

Kansas historical collections

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KANSAS
HISTORICAL
SOCIETY

The undersigned, special committee to whom was referred the majority and minority reports of the select committee of seven, on the subject of the difficulties in southeastern Kansas, ask leave to report:

That we have attended to the duty assigned us, and having had the subject under consideration, we are satisfied from the evidence before us that the counties of Bourbon and Linn are suffering, and have been for the last year, unendurable evils, from the presence of armed bands of men in their midst, and also from murderous forays from beyond the borders of the territory;

That numerous robberies and murders have been committed, and the peaceful pursuits of industry almost wholly interrupted within their limits.

The offenders as yet remain unpunished, setting the law at defiance with impunity.

These disturbances are of such a nature as seriously to threaten a complete rupture of the friendly relations now existing between the citizens of this territory and those of the state of Missouri, and in our judgment require prompt and decisive action for their suppression, and for the vindication of the supremacy of the law.

We therefore respectfully recommend the adoption of the following resolution:

Resolved, That this house will cordially sustain the governor of the territory in all legal measures to enforce the law, to quell disturbances, to protect the citizens, and restore peace to the territory.

All of which is respectfully submitted.

A. N. CLARK.

L. D. BAILEY.

ABRAHAM BARRY.

HARRISON WEIDER.

FRANKLIN FINCH.

On motion of Mr. Mitchell, the report was received.

[H. J. 1859, p. 64.]

January 15, 1859.—Mr. Wright offered the following preamble and concurrent resolution:

Resolved, By the House of Representatives, (the Council concurring):

Whereas, On the 19th day of May last, William Colpetzer, Michael Robinson, and William Stilwell, in company with several others, were collected from their fields and workshops, and most brutally murdered, by Charles A. Hamilton and others, in Linn county, in this territory; and

Whereas, The said Colpetzer, Robinson and Stilwell were peaceable and unoffending citizens, heads of families, and settlers on the public lands, and left their families destitute and unable to pay for their lands; therefore,

Resolved, That the Congress of the United States be requested to pass an act of Congress donating to the widows of said men each 160 acres of land on which they resided at the time of the murders.

Resolved, That a copy of this resolution be sent to our delegate in Congress, to be presented to said body.

On motion of Mr. Wright, the rules were suspended, the resolution read a second time, and adopted.

[H. J., 1859, p. 76.]

Fort Scott, January 16, 1859.

Dear Judge: I send herewith a memorial to Governor Medary praying for the proclaiming martial law in southern Kansas. We fear nothing else can save us from utter ruin.



We are perfectly overwhelmed with the intelligence received to-day, in a letter from Governor M. to James E. Jones.

It would seem that the administration have determined to abandon us to our fate—to leave us to the tender mercies of Montgomery and Brown—which all know to be cruelty indeed.

We wish you would sign the memorial and then present it to the governor in person. You perceive all our leading citizens have signed it. You can inform the governor of the character of the signers, and you can of course confirm of your own knowledge every allegation contained in it. Weaver is now standing by me. Your family are all well.

Yours truly, EP. RANSOM.

To his excellency Samuel Medary, Governor of the Territory of Kansas:

The undersigned citizens of Bourbon county in said territory respectfully represent: That during the last few weeks bands of lawless armed men, under the lead of James Montgomery, John Brown, Eli Snyder, William Whipple, and perhaps those of like desperate character, have infested the said county of Bourbon, and it is believed the county of Linn also, openly and boldly setting at defiance the laws of the country, of God, and humanity. They have entered the homes of peaceable, unoffending citizens and robbed them of everything valuable which they were found to contain. They have stripped whole families, including women and children, of their clothing, bed, and bedding, burned their houses, and turned the inmates shelterless into the street. They have stolen the horses and other stock of our farmers. They have despoiled merchants of their goods. They have imprisoned unoffending citizens, and deliberately apprehended and murdered a citizen of this territory, and one of the state of Missouri just upon our border.

In view of the fearful acts, we respectfully but earnestly pray that martial law may be declared and established for the time being in said counties of Linn and Bourbon, and also in the counties of Anderson and Lykins, to which last two counties it is believed that these desperate men flew for concealment and protection.

We respectfully submit that no other measure will enable the government or the people to rid the country of these dangerous and wicked men, and as in duty bound will ever pray:

Fort Scott, K. T., January 15, 1859.

(Signed) E. F. French, O. H. Kelley, Charles Dangster, Peter M. Landis, Lewis Russell, Chas. E. Dunaway, G. T. Poyner, C. M. Poyner, Francis Hamberts, James Hayden, C. M. O'Donovan, Peter Smith, D. R. Kendall, H. S. Watkins, James I. Farley, William Allen, C. H. Haynes, J. Williams, jr., Porter Williams, W. J. Lynn, J. M. Couch, H. W. Turk, James C. Hutchins, Obadiah Adir, John Vail, Epaphroditus Ransom, John Hamilton, B. P. McDonald, A. W. King, John F. Hillard, William C. Poyner, James Buchan, Peter Harmon, Solomon Harmon, Henry Harmon, Francis Harmon, W. H. H. Gilbert, Peter Riley, A. H. Campbell, John G. Harris, John C. Laws, Henry Harmon, A. Bell, C. M. Payner, W. C. Denizen, R. Eldridge, E. W. Lock, J. E. Jones, Theo. Galliher, Samuel Ebar, Daniel Abbot, A. M. H. Bills, J. S. Jenkins, J. W. Buxton, D. Sullivan, A. McDonald, H. Glen, W. F. Buxton, John Lynn, A. T. Ricking, J. R. Fuller, J. D. Field, George Ruthgabon, E. Gilbert, Geo. Moggle, Sam. Elber, W. P. Bullock, A. Jenkins, V. B. Sheed, J. K. Brantly, John G. Stewart, Geo. P. Way, John Welch, Thomas Hoskins, C. S. Howard, Samuel Haggerman, E. A. Smith, H. T. Wilson, H. M. Hartman, Joseph D.

Hughes, A. Wilhelm Schubert, B. D. Binks, S. C. Simpson, A. R. Allison, B. L. Riggins, D. C. Corryell, W. D. Hale, Thomas Huston, J. S. Parrish, S. A. Spalding, Benjamin Brantly, E. L. Foot, E. R. Vermillion, W. H. Smith, J. M. Williams, Thomas Louman, William Smith, Green Cline, William Haggerman, James Haggans, John Parks, C. F. Drake, W. T. Campbell, S. A. Williams, A. T. Stebbins, E. B. Cress, William Bentley, S. Eaton, C. N. Goodland, D. W. Johnson, Blake Little, S. E. Briggs, J. R. Williams, R. L. Phillips, Geo. A. Crawford, William Margrave.

[Gov. M., Ex. Min.]

Headquarters, Department of the West,
Fort Leavenworth, K. T., January 16, 1859.

Governor: I have the honor to inform you that I have come to this post by direction of the governor. Special instructions will be sent to me in a few days. If you have any communications to make to the military authorities of this territory, will you please address them to me.

I am, sir, very respectfully, your obedient servant,

E. V. SUMNER,
Col. First Cav., Commanding.

His excellency, S. Medary, Governor of Kansas.

Executive Office, Kansas Territory, January 17, 1859.

Sir: I received yours of the 16th last evening at the hands of your messenger, notifying me that you are in command of the forces in Kansas Territory. I have the honor to state that hereafter if I have any communications with the military forces of Kansas, I will direct them to you.

Very respectfully yours,

S. MEDARY.

Col. E. V. Sumner, First Cavalry, Commanding.

Executive Office, Kansas Territory, January 21, 1859.

Hon. Lewis Cass, Secretary of State:

Sir—I received last night your dispatches of the 10th and 12th instants, the first by mail, the second by the hands of Mr. Colby. These dispatches greatly relieve me. It was not my desire to call for the United States troops without full authority to do so, an authority which I supposed I possessed at the time the call was made. I did not make the call hastily. I first sent my son, who is acting as my private secretary, to Fort Leavenworth, to make full inquiry of the commanding officer in reference to the amount and character of troops under his command and the probability of his complying with a requisition, if necessity should require it. In the meantime I dispatched Deputy Marshal Walker, of this county, and Mr. Philip T. Colby, of Quindaro, into the counties of Bourbon and Linn, to make as full a report as possible of the real state of the difficulties there, and upon whose report I might determine more correctly as to the necessity of calling upon the United States troops for assistance.

I also immediately set about commissioning officers and organizing volunteer companies in the aforesaid counties, to protect themselves against the marauding bands infesting that region. But I found that they had then been robbed of their arms and their horses and much of the provision necessary to the support of themselves and families. Ascertaining these facts, I immedi-



ately sent to Kansas City, Mo., to telegraph the President to furnish 600 stand of arms, with ammunition, to put into the hands of the people to protect themselves and make efficient their volunteer organizations, to which the President promptly responded. But as these arms had to be dispatched from the arsenal at Jefferson Barracks, and could only be sent by railroad to Tipton, Mo., they had to be wagoned some 140 miles, over the worst possible roads, to Paris, K. T., the point of destination. I immediately sent Captain Weaver, of Linn county, who entered into a bond of \$20,000 for the security of the arms, with full authority to receive them of the United States officer in charge, and with the least possible delay have them delivered at Paris, the point of rendezvous. But as this would require at least two weeks to accomplish, and possibly a longer time, I immediately ordered cavalry from Fort Riley to proceed to Paris, and Fort Scott, where volunteer companies were also organizing, to protect them until the arrival of the arms from Tipton.

I considered that without this precaution there was imminent danger of the arms falling into the hands of the guerillas and the whole expedition resulting in a failure. The officer in command at Fort Riley at once put at my disposal two cavalry companies, amounting to 114 men, well-mounted and disciplined, under command of Capt. W. S. Walker. On the arrival of Captain Walker at Lecompton, I made a full representation of facts to him and prepared his instructions. I felt the necessity of having so much of the expedition as assumed a military character under the command of an experienced officer, and I gave orders accordingly to the officers commissioned by myself, to put themselves under the orders of the commander of the cavalry in all duties that assumed a military aspect, and to obey implicitly his commands. The propriety of this, under all the circumstances, will be fully comprehended by your more experienced mind.

