

SEC. 5. The executive committee of Kansas Territory shall have the power to appoint additional election precincts and judges therefor.

#### *Instructions to Judges.*

SEC. 6. The three judges will provide for each poll ballot-boxes for depositing the ballots cast by electors ; shall appoint two clerks—all of whom shall be sworn or affirmed to discharge the duties of their respective offices impartially and with fidelity ; and the judges and clerks shall have the power to administer the oath or affirmation to each other ; and the said judges shall open said election at nine o'clock, a. m., at the place designated in each precinct, and close the same at six o'clock, p. m. In case any of the officers appointed fail to attend, the officer or officers in attendance shall supply their places ; and in the event of all of them failing to attend, the qualified voters shall supply their places ; and the said judges shall make out duplicate returns of said election, seal up and transmit the same within ten days to the chairman of the executive committee, one copy of which is to be laid before the general assembly. If, at the time of holding said election, it shall be inconvenient, from any cause whatever that would disturb or prevent the voters of any election precinct in the Territory from the free and peaceable exercise of the elective franchise, the officers are hereby authorized to adjourn said election into any other precinct in the Territory, and to any other day they may see proper, of the necessity of which they shall be the exclusive judges, at which time and place the qualified voters may cast their votes.

SEC. 7. Until otherwise provided by law, the chairman of the executive committee of Kansas Territory shall announce by proclamation the results of the elections, and the names of persons elected to office.

SEC. 8. No person shall be entitled to a seat in the first general assembly at its organization, except the members whose names are contained in the proclamation of the chairman of the executive com-

mittee; but after the general assembly is organized, seats may be contested in the usual way.

SEC. 9. Certificates of indebtedness may be issued by the Territorial executive committee for all necessary expenses accruing in the formation of the State government, not exceeding twenty-five thousand dollars, (\$25,000,) provided no certificates shall be issued except for legitimate expenses. All claims shall be made in writing, and shall be numbered and kept on file in the secretary's office; and all certificates of indebtedness shall be signed by the president and secretary, and countersigned by the treasurer, and numbered to correspond with the numbers of the claim or bill for which it was issued. The certificates shall bear ten per cent. interest per annum.

SEC. 10. The first general assembly shall provide by law for the redemption of the certificates of indebtedness issued under the provisions of the foregoing section.

SEC. 11. Until the great seal for the State of Kansas is agreed upon and procured, as provided for in the 11th section of the 5th article of this constitution, the governor shall use his own private seal as the seal of the State.

SEC. 12. At the election for the ratification of this constitution, and the first election for State officers, a representative in the Congress of the United States, and members of the general assembly of this State, an actual residence in the Territory of thirty days immediately preceding said election shall be sufficient as a qualification for the elector, and an actual residence of ninety days for the candidates; *provided*, said electors and candidates possess all the other qualifications required by the provisions of this constitution.

SEC. 13. The first legislature shall provide by law for the enforcement of the provisions of the 6th section of the bill of rights, on or before the 4th day of July, 1857, as to all persons in the Territory before the adoption of this constitution, and as to all others the provisions of said section shall operate from and after the ratification of this constitution by the people.

In testimony that the foregoing is the CONSTITUTION OF THE STATE OF KANSAS, as agreed to in convention, we, the officers and members of the convention, have hereunto signed our names at Topeka, this twelfth day of November, A. D. one thousand eight hundred and fifty five, and of the independence of the United States of America the eightieth year.

J. H. LANE, *President*.

SAMUEL C. SMITH, *Secretary*.

CHARLES A. FOSTER, *Assistant Secretary*.

JAMES REDPATH, *Reporter*.

Robert Klotz,  
Marcus J. Parrott,  
Mark W. Delahay,  
William R. Griffith,  
Geo. S. Hillyer,  
William Hicks,  
Samuel N. Latta,

David Dodge,  
John A. Wakefield,  
Wm. Y. Roberts,  
Geo. W. Smith,  
John G. Thompson,  
George A. Cutler,  
J. K. Goodin,

John Landis,  
Harrison Burson,  
Charles W. Stewart,  
James M. Arthur,  
James L. Sayle,  
Caleb May,  
• Samuel Mewhinney,  
William Graham,  
Morris Hunt,  
John H. Nesbit,  
Cyrus K. Holliday,

James H. Tuton,  
Thomas Bell,  
Rufus Henry Crosby,  
Alfred Curtis,  
Amory Hunting,  
Richard Knight,  
Philip C. Schuyler,  
M. F. Conway,  
O. C. Brown,  
C. Robinson,  
J. S. Emery.

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TOPEKA, *Kansas*, March 15, 1856.

I hereby certify that the annexed is a true copy of the constitution of the State of Kansas, now on file in my office, as framed by the constitutional convention that met at Topeka, in said State, on the 23d October, 1855, and ratified by the people on the 15th December, 1855.

ROBT. KLOTZ,  
*Secretary of the State of Kansas.*



## MAJORITY REPORT.

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Mr. GROW, from the Committee on the Territories, made the following

### REPORT.

*The Committee on the Territories, to whom were referred the constitution adopted by the people of Kansas, on the 15th of December, 1855, and the memorial of the members of the Legislature elected under its authority, praying Congress to admit Kansas as a State into the confederacy, having had the same under consideration, beg leave to submit the following report:*

Since the adoption of the federal constitution eighteen States have been added to the Union, of which five were admitted without ever having passed through a Territorial existence. Of the thirteen that have had Territorial governments, five were admitted with constitutions formed without any previous act of Congress authorizing the same. The power of Congress to admit States is of the most plenary character, and is conferred by the constitution (sec. 3, art. 4) in these words: "New States may be admitted by the Congress into this Union." The time, mode, and manner of admission, therefore, is left entirely to the discretion of Congress. By the constitution it is only requisite that the proposed State should have a republican form of government.

The first question, then, that arises on the application of a State for admission, is, does its constitution secure a republican form of government? If so, would the welfare of its people and the general interests of the whole country be promoted by its admission?

To determine this involves an inquiry as to the number of its population, the condition of its society, and the provisions of its constitution. A Territorial government under our system, being limited in the exercise of political powers, and the people thereof greatly restricted in their action, should be continued only so long as the necessities which give rise to it last. For during its existence the people do not choose their rulers, nor can they legislate without being subjected to the supervisory power of Congress over their acts.

Until the formation of a State government this supervision results not only from the power vested in Congress by the constitution itself, but from the nature of the government and the necessity of the case.

