

By Authority. Official Message of His Excellency Gov. A. H. Reeder, to the First Legislative Assembly of the Territory of Kansas.

This printed version of Reeder's address included a review of how the land that became Kansas was acquired by the United States and of various legislation and treaties that applied before the passage of the Kansas Nebraska Act. Reeder also identified some of the responsibilities of the Legislature including establishing a means of determining if Kansas was to be slave or free, establishing counties, setting up a judicial system, levying taxes, organizing a militia, determining a permanent seat of government, and creating a constitution. He also included some statistics from the first official census, which recorded 2,904 qualified voters out of 8,521 residents (only free males could vote). Reeder indicated the need to resolve the issue of selling intoxicating liquors to Native Americans.

Creator: Reeder, Andrew H. (Andrew Horatio), 1807-1864

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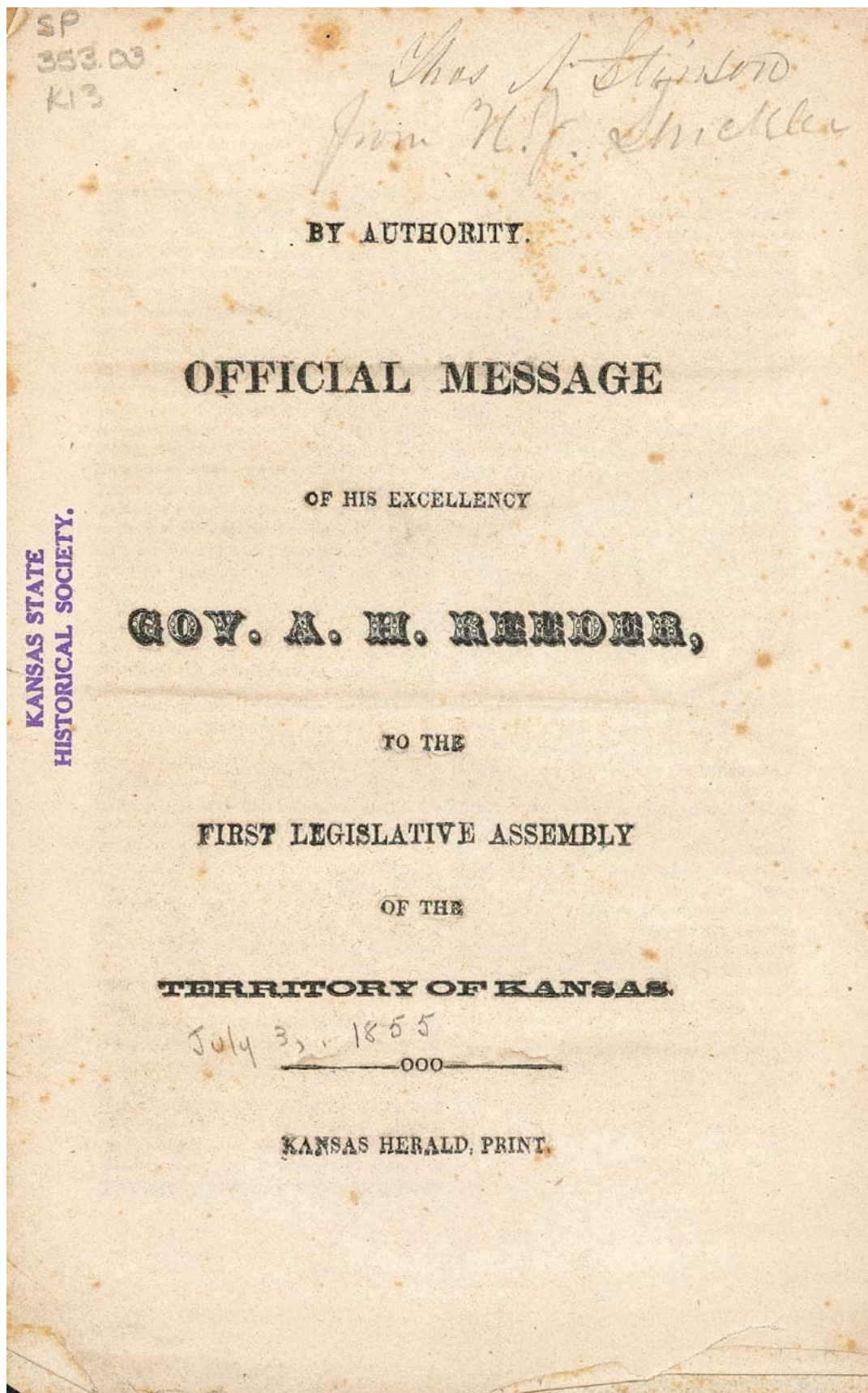
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THE
GOVERNOR'S MESSAGE.