I hope it may not be necessary to again call out the United States troops. I shall certainly not call for them again unless imperious necessity demands it. I shall send a messenger to-morrow all through the infected regions to report to me the actual state of facts as they now exist, and then I can form a more correct opinion than I can at this moment. As soon as he returns I shall write you as fully as possible.

With high respect, your obedient servant, S. MEDARY.

Executive Office, Kansas Territory, January 21, 1859.

Hon. Lewis Cass, Secretary of State:

Sir—I received last night my commission as governor of the territory of Kansas, dated the 22d of December, 1858, with your accompanying note of January 10, 1859.

Very respectfully, S. MEDARY,
Per S. A. M.

Osawatomie, January 21, 1859.

Hon. S. Medary, Governor of Kansas:

Sir—The "jayhawkers" of this town went to Paris last Monday morning en masse, report says to fight Missourians. Let what you do be done speedily—no delay.

Yours respectfully, GEO. W. CAVERT.

Executive Office, Kansas Territory, Lawrence, January 21, 1859.

His excellency James Buchanan, President of the United States:

Sir—I received the dispatches from the secretary of state last night, by the hands of Mr. Colby, and also a copy by mail. I thank you for placing the

troops at my disposal, and if necessary I shall use them. But I am happy to be able to state to you that I feel every assurance at this time that we shall be able to get along without them. But in this excitable element it is very difficult to be able to speak with certainty of what may happen to-morrow. I sent the secretary of the interior a few days since a copy of a law passed by the legislature establishing a special court here to try those who are guilty of crime in the infected district to which I refer you.

I will try the virtue of this court to the fullest extent before calling again for United States troops. Montgomery immediately gave himself up, and has made promises to help in bringing others to do the same things. But, whether or not, we shall have the court busy and the balance will run away. If no new element of disturbance is got up here through the influence of eastern agitators, I feel every assurance that we shall get through with our present difficulties without any further aid from the United States army, a thing greatly to be desired. It will only be a last resort. I have sent a report of my official proceedings to the secretary of the interior, in the case of calling out the troops previously to their being remanded back to the fort, to which I refer you. With very great respect, S. MEDARY.

P. S.—It is proper for me to state that Marshal Fain has a large and, I think, very efficient force as a posse in the disturbed district, that will be able to recover that county from the outlaws and bring as many of them to trial as will put an end to their freebooting.

Headquarters Department of the West,
Fort Leavenworth, January 23, 1859.

Governor: I have the honor to inform you that I have received the order placing the troops in this territory subject to your requisition.

Will you please inform me by the bearer, Lieutenant Colburn, whether it is now probable that you will have occasion to call for any troops this winter. I am, sir, very respectfully, your obedient servant,

E. V. SUMNER, Col. 1st. Cav., Commanding.

His excellency S. Medary, Governor of Kansas.

Executive Office, Kansas Territory, Lawrence, January 25, 1859.

Col. E. V. Sumner, Commanding Fort Leavenworth:

Sir—Your favor of the 23d was received by the hands of Lieutenant Colburn last evening, asking whether it is probable that I shall have occasion to call for troops this winter.

In answer to this inquiry, I have the pleasure to state that at this time the prospect is very favorable that I shall not. It is possible only that a cannon may be called for, at some future day, to dislodge the insurgents from their temporary fortifications.

I, however, dispatched a messenger to that region on yesterday to visit all the points where the citizens are collected, and to report to me fully the exact condition of things there. On his return I shall be able to speak with more confidence, and shall communicate to you accordingly.

With very high respect, S. MEDARY.



Lawrence, K. T., January 25, 1859.

To his excellency James Buchanan, President of the United States:

Sir—I inclose you the correspondence between Colonel Sumner and myself; but I regret to say that, just as I was preparing to inclose it to you, I received a letter dated the 21st inst., from Paris, Linn county, stating that there had been an attack on that place, where a number of the marshal's posse are posted, waiting for the arms sent to Tipton by your order. Two of the posse were badly wounded and two of their horses killed; of the freebooters or "jayhawkers," as they are called, eight were killed and several wounded. Captain Weaver had not arrived with the United States arms from Tipton on the 21st, but must have done so by this time. The excessive bad roads caused a most unexpected delay, and added three times to the expense of transferring the arms from Tipton to Paris. I sent a messenger yesterday morning into the infected district, with orders to visit every possible point, and report to me in full the correct condition of things there, so that I may be fully advised as to the prospects or necessity of sending aid, by calling on Colonel Sumner.

I am very anxious, now the citizens there have taken the affair into their own hands, that they may be able to finish it themselves. I do not think that there will be many taken alive to be tried before our court, established here to try them; that in less than a month we shall have the country purged out and peace forever restored here. I feel pretty confident, and if I shall remain in my present position I shall certainly not cease until peace is fully secured, if it takes me six months. Every hour public sentiment is coming to my support, and I am assured on all sides that I shall be sustained in whatever I may do in bringing about a state of peace and quiet. Montgomery, finding that it was getting too hot for him, came in and gave himself up, and will stand a trial. Old Brown has started on the underground railroad for Canada. I am pretty well assured that he has at least slipped off for the present. For the balance there is very little sympathy anywhere, and it will be a popular act to wipe them all out.

I feel a deep and melancholy sympathy for the suffering people in that region, covering a space of country road nearly 50 miles in diameter. The United States marshal has not a cent of money, and his posse are out every day and night, with scarcely the means of subsisting from one meal to another. They write a most gloomy picture in this behalf, and I fear they will actually suffer. They so write. I hope I may hear in a day or two a more cheerful account. When supplied with arms, they can extend their range and obtain supplies, perhaps, on credit.

With very great respect,

S. MEDARY.

Executive Office, Kansas Territory, January 25, 1859.

His excellency James Buchanan:

Sir—I herewith transmit joint resolutions passed by the legislative assembly of this territory, asking the annexation of that part of Nebraska territory lying south of the Platte river.

Very respectfully,

S. MEDARY.

COUNCIL BILL NO. 2.

Whereas, The act organizing the territories of Nebraska and Kansas, approved May 30, A. D. 1854, describes the boundary of Kansas as follows, to wit:

"That all that part of the territory of the United States included within the following limits, except such portions thereof as are hereinafter expressly exempted from the operations of this act, 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 38; thence, following said boundary, to 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, be and the same is hereby erected into a temporary government, by the name of the territory of Kansas; and

Whereas, The Platte river, in the territory of Nebraska, is the natural boundary between the territories of Kansas and Nebraska, and, in the opinion of this legislative assembly, should, at the time of the organization of said territories, have been adopted as the northern boundary of Kansas; and

Whereas, The true interests of the aforesaid territories of Kansas and Nebraska, and the welfare and prosperity of the inhabitants thereof, would be best promoted by the establishment of the said Platte river as the boundary between the aforesaid territories of Kansas and Nebraska; and

Whereas, It is well ascertained from reliable information that such change of boundary would meet with cordial approval of a large majority of inhabitants resident upon that portion of Nebraska in question, situated between the Platte river and the northern boundary of Kansas: therefore,

Resolved, By the governor and legislative assembly of the territory of Kansas, as follows, to wit: That the Congress of the United States be and is hereby respectfully but earnestly requested to attach that portion of Nebraska lying and being situate south of the Platte river to the territory of Kansas, and that the said Platte river be constituted the boundary line between the aforesaid territories of Kansas and Nebraska.

Resolved, That the governor be and is hereby requested to forward a copy of the foregoing preamble and resolutions to the President of the United States, the Congress of the United States, to the governor of the territory of Nebraska, and to the delegates in Congress from Kansas and Nebraska, requesting early attention thereto.

(Signed)

A. LARZELERE,

Speaker of the House of Representatives.

(Signed)

C. W. BABCOCK,

President of the Council.

Approved January 25, 1859:

(Signed)

S. MEDARY.

I, Hugh S. Walsh, secretary of Kansas territory, do hereby certify that the foregoing is a true and correct copy of the original on file in my office. In testimony whereof, I have hereunto signed my name, at the city of Lawrence, the 25th day of January, 1859.

HUGH S. WALSH.

Executive Office, Lawrence, K. T., January 31, 1859.

Col. E. V. Sumner, Commandant Fort Leavenworth: You will furnish Deputy Marshal Colby, the bearer of this, with such military forces as he may think necessary to secure Captain Brown, who is now in Calhoun county, Kansas territory, on his way to Nebraska and Iowa.

Very respectfully,

S. MEDARY, Governor Kansas Territory.

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Executive Office, Lawrence, K. T., January 31, 1859.

His excellency James Buchanan, President of the United States:

Sir—Mr. Colby returned last night from Linn county with a prisoner by the name of Fairbanks, to be tried here before Judge Elmore, whose court is now in session. This court was established by the territorial legislature two weeks since, for the express purpose of trying these criminals when arrested.

The arms forwarded to Tipton have been greatly delayed in consequence of the roads, but arrived at Paris, in Linn county, last week. They were in charge of Captain Weaver, who it is my melancholy task to say accidentally shot himself when near the Missouri line, in attempting to draw a gun from the wagon which was loaded. He was instantly killed. Being one of our most trusty and valuable citizens his loss is greatly deplored.

During the past week nothing worthy of much note has occurred in that region. Marshal Fain left his posse in the hands of some four or five deputies, without any head or director, and Mr. Colby found great confusion amongst them, as well as some bad feeling. I therefore telegraphed you this morning by way of Leavenworth, to say that Mr. C.'s commission had been made out, so that he could take immediate possession of the posse, dismiss the misbehaving deputies, and restore discipline. All the necessary arrests should be made at once, and the enormous expense to the government cease. If discipline is not promptly restored among these several posses, we shall have, in less than 10 days, more serious evils in that region than we have yet seen, growing out of the misconduct of our own men. This is why I telegraphed you to have Colby appointed at once.