The settlers of a Territory, in the first instance feeble in numbers,

and widely separated, have to contest with the savage and the wild beast, the dominion of the wilderness, and, for a time, are not of sufficient numbers, strength, or wealth to protect themselves alone against the uncivilized influences that surround them. Hence the federal government pays all the expenses of their legislation, builds their roads, erects their public buildings, appoints and pays the salaries of their executive and judicial officers, and as a necessary consequence must have a supervisory power over their acts; were it otherwise, Congress might be involved in unlimited expenditures for legalized purposes which it entirely disapproves.

While the capacity of men to govern themselves is the same, whether in a State or a Territory, their relations to the government are not the same, and it is no good cause of complaint that they must submit to all the conditions incident to their new and changed position. In the States they are members of an organized community which makes its own laws, elects its own rulers, and pays all the expenses thereof by levying and collecting its own taxes. The people of a Territory do none of these acts, either one of which is an indispensable requisite of popular sovereignty. So long as they are unable, for want of sufficient numbers and wealth, to support a State government, with all the tribunals necessary to secure life and property, they cannot exercise all the rights of an independent and sovereign people.

But when their numbers and wealth are sufficient to justify it, and the people desire to take upon themselves the responsibility and expense of a State government, there is no longer any occasion for the guardianship of Congress, and no reason why their request should be delayed or refused.

Is the population of Kansas, then, sufficient to support an efficient State government, without imposing excessive burdens of taxation upon its people?

Taking the estimate of the Secretary of the Territory, sent to the President, and by him communicated to Congress, the population of the Territory last October was twenty-five thousand.

If the increase for the last six months has been anything like the ratio of the six months preceding, the population of Kansas would now be about forty-five or fifty thousand. Each month, from the excitement and stimulus given to emigration in all parts of the Union to this Territory, adds largely to its numbers.

The amount of population necessary for the admission of a State, being left by the constitution wholly to the discretion of Congress, and its action in reference to it having varied in almost every instance, affords no uniform precedent.

Tennessee, admitted June 1, 1796, had by the census of 1790 a white population of 32,013.

Louisiana, admitted April 8, 1812, had by the census of 1810 a white population of 34,311.

Indiana, admitted December 11, 1816, had by the census of 1810 a white population of 23,890.

Mississippi, admitted December 10, 1817, had by the census of 1820, three years after her admission, a white population of 42,176.

Missouri, admitted March 2, 1820, had by the census of 1820 a white population of 55,988.

Arkansas, admitted June 15, 1836, had by the census of 1830 a white population of 25,671.

Florida, admitted March 3, 1845, had by the census of 1840 a white population of 27,943.

The population of Kansas, from the most reliable sources of information, is nearly or quite equal to the present fractional ratio for a member of Congress in the States, and greater than the representative population of many of the States at the time of their admission into the Union.\* So there can be no valid objection to her admission on account of insufficient population.

Congress being the only power that can establish a Territorial government, it follows that such government must at all times be subject to the control of Congress, and can be changed, modified, or abrogated only by the consent of Congress.

But it is immaterial whether that consent be expressed before or after the action of the people of the Territory in changing their Territorial government to a State. In a majority of cases, prior to the action of the people, Congress has, it is true, passed an act authorizing them to call a convention, although it was not done in the case of Tennessee, Arkansas, Michigan, Florida, or Iowa; nor is it absolutely necessary in any case. An enabling act has never been deemed indispensable for the people to act, and no evil has ever resulted from its omission. The principal can give validity to the action of the agent in all cases, either by prior authority, or by recognition subsequent thereto.

General Jackson, in replying, through B. F. Butler, his Attorney General, to a letter of the governor of Arkansas, asking of the President instructions as to his duty in preventing the people of that Territory from holding a State convention without authority of Congress or of the legislature, says: "They undoubtedly possess the ordinary privileges and immunities of citizens of the United States. Among these is the right of the people peaceably to assemble and to petition the government for the redress of grievances. In the exercise of this right the inhabitants of Arkansas may peaceably meet together in primary assembly, or in convention chosen by such assemblies, for the purpose of petitioning Congress to abrogate the Territorial government, and to admit them into the Union as an independent State. The particular form which they may give to their petition cannot be material so long as they confine themselves to the mere right of petitioning, and conduct all their proceedings in a peaceable manner. And as the power of Congress over the whole subject is plenary and unlimited, they may accept any constitution framed, which in their judgment meets the sense of the people to be affected by it.

"If, therefore, the citizens of Arkansas think proper to accompany their petition by a written constitution framed and agreed on by them in primary assemblies, or by a convention of delegates chosen by such assemblies, I perceive no legal objection to their power to do so."

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\*See statement appended.



As to the power of the Territorial legislature to confer any authority, he says :

"It is not in the power of the general assembly of Arkansas to pass any law for the purpose of electing members to a convention to form a constitution and State government, nor to do any other act directly or indirectly to create such new government. Every such law, even though it were approved by the governor of the Territory, would be *null and void*."

In 1835 the people of Michigan, after repeated failures to obtain an act of Congress authorizing a State convention, called one themselves without any such authority, elected delegates, formed and adopted a constitution, and under it elected State officers, United States senators, and a representative to Congress, and at the ensuing session of Congress presented their application for admission as a State into the Union.

Congress on the 15th of June, 1836, admitted her on condition that her people, in a convention to be called for that purpose, should assent to a change of boundary, which assent, when obtained, the President was to announce by proclamation, and thereupon Michigan was to become one of the States of the Union without any further legislation. The State legislature called a convention to consider the terms fixed by Congress for her admission, and provided for the election of delegates ; but that convention so called, and represented by delegates from every county in the State, rejected the terms of admission. Their action was not satisfactory to a portion or a "*party*" of the people, and they, without any legislative act whatsoever, called another convention, and accepted the terms of admission proposed by Congress, though the people of large sections of the State refused to take any part in this convention, regarding it as illegal and revolutionary.

The proceedings of both conventions were sent to General Jackson, who communicated them to Congress by message, in which he says the first convention " was elected by the people of Michigan pursuant to an act of the State legislature passed on the 25th of July last, in consequence of the above-mentioned act of Congress, and that it declined giving its assent to the fundamental condition prescribed by Congress, and rejected the same. \* \* \* \* \* The second convention was not held or elected by virtue of any act of the Territorial or State legislature. It originated from the people themselves, and was chosen by them in pursuance of resolves adopted in primary assemblies held in their respective counties."