To the Honorable, the Council and House of Representatives of the Territory of Kansas :

Having been duly notified that your respective bodies have organized for the performance of your official functions, I herewith submit to you the usual Executive communication relative to subjects of legislation, which universal and long continued usage in analogous cases would seem to demand, although no express requirement of it is to be found in the act of Congress which has brought us into official existence and prescribed our several duties.

The position which we occupy and the solemn trust that is confided to us for originating the laws and institutions, and moulding the destinies of a new Republic in the very geographical centre of our vast and magnificent Confederation cannot but impress us with a deep and solemn sense of the heavy responsibility which we have assumed, and admonish us to lay aside all selfish and equivocal motives, to discard all unworthy ends, and in the spirit of justice and charity to each other, with pure hearts, tempered feelings and sober judgments to address ourselves to our task, and so perform it in the fear and reverence of that God who oversees our work, that the Star we expect to add to the National Banner shall be dimmed by no taint or tarnish of dishonor, and that when viewed from the trying and scrutinizing stand point of the future, we shall be subject to no reproach save that which springs from the inevitable fallibility of just and upright men.

In the business of legislation, the very first necessity is the ascertainment of the existing law; as it is impossible to determine what we need in that respect, until

we ascertain what we already possess. It will be found, I think, upon slight investigation, that we are already provided with an ample and valuable store of laws, for the redress of civil wrongs, and the punishment of criminal offences, which will materially diminish your labors.

The present Territory of Kansas has been at various periods since the treaty of April 30th, 1803, with the French Republic, a portion of the District of Louisiana, of the Territory of Louisiana, the Territory of Indiana, and the Territory of Missouri; and it becomes necessary to take a brief review of the legislation of Congress relating to it, during each of these periods. Immediately after the acquisition of the Territory of Louisiana by the treaty before mentioned, provision was made, by act of Congress, passed 31st Oct., 1803, for its temporary government; which continued the civil, military, and judicial powers then existing, until the expiration of the first session of the eighth Congress. On the 26th of March, 1804, being the day before the close of said session, the said Territory was divided into the Territory of Orleans, and the District of Louisiana; and the 33d parallel of North latitude from the Mississippi River west, was designated as the boundary line between the two—thus including the present Territory of Kansas in the northern division; and by the same act, this portion, by the name of the District of Louisiana, was subjected to the government of the Territory of Indiana, and became a part of it. The Territory of Indiana had been a portion of the old North-west-



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ern Territory, which was first organized Territory of Indiana, a Government was by the ordinance of July 13, 1787. This provided "in all respects similar to that ordinance was subsequently adapted to the "provided by the ordinance of Congress provisions of the constitution of the United "passed July 13, 1787, for the Govern- States, by act of Congress of Aug. 7, 1789; "ment of the Territory of the U. States and, by act of Congress, passed May 7, "north of the river Ohio: and the inhab- 1800, a portion of this North-western Ter- "itants shall enjoy all and singular, the ritory was organized as the Territory of "rights, privileges and advantages granted Indiana, to which, as already stated, the "and secured to the people by the said or- District of Louisiana was annexed. On "dinance," and the same powers were the 3d of March, 1805, the District of Lou- conferred and duties enjoined upon its offi- isiana was again severed from the Territo- cers as had been exercised by the officers ry of Indiana, and organized by the name of the North-western Territory under the of the Territory of Louisiana, and on the said ordinance.