Old Brown has been discovered on his way out of the territory with some dozen negroes, and an effort is making to arrest him. He is about 75 miles north of this place, going towards Nebraska and Iowa, intending, it is said, to go to Canada. With very great respect, your obedient servant, S. MEDARY.

Executive Office, Lawrence, K. T., February 2, 1859.

His Excellency James Buchanan, President of the United States:

Sir—Captain Montgomery came in this evening with six of his men, some of them the worst of the lot, and will give them up to-morrow to be tried before Judge Elmore's court. From this I think we may safely conclude that the worst is over and peace will soon be generally restored. I hope Mr. Colby has been commissioned marshal, that he may go down into the infected district and dismiss all the posses not actually wanted. They are doing no service—at least, so many of them at this time. The attempt to arrest old Brown and the negroes with him on their way to Canada has produced some excitement, but I think it will soon be over. He was overtaken at Holton, in Calhoun county, K. T. Mr. Colby immediately went up there, and will, I hope, be able to prevent bloodshed between the factions gathering around him and bring him back for trial.

Very respectfully,

S. MEDARY.

February 7.—Requisition made this day upon the governor of Illinois for the person of Geo. Thorn, late of Johnson county, wherein he, Geo. Thorn, stands charged with grand larceny. Requisition issued this day upon the governor of Missouri for the person of William L. Fleming, late of Douglas county, wherein the said Fleming stands charged with arson.

Governor Medary's Administration.

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Lawrence, K. T., February 10, 1859.

To his excellency Samuel Medary, Governor K. T.:

Sir — In compliance with your request, I have made an estimate of the probable expense of the special court now in session in this city, and, from the best statement I am able to obtain, I am of the opinion that the sum of ten thousand dollars (\$10,000) should be appropriated, to be used if requested in carrying out the provisions of the act under which this court is held. Of course this estimate is only approximate, as no basis could be found arriving with certainty at the various expenses which may be incurred. I should add that I have consulted fully with his honor Judge Elmore in making the estimate, and that he concurs entirely with me in recommending the appropriation which I have mentioned.

Very respectfully, your obedient servant, ALSON C. DAVIS,
Prosecuting Attorney for the Special Court.

Executive Office, K. T., February 10, 1859.

To the Council and House of Representatives:

I herewith transmit a communication from the grand jury, now sitting in this city, in compliance with an act passed at the present session of the legislature, to try certain criminal cases, and also a statement from the district attorney, both of which I recommend to your immediate attention. The importance of providing means to pay the expenses of this court, in the success of which every citizen in the territory desiring peace and quiet is more or less interested, cannot be too highly estimated. Its failure for the want of the necessary means to continue its existence would be a calamity no one will be willing to bring upon the people.

Very respectfully, S. MEDARY.

COMMUNICATION FROM GRAND JURY.

To the Honorable the Governor and the Legislative Assembly of the Territory of Kansas:

Your petitioners, grand jurors, assembled under the provisions of a territorial law, approved January 19 [15], 1859, would respectfully represent that [they] have been summoned from all parts of the territory for the purpose of investigating and suppressing disturbances which were affecting the good name and well-being of the entire territory. They would further represent, that the provisions of the act under which they have been called together, in throwing the costs of this court upon a few counties, is, in their opinion, exceedingly unjust to the people of these counties. They would therefore respectfully, but earnestly, urge that an act supplemental to said act be passed, providing for the payment of the expenses of this court out of the territorial treasury. They deem such an act just in itself, and absolutely essential to the accomplishment of the end aimed at in the original bill.

(Signed.) Perry Fuller, Richard Scouton, Paul H. Berkaw, George W. Cosley, Asaph A. Faxon, Henry L. Baldwin, James A. Finley, Reuben W. Eddy, James Leiby, Martin Davenport, Newman C. Blood, George W. Hunt, Thaddeus T. Whitney, Isaac N. Roberts, Thomas McGage, Jacob A. Marcell, D. W. Huston, William Lessee, James Campbell.

[C. J., February 9, 1859, p. 304.]

PROCLAMATION.

To the People of Kansas:

In compliance with the following resolution of the legislative assembly of the Territory of Kansas, passed February 11, 1859, to wit:

Resolved, by the Council and House of Representatives of Kansas Territory—



Section 1. That the governor of this territory be requested to issue his proclamation to the people of this territory, publishing the act this day passed to provide for the peace of Kansas.

Sec. 2. That his excellency be requested to cause his proclamation to be published in every paper in this territory.

I, Samuel Medary, governor of Kansas territory, do hereby proclaim to the people of the territory the act entitled "An act to establish peace in Kansas."

Be it enacted by the Governor and Legislative Assembly of the Territory of Kansas:

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

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

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

A. LARZELERE,
Speaker of House of Representatives.
C. W. BABCOCK,
President of the Council.

Approved February 11, 1859: S. MEDARY.

While this is an act of amnesty for the past, it is intended to secure the more certain punishment of crime for the future. Given under my hand, this 12th day of February, 1859.

S. MEDARY, Governor of Kansas Territory.

["Herald of Freedom," February 19, 1859.]

Leavenworth, K. T., April 2, 1859.

Sir—Please find herewith my official oath as chief justice of the supreme court for the territory of Kansas.

The law requires that it shall by you be recorded among the executive proceedings of the territory. Your obedient servant, JOHN PETTIT.

Hon. H. S. Walsh, Secretary Kansas Territory, Leecompton, K. T.
Territory of Kansas, Leavenworth county, ss.

I, John Pettit, do solemnly swear that I will support the constitution of the United States and faithfully discharge the duties of chief justice of the supreme court for said territory. So help me God. JOHN PETTIT.

I, Samuel D. Lecompte, chief justice of said territory, do certify that the above official oath was administered by me to the said John Pettit and by him taken, on this 2d day of April, 1859.

SAMUEL D. LECOMPTE,
Chief Justice Supreme Court, etc., Territory of Kansas.

Executive Department, Jefferson City, Mo., April 8, 1859.

His excellency S. Medary, Governor of Kansas:

Dear Sir—Having received information that citizens within the territory of Kansas are again organizing with the apparent object and the express intention of making marauding incursions into Missouri, I have ordered Adjt.-Gen. G. A. Parsons to the border—Cass, Bates, and Vernon counties—with instructions, "there to make such provision for repelling aggression upon our soil and the right of the citizens of this state, after ascertaining the present and probable dangers to be apprehended, as you (he) may deem necessary, by causing military compa-

nies to be organized and armed to the extent that arms are available, and by such other precautionary measures as the exigencies of the case demand. And as far as practical in your (his) efforts or measures for the protection of the border, and in the accomplishment of the objects contemplated by the act of the general assembly, approved February 24, 1859, hereto (thereto) annexed, you (he) will seek the cooperation of the authorities of Kansas territory in accordance with the second section of said act."

The section referred to simply intrusts the governor "with discretionary power to use and apply said sum (\$30,000) appropriated for the protection of persons and property on the western border of this state, in raising a sufficient force to protect the border in such manner as he and the authorities of Kansas territory may deem best."

General Parsons was further instructed as follows: "You will also be careful to instruct all those having command of any force organized for the objects named not to permit any aggressive act to be done by such force which may justly tend to engender strife between the citizens of Kansas and of this state."

Hoping that he may enjoy the confidence and cooperation of yourself and the authorities in Kansas to the extent that any measures for the preservation of order are necessary, I subscribe myself, very truly yours, R. M. STEWART.

Executive Office, Lecompton, K. T., April 14, 1859.

His Excellency R. M. Stewart, Governor of Missouri:

Dear Sir—Yours of the 8th inst. was received last night. As I had information up to the latest date from the counties in Kansas bordering upon Missouri, I was surprised at the tenor of your letter. I cannot think it possible that any such organization exists this side the line, as you seem to think from information communicated to you. I shall, however, institute immediate inquiry into the matter, and, if any such organization does exist, it shall be dealt with in a summary manner. I cannot too highly appreciate your prudential course and prompt action; and shall always be happy to unite with you in preserving order on the line, and in preserving also the lives and property of our citizens.

Very respectfully, your obedient servant, S. MEDARY.

Executive Office, Lecompton, K. T., April 13, 1859.

Hon. Lewis Cass, Secretary of State:

Sir—I find the following paragraph published in the Kansas papers purporting to have been taken from the Washington "Union." It is as follows: "From present indications, it is fair to presume that by the 1st of August there will be at least 100,000 persons within the proposed limits of the territory of Jefferson. Practically they will have no legitimate government, and they must have one or anarchy will ensue. What better remedy can be proposed than a spontaneous state government, after the fashion of the peaceful example of California? The population will be sufficient, and the republicans cannot with consistency oppose their admission after their late zealous advocacy of the admission of Kansas under the Topeka constitution."

As there is evidently a movement on foot in this territory, by men claiming to be leading supporters of the administration, advocating such a proceeding as is here indicated, this article, said to come from the government organ, greatly strengthens their forces.

As the territory here alluded to includes a large portion of Kansas, where counties are laid out and organizing, such a proceeding must necessarily lead to



new troubles and outbreaks in this territory. I cannot believe that the government in Washington would for a moment countenance such a proceeding, much less encourage it.

I therefore call your early attention to the matter, that the government may relieve itself from unfounded imputations that professed friends would cast upon it.

Very respectfully, S. MEDARY.

[Copy sent to Miss Constantine Debraux, April 27, 1859.]

Executive Office, Leecompton, K. T., April 16, 1859.

Hon. Lewis Cass, Secretary of State:

Sir—I inclose you the reply of Mr. Crawford, of Fort Scott, to the inquiries you forwarded me in relation to the death of Mr. Denton or M. Debraux.