Yet in view of all these circumstances, the President declared that, if the proceedings of this last convention had reached him during the recess of Congress, he should have issued his proclamation as required by act of Congress ; but as Congress was then in session, he submitted the proceedings of both conventions for its action.

Under these circumstances, Michigan was admitted into the Union by act of Congress, passed January 26, 1837, by a vote of 153 to 45 in the House, and but ten votes against it in the Senate. The people of Kansas, with far greater reasons than ever existed heretofore in any case for departure from the usual forms of proceeding, following the

precedent of Michigan and other States, and acting in accordance with the constitutional exposition of General Jackson and other eminent cotemporaneous statesmen, as to their rights, met in convention, formed a State constitution, and now present their action for the approval of Congress.

Does the constitution presented meet the approval and *sense of the people to be affected by it?* If so, is it expedient, under all the circumstances, to grant their application at this time? A proper solution of these questions requires a brief review of the history of Kansas.

An act of Congress for the organization of the Territorial government of Kansas was passed May 30, 1854.

The passage of this bill inaugurated a new policy in the settlement of our unoccupied territories. For the first time in the history of the government a restriction on the extension of slavery was stricken from the statute-book.

The policy in reference to the Territories introduced by the fathers of the republic, and continued by the uniform action of the government for more than sixty years, was to exclude slavery from all territory where it had not an actual existence, and to regulate and even restrict it where it had.

On the 13th of July, 1787, the Congress of the confederation declared, in the language of the proviso offered by Jefferson in 1784, that in all the territory northwest of the river Ohio, "there shall be neither slavery nor involuntary servitude, otherwise than in punishment of crimes whereof the party shall have been duly convicted." At the first session of Congress after the adoption of the constitution, this ordinance, which covered every foot of territory then owned by the federal government, was, by a unanimous vote, recognised and continued in force by act of Congress approved by Washington. On the 7th of April, 1798, Mississippi was organized into a temporary government out of territory ceded by South Carolina and Georgia, both slaveholding States. Yet the importation of slaves therein, from any place without the limits of the United States, was prohibited under penalty of three hundred dollars, and the freedom of the slave.

This restriction on slavery in a slaveholding territory, ten years before Congress was permitted by the constitution to prevent the importation of slaves into the *States*, passed without a division in either house, and was approved by John Adams.

During his administration Indiana was organized into a Territory, and slavery prohibited therein.

On the 26th of March, 1804, the Territory of Orleans, now the State of Louisiana, was organized out of a part of the Louisiana purchase, over the whole of which the French law of slavery extended. Yet Congress prohibited the introduction of any slaves into the Territory from any place without the limits of the United States, or that had been imported since the first of May, 1798; and provided, in addition, that no slaves should be taken into the Territory from any place except by a *citizen* of the United States removing into said Territory for actual settlement, and being at the time of such removal *bona-fide* owner of such slaves. The penalty for a violation of either one of



these prohibitions was the freedom of the slave and a fine of three hundred dollars. This act was signed by Jefferson.

Michigan and Illinois were both organized during his administration, each with a total prohibition of slavery.

On the 4th of June, 1812, the Territory of Missouri was organized with the three restrictions on the importation of slaves that existed in the Territory of Orleans.

On the 3d of March, 1817, Alabama was organized with the laws in force in the Territory of Mississippi, by which the introduction of slaves imported from any place without the United States was prohibited. Both these acts were signed by Madison.

On the 2d of March, 1819, the Territory of Arkansas was organized out of part of Missouri Territory, and the laws of the latter continued in force.

On the 6th of March, 1820, was passed the Missouri compromise, in an act authorizing the people of Missouri to form a State constitution.

On the 30th of March, 1822, Florida was organized with a prohibition on the introduction of any slave imported from any place without the United States. These three acts were signed by Monroe.

On the 20th of April, 1836, Wisconsin was organized as a Territory, with a prohibition on the existence of slavery, and the act was approved by Jackson.

On the 12th of June, 1838, a similar act was passed for Iowa, and signed by Van Buren. The act organizing the Territory of Oregon prohibited slavery, and was signed by Polk. Five times during the Territorial existence of Indiana did Congress refuse the prayer of her citizens for a temporary suspension of the prohibition of slavery within her limits, for the reason assigned by Mr. Randolph, of Roanoke, chairman of one of the committees to whom the memorial praying for the suspension was referred: "That the committee deem it highly dangerous and inexpedient to impair a provision wisely calculated to promote the happiness and prosperity of the northwestern country, and to give strength and security to that extensive frontier."

The constitutionality of this uniform action of the government in prohibiting or restricting slavery in the Territories, beginning with the first Congress and extending with an uninterrupted current of authority for so long a period, has been sustained by the decisions of the courts of almost all the States, both free and slave, and by the highest judicial tribunal of the land. Well might Mr. Clay, in speaking on this subject in the Senate of the United States, on the 5th of February, 1850, after declaring that in his opinion the power over the subject of slavery in the Territories exists in Congress, say, "that when a point is settled by all the elementary authorities, and by the uniform interpretation and action of every department of our government—legislative, executive, and judicial—and when that point has been settled during a period of fifty years, and was never seriously disturbed until recently, I think that, if we are to regard anything as fixed and settled under the administration of this constitution of ours, it is the question which has been thus invariably and uniformly settled; or are we to come to the conclusion that nothing—nothing



upon earth—is settled under the constitution, but the principle that everything is unsettled?”

The settlement of this question, as left by the compromise of 1820, would have prevented the present strife and civil war in Kansas, and preserved the country in its wonted repose.

Yet instead of leaving this Territory, as it had been for more than a third of a century, consecrated to freedom by all the solemnities that can surround any legislative act; instead of adhering to the policy established by the fathers of the republic, and continued by the uniform action of the government for more than half a century, of settling in Congress the question of the future existence of slavery in a Territory at the time of organizing its temporary government, all restrictions were thrown off, and the existence of slavery was left as a bone of contention for the settlers of the Territory during its Territorial existence, and to be thrown back again into Congress whenever the State should apply for admission. The act itself virtually invited slavery to take possession by removing all barriers to its introduction.

The object of the repeal, sufficiently apparent even if it had not been avowed at the time by many of its advocates, was to extend, strengthen, and perpetuate slavery by making Kansas a slave State.

Under these circumstances, this Territory once secured to freedom, was thrown open to settlement, and to competition between free and slave labor. Emigrants from all sections of the Union, relying on the faith of the government that they were to be left “*perfectly free to form and regulate their domestic institutions in their own way,*” made it their homes; but when, in pursuance of the forms of the organic act, they assembled to elect a legislature which would mould the institutions of the Territory, and in a great measure shape and control the character of those of the infant State, they were driven by violence from the polls, and their ballot-boxes seized by organized bands of armed men from the State of Missouri.