4th day of June, 1812, was converted into By the act of 26th March, 1804, annex- ing the District of Louisiana to Indiana the Territory of Missouri, with considera- Territory, power was given to the Govern- ble modification of the rules for its govern- or and Judges "to make all laws which ment.

It will thus be seen, as I have stated, "they may deem conducive to the good that the country composing our Territory, "government of the inhabitants thereof," has been successively subjected to the and it was also further provided, "that the French code, existing at the acquisition of "Judges shall possess the same jurisdic- Louisiana, by the treaty of Paris—to the "tion they possess in the Indiana Territo- laws of Indiana, derived from the North- "ry." This arrangement, however, was western Territory, as well as those enacted of short duration; for in less than a year for Indiana after its severance—to the laws the Territory of Louisiana was erected by of the Territory of Louisiana, and the laws a law which took effect on the fourth day of the Territory of Missouri. The sever- of July following—and Congress then vest- ance of a portion of the latter Territory, and ed the entire legislative power in the Gov- its erection into the State of Missouri, in ernor and Judges, securing trial by Jury the year 1821, did not, in my opinion, at in all criminal prosecutions and in all civil all effect the laws in force outside of the cases involving over one hundred dollars, bounds of the State, which remained as if demanded, and saving all laws previous- valid after that event as they were before. ly in force in the district and not inconsis-

Under the ordinance of 1787, amended ent with the act of Congress. The act of 1812, changing the name of in 1789, it was provided that a certain leg- the Territory to Missouri, and taking ef- islative power should be vested in the Gov- fect on the first Monday of December fol- ernor and Judges who were directed to adopt and publish such laws, criminal and lowing, provided for a more efficient and civil, of the original States, as they might thorough organization and was much more consider necessary, which were to remain comprehensive in its details, vesting the in force unless altered by the Legislature. legislative power in a general assembly, It was also provided by authority of Con- but taking care to provide that the people gress, among other things, that the inhab- should "always be entitled to judicial pro- itants should "always be entitled to the ceedings according to the course of the com- "benefit of the writ of habeas corpus and mon law, and the laws and usages in force "of the Trial by Jury, of a proportionate in the Territory—and that the laws and "representation of the people in the Leg- regulations in force in the Territory of "islature, and of judicial proceedings ac- Louisiana at the date of the act, and not in- "cording to the course of the common consistent therewith, should continue in "law." force until changed by the Legislative As-

By the act of May 7, 1800, erecting the sembly."



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The act of Congress organizing the Territory of Kansas does not alter the Congressional legislation as left on the first Monday of December, 1812, and its results through the Territorial Legislature, except that it repeals all former laws recognizing or prohibiting slavery, and applies all laws of the U. States not locally inapplicable, by which we are to understand all U. S. Statutes enacted for other localities which are capable of being transplanted and adapted to our Territory.

The legislatures of the Territories of Louisiana and Missouri enacted, of course, many general laws, and among them is a statute of January 19, 1816, adopting for the Territory of Missouri the common law and the English statutes in aid thereof, prior to the fourth year of James the first, with some qualifications.

From this summary, the length of which has been unavoidable, it appears that the laws of the U. States not inapplicable to our locality—the laws of the Territory of Indiana made between the 26th March, 1804, and the 3d March, 1805, enacted for the District of Louisiana—the laws of the Territory of Louisiana—the laws of the Territory of Missouri—the common law, and the law of the Province of Louisiana at the time of the cession, except so far as the later have superseded the former, still remain in force in the Territory of Kansas. As the common law to a considerable extent was adopted for the Territory by Congress as late as 1812, and by the Missouri Legislature as late as 1816, and as it is perhaps the most complete and comprehensive system in the world, it has without doubt, superseded and supplied a great amount of the law previously existing. In this mass of conflicting legislation however, it will impose upon your courts much embarrassment and trouble to decide the questions of implied repeal which will continually arise, and I would therefore call your attention to the necessity of curing this evil by some legislation which will declare distinctly which of these previous laws are in force and which are not.