Mr. Crawford is an old citizen of Fort Scott, and well acquainted with the people of that portion of Kansas territory, and his statement can be implicitly relied upon.

Very respectfully, S. MEDARY.

Fort Scott, April 16, 1859.

His excellency Governor Medary:

Sir—Your letter of inquiry, together with a note from the state department and a copy of a letter from M. Debraux, of France, to the President of the United States, concerning the killing of M. Denton, near this place, has been received.

In reply I have to say, that I knew Mr. Denton personally, and that his appearance did not answer the description given by Mlle. Debraux of her brother. The gentleman killed near Fort Scott was Mr. Isaac Denton. He was a native of the state of Georgia; was a soldier in the Mexican war, and had resided in this territory for about two years. He was illiterate; of medium height, or rather below it; was thick set, and upwards of 50 years of age. He had children grown, some of whom are now married. One of them fought against the free-state party in 1856, and the old gentleman was a pro-slavery man when he first came to this territory.

You will readily see that Mr. Isaac Denton could not have been the brother of Mlle. Debraux.

I know of no gentleman of the name of Debraux, and none of that name have ever been killed in this vicinity, that I have ever heard of.

Very respectfully, your obedient servant, GEORGE A. CRAWFORD.

Indorsement.—The President refers letter of Constantine Debraux, Contrisson, France, February 2d, 1859, asking information to the killing, in Fort Scott, Kas., of her brother, Denton "Alexandre Debraux," called "Denton."—P. 63, March 5, 1859.—Adj't-Gen. refers record March 7, 1859, "Denton Alexandre Debraux" or "Denton." The records of this office have been examined, and neither of the above names found. A. G. O. Res. submitted, S. Cooper, A. G., War Dept. Ans'd March 21, 1859. If any description of this man, his company, regiment, etc., could be furnished, he may possibly be found under an assumed name, as the records of this department contain nothing on the subject. This communication is respectfully referred to the state department, which may perhaps be able to afford the writer some more satisfactory reply to her inquiry.

[Translation.]

To the President of the United States of America:

Mr. President—I address your excellency with honor and respect, requesting you, for mercy's sake, to have compassion on my troubles, and supplicating you

to intervene in order to extricate me from the difficulties which I have for a long while experienced in regard to a crime which was committed on the 27th of March last, at midnight, in the abode of three partisans of free labor at Fort Scott (Kansas). I believe that the country is in some manner dependent on your states, and under your presidency. This murder was committed on a man named Denton, one of the leaders of that party. I think I may affirm that that Denton is my brother, he having departed for Kansas in 1857 to join the party who were struggling for the independence of that country. Since the newspapers made known to me these crimes, I have not ceased to send forth petitions in all directions in your states, in order to obtain thereby certain and reliable information; but up to this time all my efforts and researches have been fruitless.

I no longer receive any news from my poor, unfortunate brother, since that cruel assassination. I no longer know what course to adopt nor to whom to address myself, in order that I may be able to obtain positive information in regard to that hateful crime. In the last resort I have decided to send to your excellency a petition, with a view of obtaining from your kindness knowledge respecting the assassination of Denton. On my knees I request and entreat you; you alone can grant it, if it pleases your good will. I should be happy, notwithstanding this misfortune, at being able to obtain a certificate of the record of his death, or, it matters not, any other legal document proving that Denton was a Frenchman, and that he answered to the description I am about to give.

These documents may be necessary for me, and may protect me from inconveniences which are possible to arise in our family affairs that are not settled with him.

Denton Alexandre Debraux, my brother, whom I claim was born a Frenchman, at Contrisson, department de la Meuse, near Bar-le-duc. His vulgar name of Denton, not having been declared at our mayor's office, does not appear in his passport; in it his name is only written Alexandre Debraux; he is known by the name of Denton. The shape of his body was slender; his stature was over the medium height; his carriage erect; his step bold; his countenance was expressive, of oval form, and his features regular; hair auburn; his eyes bluish, with a lively and penetrating look. His upper lip and the end of his chin were habitually covered with beard of auburn color.

Mr. President, I venture to hope that, in the name of humanity, you will wish to be successful in your efforts to obtain for me reliable information in regard to Denton who was assassinated at Fort Scott, Kas. It is the greatest act of charity that you could do to a French family, who on this account will be entirely devoted and grateful to you and will bless your name.

I terminate my letter by offering to you all the respect and honor of which I am capable, being your very humble and very obedient servant,

CONSTANTINE DEBRAUX,

Contrisson, department de la Meuse, France, this 2d day of February, of the year of our era 1859.

Delaware Agency, June 3, 1859.

Hon. S. Medary, Governor of the Territory of Kansas, Lecompton, K. T.:

Sir—Having a large amount of money to carry from Leavenworth city to the Delaware agency, and then in behalf of the government to pay to the Delaware Indians, and owing to the great danger in the transportation of said money and the many threats that have been made by the whites, and especially traders living around and adjacent to the Delaware reservation, I desire an escort of government troops to aid me in the transportation of the money, and in the protection



of the Indians during the payment, as provided by treaty of May 10, 1854, with said Delawares. Respectfully, your obedient servant,

THOMAS B. SYKES,
U. S. Special Agent for the Delaware Indians.

Executive Office, K. T., Lecompton, June 3, 1859.

Commandant: Please furnish Thomas B. Sykes, Esq., special Delaware agent, with a sufficient body of troops to protect government funds while being transported from Leavenworth to the Delaware agency and being paid out to the Indians. Mr. Sykes will desire the troops to be placed at his disposal on Monday next, June 6. Very respectfully, your obedient servant,

S. MEDARY.

To Capt. A. Elzey, Commanding Fort Leavenworth.

June 25, 1859—Warrant issued this day for John Massell, by virtue of a requisition from the governor of the state of Iowa.

Lawrence, K. T., August 19, 1859.

Mr. William R. Judson, Fort Scott:

Sir—Understanding that the arms of the United States which were in use by the marshal's posse last winter are not properly cared for, and are in danger of being wasted and destroyed or stolen, I hereby request that you will take the aforesaid arms, accouterments and ammunition into your possession for safekeeping, and should any difficulty occur whereby it should be necessary to use them by the sheriff's or marshal's posse, you will please deliver so many of them as may be necessary, and take their receipt for them, to be returned to yourself or the governor of the territory, or be delivered up to any person having his order.

Respectfully, your obedient servant, HUGH S. WALSH,
Secretary and Acting Governor Kansas Territory.

P. S.—Take the receipts from the sheriff or deputy marshal in their official capacity, and not the individual receipt of the men.

September 15, 1859—William W. Medary entered upon his duties as private secretary for the governor, having been appointed upon his acceptance of office by the governor, September 15, 1859.

War Department, Washington, October 22, 1859.

Hon. Lewis Cass, Secretary of State:

Sir—Under the act of Congress approved July 8, 1856, directing "the southern boundary line of the territory of Kansas, between the state of Missouri and the territory of New Mexico, to be surveyed and distinctly marked," and a plat of the survey be deposited in the office of the secretary of the territory of Kansas, I herewith transmit a plat of the said survey, to be forwarded to the territory of Kansas. Very respectfully, your obedient servant,

JOHN B. FLOYD, Secretary of War.

Governor Medary's Administration.

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Secretary's Office, Kansas Territory, Lecompton, November 17, 1859.

Hon. Lewis Cass, Secretary of State, Washington City, D. C.:

Sir—I have the honor to acknowledge the reception of the maps of the southern boundary line of Kansas territory, transmitted from your department by Adams express. I have the honor to be,

Very respectfully, your obedient servant,

HUGH S. WALSH, Secretary of Kan. Ter.

Secretary's Office, Kansas Territory, Lecompton, December 12, 1859.

To His Excellency, James Buchanan, President of the United States:

Sir—I have this day transmitted to your excellency the journals of the house and council, and also the laws passed at the session of the legislative assembly for the year 1859. I have the honor to be,

Very respectfully, your obedient servant,

HUGH S. WALSH, Secretary of Kan. Ter.

Executive Office, Lecompton, K. T., December 19, 1859.

Hon. Lewis Cass, Secretary of State:

Dear Sir—As you may see rumors in the newspapers in regard to new outbreaks in Kansas, I feel it my duty to lay before you the foundation of them.

First. A short time since two gentlemen came from Missouri into Kansas, on the Pottawatomie creek, in Lykins county, looking for a runaway slave. They put up at a private house to stay all night but did not make their business known. In the night they were visited by a number of negro sympathizers, headed by a fellow by the name of Snyder, a chief among the "jayhawkers" of last winter. They took the Missourians' horses, their money, their arms, and their overclothes, furnished the negro with horse, money, and clothing, sent him off north, and then sent the Missourians back destitute of everything but their lives. I have no official account of this, but I state what is told from one to another and as it came to me.

Second. In Linn county there was, at the November territorial election, a vote taken for county-seat. The two towns voted for were Paris, the present county-seat, and Mound City. The majority for Mound City was something less than 40. The friends of Paris, believing that extensive frauds were committed at the vote of Mound City, gave notice of a contest. During the pendency of this contest, the people of Mound City got out an attachment before the probate judge, who lives in Mound City, and the constable with a posse went up to Paris to secure the county records. As there was a contest pending, the county officers of Paris refused to surrender the records, and the constable with his posse returned to Mound City.

A few mornings after and before daybreak, the constable returned, accompanied by 50 or 60 men, armed with pistols, rifles, and a cannon. The cannon they placed facing the hotel and distributed the armed men at the dwelling-houses. This was before any of the citizens of Paris were out of their beds. They then knocked at the doors of the county officers, demanded admission, and took them all prisoners. This done, they seized the county records and carried them off.