That such was the case is clearly established by the executive minutes of the governor of the Territory, transmitted to this House by the President, which is the authentic and official record of the transactions at the time they occurred, and from which we present the following extracts:

“*Third representative district.*”

“Report of Harrison Benson and Nathaniel Ramsay, under oath, that they entered upon their duties as judges of election, and polled some few votes, when they were driven from the room by a company of armed men from the State of Missouri, who threatened their lives, and commenced to destroy the house and beat in the door, demanding the right to vote without swearing to their place of residence; that having made their escape with the poll-books and certificates, they were followed by said persons, and the said papers taken by force.

“Protest of A. B. Woodward and nineteen other persons, claiming to be citizens of said district, against the election, in said district, of A. McDonald, O. H. Brown, and G. W. Ward, for the reason that several hundred men from the State of Missouri presented themselves

to vote at said election, and, upon being required by the judges to swear to their place of residence, they threatened to take the lives of the judges and tear down the house, and prepared to demolish the house. One of said judges ran out of the house with the ballot-box, and the other two were driven from the ground; that the citizens of the district then left, and the persons from Missouri proceeded to elect other judges and hold an election.

*“ Tenth representative district.*

“Oaths of H. B. Corey, J. B. Ross, and J. Atkinson, judges, according to form prescribed. Return of same judges, stating that having been sworn, they proceeded to open said election and received votes; but that a vast number of citizens from Missouri assembled on the ground for the purpose of illegally voting, who surrounded the window and obstructed the citizens of the Territory from depositing their votes, and caused many of the said legal voters to leave without voting, and that the said judges, in consequence of the determination of citizens of Missouri to vote, and no voters from said district voting, or offering to vote, they left the ground.

*“ First election district.*

“Protest of Samuel F. Tappan and twenty others, claiming to be residents of the first election district, to declare void, to set aside the returns and election in said district, or that certificates be given to Joel K. Goodin and S. N. Wood for council, and to John Hutchinson, E. D. Ladd, and P. P. Fowler, for the reason that six or seven hundred armed men encamped in the vicinity of the polls on the 29th and 30th of March, collected around said polls, and kept them in their possession on the day of the election till late in the afternoon, and who left the district during the afternoon and the ensuing day. Said persons were strangers, believed to come from the State of Missouri. Citizens of the district were threatened with violence and prevented from voting. Affidavit by all the signers, together with affidavits of Harrison Nichols, Edwin Bond, David Congee, N. B. Blanton, and Samuel Jones, tending to prove threats, violence, and non-resident voting.

“Protest of Perry Fuller and E. W. Moore, judges appointed to hold the election, and twenty-nine other persons claiming to be residents, complaining that the said election was opened by unauthorized judges at 8 o'clock a. m., and at a place different from that prescribed in the proclamation, and that non-residents surrounded the polls with fire-arms and voted indiscriminately.”

But omitting further extracts from the returns of the judges of the election, there were by the census taken under the direction of the governor, in February, 1855, 2,905 legal voters in the Territory; yet at the election for members of the legislature held twenty-seven days after the completion of the census, 6,381 votes were polled,\* of which

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\*See statement appended.

5,564 were for the pro-slavery candidates ; the excess of votes being so distributed through the different election precincts, that of the thirty-nine members of the legislature, but one free-State man was elected, and he was in the district farthest removed from Missouri.

The election of nine members of the council, and eight members of the legislature, contested at the time before the governor, were, by reason of fraud and violence at the polls, set aside, and new elections ordered ; yet the legislature, without *investigation*, rejected all the members elected at the second election, and admitted to seats those whose election had been set aside, and to whom the governor refused certificates, a transaction unprecedented in the history of legislative bodies, and to be accounted for only on the ground that they were accomplices in the fraud.

The legislature thus constituted then enacted a code of laws denying the right of private judgment and the free expression of opinion, under penalty of fine and imprisonment, and, in certain cases, disfranchisement of political rights.

In order that this code should be executed by its friends, this legislature provided for the appointment of all officers—civil, military, and judicial—not already appointed by the federal government, and then prolonged its own existence, by legislative act, till the 1st of January, 1857.

As the council is elected for two sessions, no change can be made in that branch of the legislature until 1858 ; so that, from the time of the passage of the act organizing Kansas, which provides for annual sessions of the legislature, it will be almost four years before any change can be made by the people in the legislation thus imposed upon them. To sustain a government thus imposed upon an unwilling people, and marked by all the characteristics of deliberate oppression and wrong, armed men have been summoned from a neighboring State, and civil war is impending over the inhabitants of the Territory. As a remedy for these evils and a redress of such wrongs, it is proposed by their apologists to authorize the people, at some future time, to form another constitution, to be again submitted to Congress, with a new application for admission as a State.

Why should their present application be rejected, and they be forced to pass through the mockery of another election, under the authority of this Territorial legislature, and subject to another invasion of non-residents ? Immediate action is necessary in order to put an end to the strife in the Territory, which, the President informs us, threatens the peace not only of Kansas, but of the Union.

The representatives of freedom and of slavery, struggling for supremacy, rally to the plains of Kansas with the implements of war and violence. Is the bitterness engendered in these conflicts to be allayed, and the dangers of bloodshed to be averted, by Congress authorizing the people of the Territory at some future time to do what they already have the right to do without any such authority ? An act of Congress authorizing them to form a State constitution confers no right that they do not already possess, and is no redress of present grievances, or relief against unjust and oppressive laws.

The only political question upon which the people of Kansas are



divided, and the one that has caused all the troubles in the Territory, as well as the excitement over the whole country, is the existence of slavery within its limits, and until that question is settled, there can be neither peace in the Territory, nor tranquillity in the country. Why, then, delay action? Is it to obtain, by another election, a fuller and freer expression of the wishes of the people as to the existence of slavery in the Territory, when every person there, who, by writing or speaking, opposes the introduction or existence of slavery therein, is liable to punishment from two to five years in the penitentiary, and no advocate of free institutions is secure in the exercise of his inalienable rights?

If a majority of the legal voters in the Territory were not free-State men, why was an invasion necessary to carry the election; and why was it necessary, then, for the usurpers to take from the people, by legislative act, the selection of their own election-boards and other local officers? If a majority of the people are in favor of the enactments of the imposed legislature, why was it necessary to summon men from Missouri to enforce them? The Territorial government, unable to prevent a usurpation of the legislative power by non-residents, and having violated in its action the most sacred rights of person, freedom of speech, and of the press, is unworthy the support of freemen.