There are many specific subjects of legislation, some of which are expressly referred to you by the Bill organizing our Territory, and others spring from the necessities of our community. Prominent among them is the question whether we shall build our Government upon the basis of free or of slave labor. Claiming as we do the same capacity for self-government as our fellow citizens of the States, with a far greater, if not an exclusive interest in the institutions and laws which are to exist among us; compelled alone to bear their burdens, and entitled alone to claim their benefits; wisdom, justice and fairness would dictate that those laws and institutions inside of the constitution of the United States should be moulded by ourselves, stimulated by the absorbing interest we must feel in them, rather than by the representatives or citizens of other States who are no more competent to the task than we—who have no stake with us in their results, and who would most indignantly repel any offer of reciprocity from us in assisting to manage their affairs. The provision of our Territorial Organic Act secures us this right and is founded in the true doctrines of republicanism. It may be exercised in various degrees and in various ways, and whenever it is called into action it cannot legitimately be attended with that excitement which is incident to the agitation of the slavery question in the direction of an attack upon constitutional rights. An agitation of that kind such as we have seen industriously prosecuted in the past history of our country by the destructive spirit of abolitionism can never be productive of aught but evil and is calculated in an eminent degree to obscure the glories of the past, to evoke the foulest spirit of discord among the citizens of our common country, and also to mar our brilliant future, if not to endanger the existence of our cherished Union. A want of fidelity to the solemn compacts of the constitution and an attack upon the rights of the States which are guaranteed by it, can have no justification or excuse. This view of the case however is not to be confounded with the discussion and settlement of the slavery question in our Territory in its bearings upon the formation of our institutions. That has been referred



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to us as an open question by the legitimate action of the Nation, and here it is not only the privilege but the duty of every man to speak his opinions freely and enforce them peaceably and fairly. Advocate and opponent stand on the same ground and must mutually concede to each other the identical measure of right which they claim for themselves. Freedom of opinion and freedom of discussion without licentiousness are of the very essence of republicanism at all times are peculiarly to be respected here. The permanent character and high authority of a State Constitution and the fact of its submission to a direct vote of the people of the Territory indicate that event as a signal occasion for the decision of that peculiar question. In the meantime, however, a Territorial Legislature may undoubtedly act upon the question to a limited and partial extent, and may temporarily prohibit, tolerate or regulate slavery in the Territory, and in an absolute or modified form with all the force and effect of any other legislative act binding until repealed by the same power that enacted it.

Among the several objects of legislation which are referred to your action by the act organizing the Territory, is the creation and defining of counties. The non-completion of the surveys would seem at first to require a resort to natural boundaries in the performance of this work, but from a map of projected surveys made in the office of the Surveyor General and kindly furnished me for the purpose it is probable the county lines may be designated in advance at least over a portion of the Territory. You will decide whether it is expedient to provide that the said designation shall be made before the lines are run on the ground. Of the Eighteen ranges east on the base line, and the thirty-five townships south, the lands lying within townships one to fifteen South of Range nine to eighteen East, and continuing on to the Missouri river and State line will be first surveyed. Outside of these limits it perhaps would be premature to adopt the projected lines of survey as boundaries of counties. The map alluded to is submitted with this communication.