Third. There has been a good deal of excitement all summer amongst the settlers, some 200 or 300 families on the Miami lands, called the Miami national reserve. It was this trouble that took me to Washington last August. At the last term of the United States district court held in the early part of this



month at Fort Scott, a large number of indictments were found by the grand jury, and the marshal or one of his deputies has been arresting them under these indictments. The result has been the resistance of process, and public meetings pledging each assistance. I have already written to the Indian department on this subject.

I have thus stated the facts as near as I have been able to gather them. I do so that you may be apprised in time of what is transpiring and that you may know out of what these newspaper articles originate. As these combined troubles are likely to give me a great deal of trouble this winter, I take the privilege of asking your advice in the matter. They all come to me for protection, while really I have no power over the questions in dispute. I have no money even to pay anyone to visit the places where the trouble exists to get the real state of facts.

The United States marshal resides at Leavenworth and the United States district attorney at Wyandotte. They are seldom ever here, and I learn, perhaps incorrectly, that they both expect to be absent at Washington a part or the whole of this winter.

The late excitements in Virginia and those at Washington add to the irritable condition of the people here, and it is hard to judge of what may occur.

Further lenity with those disturbers of the peace is out of the question.

The difficulties with the settlers on the Miami lands can be easily put at rest. I have suggested one mode to the commissioner of Indian affairs. Whether it will meet his approbation, I cannot say.

With very high respect, your obedient servant,

S. MEDARY.

Executive Office, Leecompton, K. T., December 26, 1859.

Hon. Lewis Cass, Secretary of State:

Sir—Since I wrote you a few days since in regard to the difficulties in the southeast part of the territory, a gentleman from Virginia called on me in regard to the fugitive-slave affair. He confirmed the statement I made on that subject. He wanted advice upon the matter. I told him I knew of no way the persons robbed and maltreated could proceed, except through the courts of justice in our territory. He talked very fair, but considerably excited about it, but did not seem to think that anything useful to them would grow out of legal proceedings in our courts. I have heard nothing further as to what course they intend to pursue. Their loss, he said, in horses, money, and clothing, is about \$800, to say nothing of the negro.

The Linn county-seat troubles I think are at an end. It was purely a county-seat affair.

The trouble with the settlers on the Miami Indian lands is a serious affair. They are greatly excited, and, as far as I can learn, they have public opinion and sympathy with them strongly, without distinction of party. In fact, a large portion of them are good democrats, and heretofore have been our most law-abiding citizens. But there are some bad men in the neighborhood who will be pleased to urge on the excitement, and I fear that some act will be committed by otherwise most industrious and estimable men that they may be sorry for. Some of these men I knew in Ohio—good men, and some democrats—who never would have gone on these lands except under a misapprehension. Some of them hold certificates of filing from the land office here. Now, to be indicted, imprisoned, and mulcted in heavy damages, without a hearing or explanation, has produced the wildest excitement among them, and not to be wondered at. They should be

heard—undoubtedly they should be heard—and let them tell their story. They appeal to me, the newspapers appeal to me, and I have calls almost daily upon the subject. I tell them to do no wrong, but keep right on their side, submit to the law; but that I have no power over the matter—nothing that I can do in their case, except represent it to the department at Washington, and that I have no doubt they will be heard.

Very respectfully,

S. MEDARY.

Secretary's Office, Kansas Territory, Leecompton, January 6, 1860.
Hon. J. S. Black, Attorney-General United States, Washington City, D. C.:

Sir—The legislative assembly of this territory met on Monday, the second day of this month, at this place, pursuant to law, to hold the legislative session (see Laws of 1859, ch. 74, p. 427), and have passed a joint resolution through both houses for removing to and holding the remainder of the legislative session at Lawrence.

The governor vetoed the resolution and returned it to the house of representatives, in which it originated, and the house proceeded to reconsider the resolutions; pending the reconsideration, they adjourned until 2 o'clock and made the reconsideration the special order for that hour.

It is said that, the house met before the hour (and I believe it to be so) and proceeded to the reconsideration, refusing a call of the house, and passed it by a vote of 21 to 7, not all the members being present; and while some of the members were proceeding to the house, the vote was taken.

The council met at 2 o'clock. The first business was calling the roll, all the members being present, and a message from the house was immediately announced, stating that the house had reconsidered the joint resolution and passed it by the constitutional majority.

The council consisted of 13 members, five of whom were democrats, and favorable to sustaining the governor's objections.

The message was received, and the governor's objections and the joint resolutions were put upon reading by reconsideration, laid upon the table until 7 o'clock p. m., and the council adjourned until that hour.

The council met pursuant to adjournment, all the members present, and the joint resolution made the special order for 9 o'clock that evening, which was carried. The council then took up a contested election in the second council district, the hearing of which had been set by the special committee to which it was referred for 11 o'clock the next day, in order to give the contestants time for additional proof, and withdrew the papers from the committee and proceeded to its consideration, until 9 o'clock, the hour for reconsidering the joint resolutions, which were again put off until 9 o'clock the next morning, and continued the considerations of the contested election until 5 o'clock in the morning, when they voted out the democratic member and admitted their friend to his place, thereby securing a two-thirds majority in that body, by which, at 9 o'clock a. m. on the 6th, they met according to adjournment and passed the resolutions over the governor's veto, and adjourned.

During the pendency of this contested-election case in the council they refused to call witnesses on the part of the sitting member, and permitted witnesses to be called on the part of the contestant, and refused the sitting member time (only 15 hours asked) to send to Atchison, 40 miles, for persons and papers, where the same question had been decided by the court appointed by the laws of 1859 (see chapter 66, page 402) for settling contested elections upon the point



raised in favor of the county officers who were elected on the same ticket with the sitting member.

According to the act organizing the territory, by the twenty-fourth section, it is provided, in case of the return of a bill by the governor with his objections to the house in which it originated, that "if after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of that house, it shall become a law."

My object in addressing you is to obtain your opinion respecting the validity of the joint resolutions passed, as it has been without the consent of two-thirds of the house, the whole number of members of that body being (39) thirty-nine, of which (21) twenty-one are not two-thirds.

Before recognizing the action of the legislative assembly as binding, and paying the expenses of the session, I have to request your opinion as to the proper construction of the organic act and whether it requires two-thirds of a quorum of each house or two-thirds of each entire house to pass a bill or joint resolution over the governor's objection.

The council consists of 13 members. If a majority be a quorum seven would be that majority, and five members a two-thirds majority of the quorum.

By sharp practice, if by no fouler means, a bill which had passed by a majority of one in a full council, and returned by the governor with his objections, could be repassed by five votes out of a quorum of seven votes.

The same proportionate result would occur in the house of representatives.

The language of the law being two-thirds of that house, in referring to the council, and also to the house of representatives, I do not feel warranted in providing for or paying the expenses of the session without your opinion of the validity of the law or joint resolution passed in that manner.

I am aware that my instructions for disbursing the public funds come properly from the treasury department, but as this question involves more than the mere payment of the expenses of the legislative session, and calls in question the whole acts of the legislative assembly passed thereat, it is important to the people that the point should be decided by an authority which has heretofore had a happy influence in settling a question of somewhat similar character. I refer to your opinion upon the subject of the removal of the capital, which at once almost silenced all opposition.

If it is legal and proper to recognize the action of the legislative assembly, although accomplished through tyranny, corruption, and fraud, I would thank you for an opinion at an early a day as is practicable, and I have made arrangements with Judge Elmore, the bearer of this, to send me a telegraphic dispatch to guide my actions.

I have the honor to be your very obedient servant,

HUGH S. WALSH, Secretary of Kansas Territory.

Secretary's Office, Kansas Territory, January 7, 1860.

Hon. J. S. Black, Attorney-General United States, Washington, D. C.:

Sir—In connection with my communication respecting the action of the legislative assembly of this territory upon the removal of the session, I also inclose herewith a copy of the joint resolution, and call your attention to the language of the resolution, viz.: "That we do adjourn at 12 m. on January 6, 1860, to meet in the city of Lawrence, Kansas territory, on the 7th, 1860."

What 7? The 7th of January, March, or June? I also inclose a copy of cer-

tificate of the record of the journal from the chief clerk of the house, without which I refuse to receive the resolution, from which it appears that a call was made for the special business, which was the consideration of the preamble and joint resolutions, and that the yeas and nays were taken upon that point, which I take it means the consideration of the subject, and the result was 21 yeas to 7 nays, and upon that vote the bill was declared passed. I may be wrong, but the language is plain, and it does not appear that the question was put upon the reconsideration at all. This may be considered a quibble, but, if this construction is correct, they never passed the resolution at all.

Again, upon referring to the laws of 1859, the manner and form of authenticating laws passed over the governor's objections is set forth on page 616.

The authentication of this resolution is not in the form of the statute, and is consequently illegal.

The certificates of the speaker of the house and president of the council says that the resolution passed by the constitutional majority; the law requires that the certificate should set forth that it passed by "a vote of two-thirds of both houses."

I call your attention to all these points of objection to their preamble and resolution that I can find in a hasty examination, and have the honor again to be,
Your obedient servant,

Secretary of Kansas Territory.

PREAMBLE AND JOINT RESOLUTION.

Whereas, The Legislature of Kansas is required by law to meet at the capital of such territory; and

Whereas, There is at such capital such a deficiency of suitable rooms, hotel accommodations and other conveniences as seriously to interfere with the progress of legislative business; and

Whereas, A sufficient guaranty has been offered in writing by C. W. Babcock, B. F. Dalton and others that no expense whatever shall accrue to the territory by reason of a removal to the city of Lawrence; therefore, be it

Resolved, By the governor and legislative assembly of the territory of Kansas, That we do adjourn at 12 m. on January 6, 1860, to meet in the city of Lawrence, Kansas territory, on the 7th, 1860, at 12 m., to hold the remainder of the present session, and that the sergeant-at-arms of the house of representatives be requested to procure suitable rooms for the accommodation of the said legislative assembly in said city of Lawrence; and further

Resolved, That the clerk be instructed to enter on the journal the guaranty against expense resulting to the territory from removing the present session of the legislature, which guaranty is signed by C. W. Babcock, P. R. Brooks, G. W. Hutchinson, E. S. Lowman, S. O. Thacher, G. W. Deitzler, and Lyman Allen, and that said guaranty be filed with the enrolled copy of the foregoing resolution in the secretary of state's office.