There being no peaceable mode for changing the government by the people for almost two years, so as to redress any of the wrongs and grievances under which they now suffer, their only mode of redress was to appeal to Congress to allow them to protect themselves by an organized government of their own formation, with courts and officers of their own selection.

To restore, then, to the people of Kansas the rights wrested from them by fraud and violence, to relieve them from an odious oppression in the form of legislative enactments, as well as to remove the causes of civil war, and restore peace to the people of Kansas, and quiet to the whole confederacy, we recommend the admission of Kansas into the Union as a State, and herewith report a bill.

GALUSHA A. GROW.

J. R. GIDDINGS.

A. P. GRANGER.

S. A. PURVIANCE.

JUSTIN S. MORRILL.

JOHN J. PERRY.

*Tabular statement showing the inhabitants, legal voters by the census taken in February 1855, and the votes polled at the election held 30th March, 1855.*

Districts.	Males.	Females.	Voters.	Votes polled at election of Mar. 30, 1855.	Natives of United States.	Foreign birth.	Negroes.	Slaves.	Total.
First district .....	623	339	369	1,044	887	75	-----	-----	962
Second district.....	316	203	199	341	506	19	1	7	519
Third district.....	161	91	101	376	215	12	-----	6	252
Fourth district.....	106	71	47	80	169	2	1	1	177
Fifth district.....	824	583	442	855	1,385	22	27	26	1,407
Sixth district.....	492	318	253	350	791	12	11	11	810
Seventh district....	82	36	53	234	117	1	1	1	118
Eighth district....	56	27	39	37	76	7	13	10	83
Ninth district.....	61	25	36	75	66	12	14	3	86
Tenth district .....	97	54	63	92	108	23	-----	-----	151
Eleventh district..	33	3	24	331	30	6	-----	-----	36
Twelfth district....	104	40	78	42	109	37	1	7	144
Thirteenth district..	168	116	96	242	273	9	14	14	284
Fourteenth district..	655	512	334	727	301	46	1	35	1,167
Fifteenth district ..	492	381	308	417	846	16	15	15	873
Sixteenth district ..	708	475	385	964	1,042	104	48	33	1,183
Seventeenth district	91	59	50	62	143	5	4	23	150
Eighteenth district	59	40	28	62	97	1	-----	-----	99
Total.....	5,128	3,383	2,905	6,331	7,161	408	151	192	8,601

States admitted.	Territorial government organized by act of Congress.	Authorized to form State government.	Date of admission.	POPULATION.				Representative population.	Ratio.	No. of representatives in Congress at the time of admission.	Appropriations, executive, legislative, and judicial, for the Territories.	For erection of public buildings.	For construction of roads.
				By census of—	White.	Free colored.	Slaves.						
Kentucky .....	.....	.....	July 3, 1788	1790	61,133	114	11,830	68,375	33,000	2	.....	.....	.....
Vermont .....	.....	.....	Feb. 18, 1791	1790	85,144	255	17	85,409	33,000	2	.....	.....	.....
Tennessee .....	.....	.....	June 1, 1796	1790	32,013	361	3,417	34,424	33,000	1	\$22,000 00	.....	.....
Ohio .....	.....	April 30, 1802	Feb. 19, 1803	1800	45,098	337	.....	45,365	33,000	1	66,000 00	.....	.....
Louisiana, (Orleans) .....	.....	Feb. 20, 1811	April 8, 1812	1810	34,311	7,385	34,660	62,692	35,000	1	132,398 00	.....	\$7,400 00
Indiana .....	March 26, 1804	April 19, 1816	Dec. 11, 1816	1810	32,890	393	237	24,424	35,000	1	117,750 00	.....	6,000 00
Mississippi .....	May 7, 1800	March 1, 1817	Dec. 10, 1817	1810	23,024	240	17,088	33,515	35,000	1	148,399 83	.....	10,000 00
Alabama .....	April 7, 1798	March 2, 1819	Dec. 14, 1819	1820	85,451	571	41,879	111,145	40,000	1	14,483 00	.....	10,000 00
Illinois .....	March 3, 1817	April 13, 1818	Dec. 3, 1818	1810	11,501	613	168	12,319	35,000	1	69,500 00	.....	8,000 00
Maine .....	Feb. 3, 1809	.....	March 3, 1820	1830	297,340	929	.....	298,269	40,000	7	113,700 00	.....	.....
Missouri, (Louisiana) .....	March 3, 1805	March 6, 1820	March 3, 1821	1830	55,988	247	10,222	62,468	40,000	1	203,159 46	.....	344,065 00
Arkansas .....	March 2, 1819	.....	June 15, 1836	1830	25,671	141	4,576	28,557	47,700	1	.....	.....	.....
Michigan .....	Jan. 11, 1805	.....	Jan. 26, 1837	1830	31,346	561	33	31,637	47,700	1	352,703 59	.....	235,500 00
Florida .....	March 3, 1819	.....	March 3, 1845	1840	57,943	817	25,717	44,190	70,680	1	665,436 55	\$20,000 00	172,613 00
Iowa .....	June 12, 1838	.....	March 3, 1845	1840	42,024	172	16	43,106	70,680	2	284,908 00	15,000 00	60,500 00
Texas .....	.....	.....	Dec. 29, 1845	1850	154,034	397	58,161	154,034	93,420	2	.....	.....	.....
Wisconsin .....	April 20, 1836	Aug. 6, 1846	March 3, 1847	1840	30,749	185	11	30,940	70,680	2	347,473 09	40,000 00	72,000 00
California .....	.....	.....	Sept. 9, 1850	1850	91,635	962	.....	92,507	93,420	2	.....	.....	.....
Oregon .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	349,382 69	112,000 00	90,000 00
Minnesota .....	Aug. 14, 1848	.....	.....	.....	.....	.....	.....	.....	.....	.....	504,650 00	76,500 00	150,000 00
Utah .....	Sept. 9, 1850	.....	.....	.....	.....	.....	.....	.....	.....	.....	199,159 16	53,000 00	25,000 00
New Mexico .....	Sept. 9, 1850	.....	.....	.....	.....	.....	.....	.....	.....	.....	293,395 05	40,000 00	32,000 00
Washington .....	March 2, 1853	.....	.....	.....	.....	.....	.....	.....	.....	.....	76,500 00	3,000 00	55,000 00
Kansas .....	May 30, 1854	.....	.....	.....	.....	.....	.....	.....	.....	.....	70,500 00	55,000 00	100,000 00
Nebraska .....	May 30, 1854	.....	.....	.....	.....	.....	.....	.....	.....	.....	72,125 00	50,000 00	80,000 00



## MINORITY REPORT.

The undersigned, member of the Committee on the Territories, unable to concur with the majority in the report of the bill for the immediate admission of Kansas as a State into the Union, begs leave to submit the reasons which, in his judgment, are conclusive against such action, and which at the same time demonstrate the propriety of authorizing the people of the Territory of Kansas to form a State constitution, with the privilege of admission into the Union so soon as they have the requisite population.