The census of the Territory taken, under the provisions of the act of Congress exhibits a return of two thousand nine hundred and four qualified voters, and an entire population of eight thousand five hundred and twenty-one persons, exclusive of Indians and officers, soldiers and employees of the army of the United States, not residing in the Territory. The census returns which are submitted for your inspection contains a considerable amount of statistical information, such as the place of emigration, ages, occupations, &c. This population consists of five-thousand one-hundred and thirty-eight males, and three thousand three-hundred and eighty-three females, and it is a fact worthy of remark as peculiar to a great extent to this Territory that they are not as usual, collected about one point or along a frontier line, but are dispersed over a district of more than 15,000 square miles. This state of things, although it has its inconveniences at present, is nevertheless highly gratifying, as it indicates that our Territory has many points of strong interest, and promises an early development of our resources.

In obedience to the act of Congress I have until otherwise provided by law divided the State into Judicial Districts, designated the places for courts, and assigned the Judges as stated in my proclamation of the 26th of February last, which together with all the other proclamations from the Executive department will be submitted to you. The designation of terms of the Supreme Court was purposely omitted for the reason that my action was only provisional until the subject could be committed to your charge, and the jurisdiction of the court as yet being probably only appellate there could be for some time no business to evoke its action.

The provisions for County Courts and the officers connected with them, and the other officers of the Territory which you may consider necessary—the laws for regulating and holding elections—the qualifications of voters—the jurisdiction of the Supreme and District Courts—the election or appointment of Justices of the Peace and



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Constables—their powers and jurisdiction—the means of settling decedents estates (so far as their several matters are unprovided for by existing laws,) together with other obvious subjects, need no special comment from me. In regard to Constables and Justices, however, I desire to state that I have issued a number of commissions throughout the Territory, which, under the act of Congress, will expire at the end of your present session, and it would probably prevent public and private detriment to authorize them to complete any proceedings which may then be pending before them. If, as is probable, you shall provide for filling these offices by election, I would suggest that some provision be made for the time that shall elapse between the expiration of the present commissions and the election and qualifications of new incumbents.

The presence in our Territory of so large a number of Indians, interspersed as they are with the white population, adds a feature to the indiscriminate sale of intoxicating liquors, which does not exist in other communities. A portion of them indulge upon almost every opportunity in the excessive use of ardent spirits, and the friends and enemies of prohibition who are acquainted with the Indian character, and its frenzied developments under the influence of intoxication, will probably all unite in the admission that special precautions in this respect are necessary, as well for the protection of the Indian against degradation, as of the whites against violence. The more estimable members of most of the tribes are using their influence to check this evil, and we should second their efforts, as well for our sake as their own.

The cause of education I need scarcely recommend to your especial attention. It is always better to pay for the education of the boy than the punishment of the man. To enlarge upon the necessity of general education for producing a good government, would be at this day, a work of supererogation, and I leave the matter in your hands, confident it will receive the at-

tention it deserves.

Levying of public taxes at this time, at least to any considerable extent, before our people have secured title to their lands, or realized their products, would be undesirable unless absolutely necessary; but if you should find it necessary to levy and collect taxes for county or other purposes, I have no doubt that the pre-emptor who claims an inchoate title in his quarter section, could be assessed thereon for his share of the public burdens.

The location of the permanent seat of government is also referred to you by the act of Congress making the appropriation, and in view of the large expenditure necessary for the erection of public buildings, and of the fact that in case of a removal the burden of new buildings will fall upon the people of the Territory, wisdom would seem to require that this duty should be performed with an eye to the future as well as the present, and to the probable rapid progress of our Territory, and the probable bounds of a future state.

The organization of the militia of the Territory is another subject which will demand your attention, and in this connection I have to inform you that the Territory of Kansas is entitled to two thousand muskets, deliverable in Kind, and also to one hundred and thirty-seven muskets, being the annual appropriation for 1855, from the General Government. The annual appropriation may be commuted for other arms or Field Artillery at cost. These arms are deliverable at any accessible point in the Territory, on the requisition of the Governor, and will be called for whenever the legislation of the Territory shall make it necessary or expedient.

A. H. REEDER.
Governor, &c.

EXECUTIVE DEPARTMENT, }
July 3, 1855. }