GUSTAVUS A. COLTON,

Speaker of the House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

I certify that the above preamble and joint resolution originated in the house of representatives, and passed said house on the 4th day of January, A. D. 1860.

MARK W. DELAHAY, Chief Clerk.

House of Representatives, Lecompton, January 4, 1860.



I certify that the above preamble and joint resolution passed the council, this 6th day of January, A. D. 1860.

JOHN JAMES INGALLS, Secretary of the Council.

Lecompton, K. T., Council Chamber, January 6, 1860.

I certify that the within preamble and joint resolution originated within the house of representatives on the 3d, and passed on the 4th day of January, A. D. 1860.

M. W. DELAHAY, Chief Clerk.

This preamble and joint resolution having been returned by the governor with his objections thereto, and after reconsideration having passed both houses by the constitutional majority, it has become a law, this the 6th day of January, 1860.

GUSTAVUS A. COLTON,

Speaker of the House of Representatives.

W. W. UPDEGRAFF,

President of the Council.

I, Hugh S. Walsh, secretary of Kansas territory, do hereby certify that the foregoing preamble and joint resolution, with the certificate attached, are truly and correctly copied from the enrolled original on file in my office.

In testimony whereof, I have hereunto signed my name and caused the seal of the territory to be affixed, this 7th day of January, 1860.

[SEAL.]

HUGH S. WALSH.

Attorney-General's Office, January 16, 1860.

Hon. Lewis Cass, Secretary of State :

Respectfully referred to the secretary of state for such instructions as he may think proper to give to the governor of Kansas.

J. S. BLACK.

House of Representatives, January 6, 1860, Afternoon Session.

Mr. Nelson called for the special business, which was the consideration of the preamble and joint resolution of removing the present session to the city of Lawrence.

Mr. Blake demanded the yeas and nays, which resulted as follows: Yeas, 21; nays, 7.

Those voting in the affirmative were: Messrs. Bartlett, Brooks, Chandler, Cave, Dutton, Elliott, Fitzpatrick, Heath, Jones, Knowles, Lindsay, McMath, Morton, Nelson, Robertson, Rankin, Steward, Shurley, Sheldon, Scott, and Wood.

Those voting in the negative were: Messrs. Blake, Linde, Murphy, Parks, Reynolds, Whitehead, and Wright.

The speaker declared the preamble and joint resolution adopted, notwithstanding the objections of the governor.

I hereby certify, that the foregoing is a full and perfect transcript of the yeas and nays, as appeared upon the journal of this house, upon the vote taken upon the preamble and joint resolution upon removal of the present session of the legislature from the capital to Lawrence, after said resolution had been vetoed by the governor.

M. W. DELAHAY, Chief Clerk.

Attorney-General's Office, January 31, 1860.

Sir : The question proposed in your letter of the 19th is "whether, under the act of May 30, 1854, entitled an 'Act to organize the territories of Nebraska and



Kansas, two-thirds of all the members of each branch of the legislature respectively, or two-thirds of the quorum only, constitute the majority required to pass a bill over the governor's veto."

The twenty-fourth section of that act provides that "every bill which shall have passed the council and house of representatives of the said territory shall, before it becomes a law, be presented to the governor of the territory. If he approve, he shall sign it; but if not, he shall return it with his objections to the house in which it originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of that house, it shall become a law."

The question which you have submitted has arisen on the construction of the sentence last quoted. That sentence is in the very words of a part of the seventh section of the first article of the constitution of the United States in relation to bills which have been returned to either house of Congress by the President with his objections. But it appears to be well settled that, under the provision of the constitution, two-thirds of the members present, when constituting a quorum to do business, can pass a bill which has been vetoed by the President. (Cong. Globe, 1st Sess. 34 Cong., part II, p. 1542-50; Cushing's Law of Legislative Assemblies, 2387.) I have no doubt that this is the true construction of the clause, and that it should be applied to the same words when used in the act of May 30, 1854. I am therefore of opinion that two-thirds of the quorum of the respective branches of the territorial legislature constitute the majority necessary to pass a bill which the governor has returned with his objections.

Yours very respectfully,

J. S. BLACK.

Hon. Lewis Cass, Secretary of State.

Lawrence, K. T., February 3, 1860.

Hon. Lewis Cass, Secretary of State:

Dear Sir—I desire permission to return on a visit to Ohio as soon as this legislature adjourns now sitting at this place. It may remain in session 40 days from the 19th ultimo. I hope not, and shall urge its earlier adjournment.

We lost three weeks of legislation by the factious course of Secretary Walsh and came very near getting into general disorder. I was denounced bitterly by Walsh for preventing universal chaos in the territory, and my position was rendered extremely delicate and unpleasant throughout the whole disorderly conduct. And this was not the first, second nor third time he has attempted the same thing since my arrival in Kansas. Am I to bear it to the end? My position has been rendered highly critical several times by his conduct, and my patience about exhausted.

Important private business requires my attention in Ohio now, but may be postponed two or three weeks. The permission I ask will be most thankfully received.

Very respectfully,

S. MEDARY.

Senate Chamber, February 15, 1860.

Hon. Lewis Cass, Secretary of State:

Sir—Will you please to inform me if the records of your office or any papers in the same show the number of votes polled in the territory of Kansas at an election therein held on the 4th Monday of March last for or against the forma-



tion of a constitution; also the number of votes polled in that territory at an election held on the 1st Tuesday of June last for delegates; and also the number of votes polled in that territory on the 1st Tuesday of October last for the ratification or rejection of the constitution formed at Wyandotte, and also the number of votes polled in said territory for the late election of the delegate to Congress, and the majorities by which said constitution was adopted and said delegate to Congress was elected.

Respectfully and truly yours, J. R. DOOLITTLE.

Executive Office, Leecompton, K. T., February 23, 1859.

Hon. Lewis Cass, Secretary of State:

Sir—As peace is restored in Kansas, and I hope forever, I would like to visit my family in Ohio some time between this and the middle of April next. Will you be kind enough to grant me that privilege?

I congratulate you and the administration on the restoration of order in this long-distracted territory. The means used to accomplish this desirable end may be less approved of than the end itself. But extraordinary diseases sometimes require extraordinary medicine to cure them.

With very high respect, your very humble servant, S. MEDARY.

[Indorsement.—Wm. G. Mathias, Leavenworth, K. T., March 3, 1860, writes on behalf of the democratic members of the Kansas legislature and incloses a petition from them for the removal of Mr. Walsh, secretary of the territory; says there has been a strife between him and Medary which they have not taken part in, until an effort was made by Walsh to get a percentage on their salaries. He is seriously injuring the democracy.]

Leavenworth City, K. T., March 3, 1860.

To his excellency James Buchanan, President of the United States:

Sir—On behalf of the members of the late territorial legislature of Kansas, I beg to address you on this occasion. For some time past there seems to be an "irrepressible conflict" going on between Governor Medary and Secretary Walsh, to the detriment of our party organization, and when the late legislature met it was apparent, but the democratic members refrained from taking sides. At the close of the session, however, Mr. Walsh acted in bad faith (as we think) toward our party, and we therefore resolved to address you the accompanying letter; and we now request a removal of Mr. Walsh. Our reasons are as follows: When the session before the last (1859) adjourned, Mr. Walsh stated that he had no money to pay off the members, but they were told to call on a certain banker in Lawrence, K. T., (Mr. Babcock) and that he (Babcock) would pay them; but when they did so a discount of 5 per cent. was demanded, which was properly refused. They clamored and threatened some personal harm to Mr. Walsh, but which the timely interposition of Governor Medary averted.

At the close of the late session, at which those whom I now represent and myself were members, we were told by Mr. Walsh that he had no money, but if we would call on Mr. Babcock, the banker, he (Babcock) would take an order drawn on him (Walsh), and he (Walsh) would accept the same. We called as requested, and Mr. Babcock again demanded 5 per cent. discount for currency, which we promptly refused; so we were obliged to leave without being paid off, as we would not suffer a discount on our demands against the federal government, and, as we think, by the disbursing officer. As yet we have not been paid.

These facts alone have tended to a considerable degree to depreciate the administration in Kansas territory, and unless he (Walsh) is removed we fear further harm to our already crippled party.

We therefore hope you will take this matter into serious consideration.

We take great pleasure in recommending Hon. George M. Beebe. He is a young man of brilliant attainments and of undoubted integrity. He served with me in the late legislative assembly, as a member of the council. He is a man of no ordinary ability, and enjoys the confidence of the whole party in Kansas. He stood side by side with me in opposing the late attempts to abolish slavery in Kansas by the territorial legislature, whilst the Douglas democrats joined the black republicans in order to accomplish that end. And should it be said that he is a Douglas man, in advance we say, it is not true. He stands with the administration in all things, and repudiates the Douglas heresy. Having ability and integrity, he makes a strong advocate and a faithful friend.

With great respect, and with the best motives, as a good democrat, wishing the success of our party in the coming contest, I subscribe myself, your most humble servant, etc.,

WM. G. MATHIAS.

Postscript by Medary.—I have examined the contents of this letter and fully confirm what Mr. Mathias states in relation to Mr. Walsh, except the name of the banker in 1859. I would also state that Mr. Walsh threw the blame of having no money on the government, but in a correspondence with the first comptroller I find that his statements were not true, as the records of the first comptroller's office will show.

S. MEDARY.

To his excellency James Buchanan, President of the United States:

The undersigned members of the legislative assembly of Kansas territory, comprising the united representatives of the democratic party in the respective houses thereof, most earnestly but respectfully request your excellency to remove the present territorial secretary, Hugh S. Walsh, said Walsh having rendered himself signally obnoxious to the people of the territory of Kansas, and particularly to the democratic party.