The undersigned readily comprehends that the true policy and interests of the government of the United States are opposed to the long and unnecessary continuance of any portion of the American people in a condition of Territorial dependence; that such relations, prolonging the rule of the government over a people debarred from participation in its general direction and control, tend to depress that independence of sentiment which a government like ours should ever cultivate in its citizens; and that it would be ill-judged in continuing to impose upon the United States the burdens of a Territorial organization, after the people of the Territory were fully able to defray for themselves all the expenses of a State government.

But the undersigned respectfully submits, that such considerations do not apply to the present condition of Kansas. It has been but two years since the present Territorial government was organized, over a then wilderness country, while, with other Territories of the Union, the average duration of Territorial organization, prior to admission as States into the Union, has been from twelve to thirteen years, and in some instances much more; as, with Mississippi nineteen years, with Florida twenty-six, and with Michigan thirty-two years. Besides, the population of Kansas is entirely too small, too sparsely scattered over the Territory, subject to too much fluctuation and instability, and in almost every way too little prepared to throw off the Territorial and assume all the responsibilities of a State government.

The population in October last was twenty-five thousand, or less than one-third the number (93,420 inhabitants) requisite to entitle Kansas to a representative in Congress. Though increasing rapidly, yet there is no data before the committee showing that this condition of things is materially changed. Would the admission of so small a population to all the rights of a State of the Union, with two senators and a representative in Congress, be *just* to the due representative weight of the present States of the Union? It would be a radical departure from the established usage of the government; there being no instance in which a State has ever been admitted with a population so inconsiderable, and no instance, with one solitary exception, in which a State has ever been admitted without a population more than equal to the ratio of representation in Congress. Though the constitution prescribes no definite amount of population as necessary for the admission of a State, yet considerations of the highest and soundest policy have led to the establishment of a general usage, and a long roll of precedents, extending down from the organization of the government, which it would be not only unwise but unsafe to depart from in the manner proposed. Of the eighteen States admitted since the

adoption of the federal constitution, the average population at the date of admission has been a fraction over *one hundred and four thousand*.

But the States in which the population was *smallest* at the time of admission, and which have therefore been relied on by the majority of the committee, really present a state of facts which, when correctly understood, overthrow the conclusions of the majority.

For example, the State of Tennessee was admitted in June, 1796, with a population, ascertained by a Territorial census of July, 1795, and reported by Governor Blount to Congress, of 77,262, when the ratio of representation in Congress was only 33,000.

Louisiana was admitted in April, 1812, with a population, ascertained two years before, (see United States census statistics,) of 76,556, at a time when the ratio of representation was but 35,000.

Indiana was admitted in December, 1816, with a population of 63,000, (see folio State Papers, Mis., vol. 2, p. 277, and House Journal Dec. 28, 1815, and Jan. 5, 1816,) when the ratio of representation was 35,000.

Missouri was admitted in 1821, with a population, ascertained the year before, (see United States census statistics,) of 66,586, when the ratio of representation was 35,000.

Arkansas was admitted in June, 1836, with a population, ascertained the year before, of 52,240, (see House Docs. 1st session 24th Congress, vol. 4, Nos. 133, 144-'5,) when the ratio was 47,000.

Mississippi was admitted in December, 1817, with a population, ascertained the year before, of 75,512, (see folio State Papers, Mis., vol. 2 of that Congress,) when the ratio was 35,000.

Florida was admitted in 1845, with a population, ascertained by Territorial census *seven years before*, of 48,223, (see House Docs. 2d session 27th Congress, vol. 4;) in 1845 the ratio of representation was 70,000. This case, as stated above, is the only exception to the invariable rule. But at the time Florida applied for admission, (in 1839,) her population was *more than the then ratio* of representation, (47,000,) and on this account, taken in connexion with the express terms of the treaty by which that Territory was acquired, it was claimed that they had the equitable right of admission.

A summary of the facts as to the remainder of the eighteen States admitted, appears as follows:

States.	Population when admitted.	Ratio of representation.
Vermont .....	85,000	33,000
Kentucky .....	73,077	33,000
Ohio .....	45,365	33,000
Illinois .....	55,211	35,000
Alabama .....	144,317	35,000
Maine .....	298,335	35,000
Michigan .....	87,273	47,000
Iowa .....	78,819	70,000
Texas .....	162,000	70,000
Wisconsin .....	305,000	70,000
California .....	92,597	70,000

But the insufficiency of the population of Kansas—the impolicy of setting such an example to the other small communities occupying the public territories—the injustice of giving State equality, and full equality in the Senate, with the most populous States in the Union, to such small territorial populations—are of far less flagrant aspect than certain other features in this proposition.

The bill reported, which is designated “a bill for the admission of the State of Kansas into the Union,” recites that “*the people of Kansas have presented a constitution, and asked admission into the Union,*” &c.

Now, the most remarkable feature in the question presented, is the fact that this “constitution,” and this pretended “State of Kansas,” have been set up in *open resistance to the lawfully-constituted authorities of the country*—set up on the public domain of the United States, in utter defiance of and resistance to *the laws of the United States*; set up *not* by “the people of Kansas,” but by a dissatisfied *portion* of the people, arrayed in excited antagonism to another portion; with a questionable list of grievances, and with a temper too impatient, or too prone to disorder, to await the redress of grievances which the due processes of law and order are sure to accord to every portion of the American people.