For specifications, we refer your excellency to any of the gentlemen whose names are hereunto attached, or to his excellency, Hon. Samuel Medary, our present territorial executive.

G. M. Beebe, first council district; Charles Sims, representative from Johnson county; W. R. Wagstaff, representative from Lykins and Linn counties; W. L. McMath, representative from Wyandotte county; J. N. Christison, fourth council district; C. G. Keeler, tenth council district; P. S. Parks, representative from Leavenworth county; William Noel, representative from Atchison county; Cary B. Whitehead, Doniphan county; Robert Reynolds, Davis county; F. Lombard, Atchison county; John Wright; Fred. Brown, member of the house; Wm. G. Mathias, of the council.

Troy, Doniphan county, Kansas Territory, March 15, 1860.

Hon. James Buchanan, President United States:

During the session of the late territorial legislature, the democratic members thereof felt constrained to write in a memorial to your excellency, soliciting the removal of the secretary, Hugh S. Walsh. As a member of the



council from the first district I signed the memorial. Since then I have learned that the governor, together with the democratic members of the legislature, and Gen. Wm. Brindle, receiver of the Lecompton land-office, Wm. H. Gill, editor Leavenworth "Daily Herald," and others, have been pleased to submit my name as an applicant for the post, in the event of Secretary Walsh's removal. I knew nothing of this until after Governor M. and others had written to the department. While I am not particular about being appointed, I hope your excellency will regard the interests of our struggling party here enough to grant the prayer of those memorializing. It would be a great favor if your excellency would direct your determination herein to be made known to me at as early a day as possible. Many are writing me on the subject, soliciting information as to what will be done by the department. So far as my democracy, fitness, etc., are concerned, I have those who have "taken me up" to "carry me through." Your excellency may learn by inquiry of the Hon. John B. Clark, of Missouri, something of how genuine he considers me to be.

My brother, of the "Banner of Liberty," of Middletown, N. Y., has many personal friends in either branch of Congress, who will answer for him, myself, and indeed the "whole generation" of us. Of my fitness and qualifications generally, as conceived by those who know me here, Hon. S. Medary, Saml. Brindle, Wm. H. Gill, any member of the late legislature (democrat) or any member of the party here can speak. I cannot afford to, nor would I if I could, spend the time and money some do in securing any office. If I get this or any other, it will be upon the unbought recommendation of my friends to your excellency. If there is a reasonable prospect of my being appointed I will visit Washington. Any intimation your excellency may give Hon. A. J. Isacks, that gentleman will advise me of. Any communication by the order of your excellency made to me at Troy, Doniphan county, Kansas Territory, will be received in due time, and be esteemed a great favor.

Very truly, yours in party fealty and fellowship,

G. M. BEEBE.

George M. Beebe, Troy, Doniphan county, Kansas Territory.

(By Telegraph.)

St. Louis, March 15, 1860.

To. Hon. Lewis Cass, Secretary of State:
Hon. John Hartwell has just died here.

G. B. ALLEN.

Tecumseh, Shawnee county, April 21, 1860.

Hon. B. Fitzpatrick, U. S. Senate, Washington City:

Sir—Will you oblige me by handing the inclosed remonstrance against the removal of Hon. Hugh S. Walsh, as secretary of Kansas Territory, to the President.

Mr. Walsh was formerly a citizen of Alabama, and was after his removal to Kansas appointed secretary. He is an able and efficient officer, and there is no substantial reason for his removal, simply to gratify a little personal animosity, and to make room for a political commodity.

If consistent with your ideas of propriety and public duty, you will please present this paper to the President.

Very respectfully, your obedient servant,

JOHN MARTIN.

To his excellency James Buchanan, President of the United States:

Sir: We have learned that there has been or was an effort making to remove or supersede the Hon. Hugh S. Walsh, as secretary of the territory of Kansas.

We are not aware of any sane or substantial reason why any such charge should be made. Mr. Walsh has certainly given almost universal satisfaction to the people; he is an active, able and efficient officer, and in his official capacity has doubtless given entire satisfaction. He is a true democrat, an able officer, and a high-toned gentleman, and we trust, and respectfully but earnestly urge upon your excellency his retention in office.

JOHN MARTIN.

E. B. SMITH, clerk district court, Shawnee county.

C. C. KELLAM, postmaster, Topeka, Kas.

C. K. HOLLIDAY.

JAMES GORDON, postmaster, Tecumseh, Kas.

Shawnee county, Kansas Territory, April 1, 1860.

Indorsement.—Has the President been made familiar with the facts in Walsh's case. If he has not, I suggest that he examine the inclosed papers before the senate takes final action on Beebe's nomination.

A. G. BROWN.

Secretary's Office, Lecompton, Kansas Territory, May 17, 1860.

Hon. A. G. Brown, U. S. Senate:

Sir—I inclose a statement of my account with the government, which shows most clearly that at the adjournment of the second session of the legislative assembly there was not money enough in my hands to pay the members.

I send this in consequence of a letter of Mr. Medill's, bearing date 12th of March, to P. S. Parks, stating he had remitted me the money, and that I had \$16,000 in my hands, and did not know the cause of my refusal when at the time he wrote that letter he had been advised by me that the money had not arrived. I send you this statement on account of conversation which I understood took place in the presence of the President at the time my removal was being urged. No charges have been preferred against me that I have been officially informed of, and, were it not for two leaky friends of Governor Medary's, I would never have known what were the arguments used ostensibly against me.

I also send you the last two numbers of the Leavenworth "Dispatch," the Douglas organ, against whose influence I worked hard to prevent any convention being held in the territory to send delegates to Charleston.

It is time there was a convention held, but only six counties were represented, and some of them by stolen meetings, which were unknown until after the delegates to the territorial convention were announced, and it was too late to prevent it as it was proved an abortion.

The papers I send are marked. You will see the tone of these men and the stand they take against the administration.

You will also observe that Mr. Beebe's position is one of hostility to the administration.

I am confident in my own mind that Governor Medary is as much a Douglas man as any in the territory, and that Beebe was the cause of the convention having been held with the approval of the governor.

I am surprised that these men were able to get the ear of the President and impose on him. It is a strange affair all around, that I (who have sustained the



administration at all times, have worked hard to keep down division in the party, and fought these republicans straight through, and made no compromise with them at any time, and whipped them when administering territorial affairs by myself, made them acknowledge themselves beat, and still retained their respect, and forced from them the acknowledgment on all hands that I am and have been an impartial and correct officer), should be thrown aside in order to sustain an artful, tricky and corrupt man, who has embarrassed the party by his every action since he has been in the territory, and would have ruined it long ago if it had not been for my exertions.

I trust, if ever I can see the President, that I will have a fair interview, and I am sure I can convince him that I am all right and that I have been misrepresented.

It is hard to bear up against such things, but in all my life's trials—and I have had many—I have been able to retain the confidence and respect of my friends, and hope that I may be equally successful with my party.

Very respectfully, your obedient servant, HUGH S. WALSH.

STATEMENT OF H. S. WALSH'S ACCOUNT AS SECRETARY OF KANSAS TERRITORY.

1859.—Balance due United States on account:	
Legislative fund, as per account	\$530 51
Received from the United States	17,000 00
	<u>\$17,530 51</u>
February 7.—Abstract returned and vouchers for disbursements to January, for sessions 1857, 1858, and 1859, mostly under instructions from department	6,984 01
Balance apparently due United States	<u>\$10,546 50</u>
1860.	
April 18.—Abstract and vouchers and account current returned for disbursement, from January to February, for regular session, viz.: Mileage and per diem	\$4,333 60
Incidental expenses, including printing-paper, and printing,	2,970 45
Additional, under previous instructions	146 05
	<u>7,450 10</u>
	<u>\$3,096 40</u>
May 14. Amount expended for incidental expenses and printing previous to 27 February, 1860, as shown by account and vouchers forwarded this day for called session 1860	* 2,448 40
Balance on hand 27th February, 1860	<u>\$548 00</u>
March 3.—Received check on New York from treasurer's office, as per their letter of February 23, 1860	6,000 00
	<u>\$6,548 00</u>
Disbursed for mileage and per diem of members of second session, as per vouchers in my possession, but which are not forwarded for the reason that they consist of pay-rolls, and are not signed by all of members and clerks, some of whom are not paid, as the comptroller was informed by me on the 18th April, 1860	\$6,560 00
Disbursed, as per vouchers and abstract forwarded this day, in addition to the \$2,448.40 shown to have been disbursed previous to 27th February	~ 705.09
	<u>\$7,265 09</u>
The whole amount of disbursements, as shown by the abstract being \$3,113.49, which shows that, on account of the legislative funds, I have disbursed more than I have received	\$717 09

H. S. WALSH, Secretary of Kansas Territory.

* Apparent error in copy.

Governor Medary's Administration.

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St. Joseph, Mo., May 21, 1860.

Hon. Lewis Cass, Secretary of State :

Gov. Samuel Medary, of Kansas, writes me from Washington, that my confirmation as secretary of Kansas, to which I was some time since by his excellency the President nominated, is certain. In such event will you be good enough to submit this to the proper clerk in your department, that I may get my instructions, bonds, etc., as soon as possible.

If it can be so, let my bond be so that it can be approved by Hon. John Pettit, chief justice Kansas territory. Have the blank bond and instructions forwarded, per express, at my charge, to me at St. Joseph, Mo. If the clerk will retain this, it will obviate difficulty in getting my commission to me.

I have the honor to be, with much esteem, your very obedient servant,

GEO. M. BEEBE.

Executive Office, Kansas Territory, Lecompton, May 26, 1860.

Mr. R. B. Mitchell, Territorial Treasurer :

Sir—I have before me what purports to be a bank-note issued by the Lawrence bank of Lawrence, Kas., signed by E. A. Smith, cashier, and R. Morrow, president, and on the margin is engrossed, "Secured by the pledge of public stock," and it is countersigned by Robt. Mitchell, and dated April 14, 1860.