The only paper placed before the committee for its action is a memorial submitting such a constitution, asking (for Kansas) admission as a State, and going so far in argument as to *question “the right of Congress to extend a Territorial government over Territories” of the United States*, while at the same time it embodies the bold declaration of the “convention of the people’s delegates,” that the Territorial government has been a “*failure, and the people were left without any legal government*” *whatsoever!*

The memorial purports to be signed by the senators and representatives of the so-called State legislature of Kansas; but it has recently appeared that the copy before the committee is not a full transcript of the memorial adopted by the said Kansas legislature, several passages having been suppressed, as it appears, here in Washington. That it may more fully be seen what was the real temper of the said memorialists, the undersigned here inserts one of those suppressed passages, to wit:

“By the provisions of the organic act a government was established over the Territory, and officers were appointed by the President to administer said government. This form of government is *unknown to the constitution*, is extra-constitutional, and is only the creature of necessity awaiting the action of the people, and cannot remain in force contrary to the will of the people living under it. It may be regarded as a benevolent provision on the part of Congress thus to provide a government of their own; *but when it becomes oppressive, or when the people become sufficiently strong to establish a government of their own, in accordance with the constitution of the United States, it is their right so to do, and thereby throw off that extended over them.*”

Such is the startling assumption of the memorialists! men who, while occupying, by *permission* of Congress, one of the *Territories of the United States*, had just set themselves up as a legislature in resist-



ance to the Territorial legislature and government established by Congress.

But the "convention of the people's delegates" who gave start to the movement for a State government, and whose proceedings are quoted in the memorial before the committee, have gone still further. That body adopted, "with but one dissenting voice," the following resolutions, to wit:

*"Resolved, That we owe no allegiance or obedience to the tyrannical acts of this spurious [regularly-constituted Territorial] legislature; that their laws have no validity or binding force upon the people of Kansas; and that every freeman amongst us is at full liberty, consistently with all his obligations as a citizen and a man, to defy and resist them, if he chooses so to do.*

*"Resolved, That we will endure and submit to these laws no longer than the best interests of the Territory require, as the least of two evils, and will resist them to the bloody issue, as soon as we ascertain that peaceable remedies shall fail, and forcible resistance shall furnish any reasonable prospect of success; and that, in the mean time, we recommend to our friends throughout the Territory the organization and discipline of volunteer companies and preparation of arms!"*

Such was the disorderly, insurrectionary, and war-menacing spirit with which this "State of Kansas" was set on foot! With such antecedents and under such circumstances, the memorialists ask for, and the majority of the committee recommend, the immediate admission of Kansas into the Union. To admit a State thus formed, in open defiance of the lawful authorities both of the Territory and of the United States, would be without a parallel in the history of our government, utterly repugnant to its approved policy and rights of jurisdiction, and imminently hazardous to its future order, peace, and safety. What are the facts of our past history as to the admission of new States? Nine have been admitted with constitutions framed *under express permission of Congress*—that is, Ohio, Louisiana, Indiana, Illinois, Alabama, Michigan, Mississippi, Missouri, and Wisconsin; four (to wit: Tennessee, Arkansas, Florida, and Iowa) have been admitted with constitutions *having the free sanction of the preceding Territorial governments regularly established by Congress*; three (Vermont, Kentucky, and Maine) have been carved from the older States, (and there being no preceding Territorial governments,) *with the express assent of the States from which they were taken*; one (California having no Territorial government) admitted with a constitution *adopted at the instance of the military government existing at the time*, it being the only recognised local government in the Territory; and one republic (Texas) annexed and admitted as a State, *by amicable compact between that republic and the United States*. So, of the whole list, there is not a solitary instance of the admission of a State formed by persons in open hostility to the Territorial government which preceded it, or who had disclaimed allegiance or obedience to the laws, either of the Territory or of the United States; much less a State, the leaders and framers of which have actively and artfully incited the people—pretending to extend to them "full liberty"—to resist the only true and lawful government established by authority of the

*United States, "to the bloody issue," and urging them for that purpose to "organization and discipline of volunteer companies and preparation of arms!"*

Though one or two somewhat similar attempts have been made in our history, none have had so bad an aspect as this; yet they were promptly discountenanced and put down. Before the adoption of the constitution of the United States, the "State of Frankland" was projected, without lawful authority, on the territory of North Carolina, within the precise limits of what is now the State of Tennessee; and, though there was no local Territorial government over that then remote wilderness country, and though Indian hostilities were raging throughout its settlements, making it absolutely necessary, in the apprehension of the settlers, to establish some sort of local government for themselves, yet the movement was not tolerated for a moment by the lawful authorities, and was soon swept from existence. In Rhode Island, in 1841, the Dorr insurrection, as it was familiarly called, sought to set up, without the sanction of law, a State government in defiance of the existing State government of Rhode Island. But that movement was also promptly put down, and was from the beginning firmly discountenanced by the general government. On the present, as on those occasions, the violators of law and order have had various pretexts for their irregularities, and some plausible accounts of alleged grievances, which are in the main *ex parte*, and of very questionable accuracy.

It has been said that Kansas finds an example in the history of the admission of Michigan. But this is a misapprehension. The ordinance of 1787, enforced by acts of Congress, in pursuance of which Michigan was erected into a Territory, provided that a population of sixty thousand should entitle the State to admission. Having attained more than that population, Michigan formed a State constitution, and was admitted into the Union in June, 1836, with the single condition that the United States should fix its southern boundary, and that the assent of the State to this boundary should be given through "a convention of delegates elected by the people of the State *for the sole purpose of giving the assent herein required.*" Congress had power to fix this boundary without such assent. There were two conventions held, one assenting to and the other opposing this boundary; but on the 18th of January, 1837, Congress declared that "a convention of delegates, elected by the people of the State of Michigan," "did assent" to the boundary. This is all there is in it. There is no parallel between this case and that of Kansas.

An impartial review of the facts, in the opinion of the undersigned, discloses that the authors of this Kansas movement have committed a series of grave errors, and have placed themselves in the wrong from the very beginning of the controversy.