I desire to know whether you have countersigned any such bills or bank notes; and, if so, to what amount in value, and what kind of public stocks you have received for them as security, and by what authority you receive public stocks of any kind as security for the issue of bank-bills or notes?

I am, sir, very respectfully, your obedient servant,

HUGH S. WALSH,

Secretary and Acting Governor of Kansas Territory.

Treasurer's Office, Lecompton, May 28, 1860.

Mr. Hugh S. Walsh, Secretary and Acting Governor of Kansas Territory :

Sir—Your note of the 26th inst. is received. In reply, I have only to ask by what authority you propound certain questions to me in relation to the Lawrence bank's securities, bank-notes, or bills, etc.?

I have the honor to be, very respectfully, your obedient servant,

ROBERT B. MITCHELL, Treasurer of Kansas Territory.

Executive Office, Kansas Territory, Lecompton, May 28, 1860.

Mr. Robt. B. Mitchell, Territorial Treasurer, Lecompton :

Sir—In reply to your inquiry by what authority I propound certain questions to you in relation to the Lawrence bank securities, notes, and bills, I refer you to the fifteenth section of the act creating the office of territorial treasurer, which is as follows:

"It is his duty to submit his books, accounts, vouchers and funds to the inspection of the governor," etc.

I did not anticipate a want of knowledge of my authority at the time I made the inquiry, or I would have referred you to the section of the law.

I am, sir, very respectfully, your obedient servant,

HUGH S. WALSH,

Secretary and Acting Governor.



Executive Office, Kansas Territory, Lecompton, May 28, 1860.

Mr. A. C. Davis, United States District Attorney for Kansas Territory:

Sir—I call your attention to the fact of an attempt to issue a spurious paper currency by certain parties, under the name and style of the "Lawrence Bank," located at Lawrence, in this county and territory, and signed by E. A. Smith, cashier, and R. Morrow, president. Engraved on the margin of the bill I have before me are the words, "Secured by the pledge of public stocks," and it is countersigned R. B. Mitchell, treasurer.

This infraction of the laws of the United States, by attempting to issue a paper currency contrary to the act of Congress approved July 1, 1836 (see Statutes at Large, vol. 5, p. 61), is the more odious from the fact of this attempt being likewise in violation of the laws of the territory; it being prescribed in the act of the territorial legislature which passed February 11, 1858, over the governor's veto (under which the bank pretends to exist), that "all rights and privileges therein granted should be forfeited if either bank fail to commence operations within one year." These parties do not so much appear to operate under any law, as by their successful avoidance of the restrictions of the laws, and are the more dangerous on that account.

The suppression of this bank is important in several respects.

First, to prevent the territory from being overrun with an issue of worthless so-called "bank-bills," by parties without capital, and by their own acts so evidently without principle as to lead to the apprehension of the worst consequences.

Second, to prevent these parties from fastening upon the people of this territory, by implication, a load of debt which they are unable to pay, and which the people have received no value for or derived any benefit from, in the shape of territorial bonds, issued, as I conceive, illegally by the territorial treasurer, and as illegally approved, sealed and countersigned by the governor last year.

Thirdly, to prevent the territorial treasurer from usurping powers not conferred upon him by law, and which are strictly confined to the auditor or comptroller, while such an officer is known to the law, and, by so usurping said powers, contribute to involve the territory in the liability created by the illegal acts of himself and the governor.

I know of no better manner of arresting their whole proceedings than by testing the validity of the charter, it being, as I conceive, in violation of the organic act, which declares "that the constitution and all laws of the United States which are not locally inapplicable shall have the same force and effect within the said territory of Kansas as elsewhere within the United States, except," etc. (See section 32 of Kansas-Nebraska act—laws United States.)

I see no local inapplicability in this law of Congress, and it is my opinion that it ought to be enforced when such momentous consequences to the people of the territory are involved.

I therefore desire that you will take such steps as will bring this matter to an issue in the United States district court as speedily as possible, so that the people of the territory may be protected both in regard to the currency and from the consequences of the issue of the illegal territorial bonds, by preventing the operation of the bank.

I am, sir, very respectfully, your obedient servant,

HUGH S. WALSH.

Executive Office, Kansas Territory, Lecompton, May 29, 1860.

Mr. Robt. B. Mitchell, Territorial Treasurer, Lecompton:

Sir—In your reply yesterday to my inquiry requesting information respecting your action as territorial treasurer with regard to the Lawrence bank and the securities for its notes, &c., you say, "I have only to ask by what authority you propound certain questions to me in relation to the Lawrence bank securities, bank-notes, &c.?" I returned, by the messenger which brought your reply, an answer, quoting from the fifteenth section of the law creating the office of territorial treasurer, the authority upon which I asked those questions.

Having waited sufficiently long, as I think, for the information, and not having received it, I have now to ask whether I am to understand by your note of the 28th inst. that it is the only information I may expect to receive from you upon this matter? I am, sir, very respectfully, your obedient servant,

HUGH S. WALSH,

Secretary of Kansas Territory and Acting Governor.

Treasurer's Office, Lecompton, May 29, 1860.

Hon. Hugh S. Walsh:

Sir—Yours of this date is duly received, and in reply have only to say that I have been, since the reception of your note of yesterday, wholly unable to find the time to make a satisfactory reply to your inquiries, but will endeavor to do so at the earliest possible time convenient.

Very respectfully, your obedient servant,

ROBT. B. MITCHELL, Treasurer K. T.

Executive Office, Kansas Territory, Lecompton, June 14, 1860.

Hon. Lewis Cass, Secretary of State, Washington, D. C.:

Sir—It is now nearly two months since I became aware that Governor Medary, working through other parties, was endeavoring to effect my removal from office. As no charges have been made officially known to me which I could make answer, I have been left to conjecture the grounds upon which my removal was asked.

At first I understood it to be on the grounds of my failing to pay constructive mileage to the members of the legislative assembly at the extra session, and my not paying the members their per diem on the day of adjournment.

My correspondence will show that I informed the comptroller, on the day of adjournment, that the funds had failed to come on that day and for some days afterwards, but that, as soon as they did arrive, I paid all that was presented until the funds were exhausted; and also that I have informed the comptroller three several times, viz., on the 18th April, 7th May, and 15th May, that I had expended all the funds received, and that there was money still due, which I requested him to send as soon as, in his discretion, it was necessary, but which have not yet arrived.

It will be seen from that correspondence, that upon the subject of constructive mileage I informed the comptroller, on the 7th February, that I would decline paying it unless instructed by him, and that in his reply to me he declined to overrule my determination. The next intimation of the cause of removal was my being unable to agree with the governor and cooperate with him.

Not wishing to expose the governor or make direct charges against him, instead of writing to you I wrote to the secretary of the interior (he being from my own immediate state), showing him the reasons why I could not agree with the



governor upon one point of policy in which I considered the governor had acted illegally, and which was detrimental to the democratic party in Kansas; supporting my assertions by copies of the law, the report on investigating committee in the house of representatives of the last legislative assembly, and by the proceedings of public meetings held throughout the territory by the republicans, and which the democratic party or its press did not attempt to controvert; and in some instances they had come out and taken up the subject before these meetings and shown that the whole affair was of republican conception, birth and parentage, and denounced the whole as an infamous swindle, and the parties as swindlers who were engaged in it. The democratic press had to concur, but were embarrassingly silent. This charge includes the governor and his appointee, the territorial treasurer, and all things concur in evidencing that his appointment was obtained for the special purpose of carrying out the fraud.

First, by issuing territorial bonds contrary to law, upon warrants issued by Hiram J. Strickler, the territorial auditor, under the act approved February 7, 1859, for "the adjustment and payment of claims" (see Kansas Laws 1859, ch. 21 and 22, p. 74 to 78); second, by the cooperation of the governor in approving, sealing and countersigning the aforesaid bonds, contrary to section 13 of chapter 21; and thirdly, by receiving these bonds contrary to law as security for the circulation of the Lawrence bank, under a charter passed in 1858, and which charter is forfeited, in which charter it is specially provided that, "if at any time no such officer" (as auditor or comptroller) "shall be known to the law, then it shall be held to mean the treasurer of said territory or state," who shall have authority to recover the stocks for the security of bank issues under the charter; now Mr. Hiram J. Strickler is an officer as auditor.

The treasurer has taken upon himself the responsibility of receiving such stocks in the shape of these Kansas territorial bonds without any authority of law, as will be more fully shown by the inclosed correspondence between myself and the treasurer, and my letter to A. C. Davis, Esq., United States district attorney for the territory, marked "A," which is herewith inclosed.

I would remark that there is no power to remove the treasurer for misfeasance or malfeasance in office by the terms of the act creating his office, and the only clause in the statutes giving the governor power to remove officers was repealed in 1859, which leaves nothing but an implied power; and should I remove him, in the present position of affairs, he would probably be restored to office should Governor Medary arrive in the territory. Were the power explicitly given, I should not hesitate to exercise it, for the protection of the people of the territory against a deep-laid swindling scheme to rob them of their property.

Mr. Davis, the U. S. district attorney, took the papers of which I send you copies, and promised to forward them to Washington for information, and said he would proceed with a quo warranto to inquire if the bank could legally exist contrary to the United States statutes, under the law approved July 1, 1836, which prohibits banking in territories without the approval in Congress. He, however, was compelled to leave to attend another court, and has not returned, leaving his deputy attending the district courts now in session here without instructions.

I have endeavored to get a mandamus from the judge in the territorial branch of this court, but the judge decided some weeks since, in another case, that a mandamus, according to our territorial law, could not be issued at chambers, but must be applied for in open court. Thus the people are left without a remedy against this fraud until such time as another territorial court convenes, and from what I hear Governor Medary will by that time have returned to the