So soon as the Kansas-Nebraska bill was passed, active and noisy movements were set on foot to *throw into Kansas a mass of voters from distant States for the avowed purpose of controlling its elections, and making it a free State.* For this purpose Emigrant Aid Societies were organized in the New England States; millions of money were subscribed; and with a vociferous agitation against slavery, large num-



bers of persons were procured to enter the Territory, with exaggerated boasts of their popular prowess, preparatory to the first election. The people of Missouri, excited and aroused by the menacing throngs of these emigrants as they passed through that State on their way to Kansas, lying upon its western border, were stimulated to active counter-exertions, and threw bodies of emigrants into the new Territory to counteract the movements of the Emigrant Aid Societies. The first election occurred in November, 1854, for a Territorial delegate to Congress, and the free-State party were defeated. Those who had set in motion this unusual and unjustifiable interference from abroad with the local affairs of Kansas, then raised an outcry against the Missourians for apparently fairly beating them at their own game. They immediately renewed the struggle for the ensuing legislative elections, which occurred in March, 1855. They charge that they were beaten by frauds, and by the votes of non-residents. But it is worthy of note, that no attempts were made to prove the truth of these general charges. Notwithstanding Governor Reeder's proclamation, prescribing the time, place, and mode of election, had required an oath by the judges of election to permit no person to vote who was not a qualified voter and an actual resident of the Territory, and to make a true and faithful return of the votes to the governor; and notwithstanding it also expressly provided that if there should occur any fraudulent voting, or voting by non-residents, the persons so charging should make a sworn statement of the facts to the governor, and that the irregularities should be corrected; yet the public records show that neither the judges of election, nor any other person or persons in the Territory, ever did make such allegations or returns, and that there was never any proof shown, or attempted to be shown, that any such irregularities had an existence. Governor Reeder himself, it will be remembered, *certified the legality of the election.*

But the defeated party renewed their efforts, still relying chiefly upon the operations of the organized Emigrant Aid Societies of New England; and they again made loud boasts of the large numbers of emigrants they were pouring into the Territory, preparatory to the spring elections. This, in turn, naturally excited renewed counter-exertions on the part of Missouri and the southern States. The result was, that in the legislative elections in March, the free-State party were again defeated. The returns having been made to Gov. Reeder, that officer certified the legality of election of an overwhelming majority of the members of both houses of the legislature; and subsequently, both before and after that body met and organized, he again and again recognised it as a properly-constituted legislature. There were a few districts in which he did object to the returns, on the score of illegal voting, and in these instances he ordered new elections. But they were so few, that had all those members been excluded from seats, it would not have prevented the legal and efficient organization of the legislature. The records show that there was no pretence set up of illegal voting in the election of eleven councilmen out of thirteen, and of seventeen representatives out of twenty-six. At the special elections, ordered by the governor, to fill vacancies where illegal voting was alleged, the same persons were again



chosen by the people, except in the case of one councilman and one representative. The legislature then stood confessedly legally organized.

But that body, soon after organization, adjourned its sittings from Pawnee Mission to Shawnee Manual-Labor School, *and on that account, and that only*, the governor subsequently refused to sign the bills passed by the legislature; and thereupon a general movement was made by the free-State party to resist the laws which were passed, whether by a two-thirds majority over the governor's veto, or by an ordinary majority and the signature of his successor, after Governor Reeder's removal by the President of the United States. Baffled, chagrined, and glowing with impassioned resentment, Governor Reeder and his friends then loudly charged that the elections had been controlled by armed citizens of Missouri, and that on *that* account the legislature was a spurious body, and its acts not entitled to obedience or observance by the people of the Territory. This was some months after the elections. Simultaneously, the series of movements, in defiance of law and order, was set on foot which led to the organization of military companies; the arming with Sharpe's rifles; the setting up pretended laws, and holding elections, in defiance of the laws and elections of the Territorial government; the irregular election of this same Governor Reeder as a delegate to Congress; the framing a State constitution, and the election under it of members of a legislature and of senators in Congress; the counselling the people to resist the Territorial government, and the application which is now made to admit the rebellious new State thus formed into the Union.

Surely a calm review of the facts here briefly hinted at ought to carry with it the conviction that those misguided men, by continued acts of an unusual, exciting, and aggressive character, have brought upon Kansas all the turmoil, collision, and agitation which have unfortunately distinguished it from the other Territories; and that to countenance the admission into the Union of "the State of Kansas," unprepared with population as it is, and attended with all the anomalous and forbidding circumstances which have been cited, would be one of the gravest and most dangerous errors ever committed by the American Congress.

In conclusion, the undersigned begs leave to suggest, that at the proper time he desires to offer, in lieu of the bill reported by the majority, the following substitute.

F. K. ZOLLICOFFER.

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A BILL to authorize the people of the Territory of Kansas to form a constitution and State government, preparatory to their admission into the Union, when they have the requisite population.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That whenever it shall appear, by a census to be taken under the direction of the governor, by the authority of the legislature, that there shall be ninety-three thousand four hundred and twenty inhabitants (that being the

number required by the present ratio of representation for a member of Congress) within the limits hereinafter described in the Territory of Kansas, the legislature of said Territory shall be, and is hereby, authorized to provide by law for the election of delegates by the people of said Territory, to assemble in convention and form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States in all respects whatsoever, by the name of the STATE OF KANSAS; with the following boundaries, to wit: beginning 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 one hundred and third meridian of longitude, thence north on said meridian to the fortieth parallel of latitude, thence east on said parallel of latitude to the western boundary of the State of Missouri, thence southward with said boundary to the place of beginning.

SEC. 2. *And be it further enacted*, That the said convention shall be composed of delegates from each representative district within the limits of the proposed State, and that each district shall elect double the number of delegates to which it may be entitled to representatives in the Territorial legislature; and that at the said election of delegates, all white male citizens of the United States who shall have arrived at the age of twenty-one years, and shall have been actual residents in said Territory for the period of six months, and in the district for the period of three months next preceding the day of election, and who shall possess the other qualifications required by the organic act of the Territory, shall be entitled to vote, and that none others shall be permitted to vote at said election.

SEC. 3. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas, when formed, for their free acceptance or rejection, which, if accepted by the convention and ratified by the people at the election for the adoption of the constitution, shall be obligatory on the United States and upon the said State of Kansas, to wit:

*First.* That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections or any part thereof has been sold or otherwise been disposed of; other lands equivalent thereto, and as contiguous as may be, shall be granted in said State for the use of schools.

*Second.* That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the legislature of said State may prescribe for the purpose aforesaid, but for no other purpose.

*Third.* That ten entire sections of land, to be selected by the governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the legislature thereof.

*Fourth.* That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as

may be to each, shall be granted to said State for its use ; the same to be selected by the governor thereof within one year after the admission of said State, and, when so selected, to be used or disposed of on such terms, conditions and regulations as the legislature shall direct : *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State.

*Fifth.* That five per cent. of the net proceeds of sales of all public lands lying within said State, which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State, for the purpose of making public roads and internal improvements, as the legislature shall direct : *Provided*, The foregoing propositions herein offered are on the condition, that the said convention which shall form the constitution of said State shall provide, by a clause in said constitution, or 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 *bona fide* purchasers thereof, and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors, citizens of the United States, be taxed higher than residents.



