

# Democrat and Sentinel.

THE BLESSINGS OF GOVERNMENT, LIKE THE DEWS OF HEAVEN, SHOULD BE DISTRIBUTED ALIKE UPON THE HIGH AND THE LOW, THE RICH AND THE POOR.

NEW SERIES.

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## PRESIDENT'S MESSAGE, On Submitting the Leecompton Constitution To the Senate and House of Representatives of the United States:

I have received from J. Calhoun, Esq., the President of the late Constitutional Convention of Kansas, a copy, duly certified by himself, of the Constitution framed by that body, with the expression of a hope that I would submit the same to the consideration of Congress, with the view of securing the admission of Kansas into the Union as an Independent State. In compliance with this request, I forward herewith to Congress, for its action, the Constitution of Kansas, with the ordinance respecting the public Lands, as well as with the letter of Gen. Calhoun, dated Leecompton, 11th ult., by which they were accompanied.

Having received but a single copy of the Constitution and Ordinance, I send this to the Senate.

A great delusion seems to pervade the public mind in relation to the condition of parties in Kansas. This arises from the difficulty of inducing the American people to realize the fact that any portion of them should be in a state of rebellion against the government under which they live. When we speak of affairs in Kansas, we are apt to refer merely to the existence of two violent political parties in that Territory, divided on the question of slavery, just as we speak of such parties in the States. This presents no adequate idea of the true state of the case. The dividing line there is not between political parties, both acknowledging the lawful existence of the Government but between those who are loyal to this Government and those who have endeavored to destroy its existence by force and usurpation—between those who sustain and those who have done all in their power to overthrow the Territorial government established by Congress. This Government they would long since have subverted, had it not been protected from their assaults by the troops of the United States. Such has been the condition of affairs since my inauguration. Ever since that period a large portion of the people of Kansas, have been in a state of rebellion against the Government, with a military leader at their head, the most turbulent and dangerous character. They have never acknowledged, but have constantly renounced and defied the Government to which they owe allegiance, against its authority. They have all the time been endeavoring to subvert it, and establish a revolutionary government, under the so-called Topeka Constitution in its stead. Even at this very moment, at the Topeka Legislature is in session. Whoever has read the correspondence of Governor Walker with the State Department, recently communicated to the Senate, will be convinced that this picture is not overdrawn. He always protested against the withdrawal of the military force of the United States from the Territory, deeming its presence absolutely necessary for the preservation of the regular government and the execution of the laws. In his very first dispatch to the Secretary of State, dated June 2nd, 1857, he says:—

"The most alarming movement however proceeds from the assembling of the so-called Topeka Legislature, with the view to the enactment of an entire code of laws. Of course it will be endeavoring to prevent such a result as would lead to an inevitable disastrous collision, and in fact renew civil war in Kansas."

This was with difficulty prevented by the efforts of Governor Walker, but soon General Harney was required to furnish him a regiment of dragoons to proceed to the city of Lawrence; and this for the reason that he had received authentic intelligence, verified by his own actual observation, that a dangerous rebellion had occurred, "involving open defiance to the laws, and the establishment of an insurgent government in that city."

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

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

On the 20th of July, 1857, General Lane, under the authority of the Topeka Convention, undertook, as Governor Walker says, "to organize the whole so-called Free State party into volunteers and take the names of all who refuse enrollment. The professed object was to the now insurgent Topeka State Legislature. The object of taking the names of all who refuse the enrollment is to certify the Free State conservatives into submission. This is proved by the recent atrocities committed on such men by the Topekites. The speedy location of large bodies of regular troops with two batteries is necessary. The Lawrence insurgents await the development

of this new revolutionary military organization."

In Gov. Walker's dispatch of July 27th, he says: "General Lane and his staff everywhere deny the authority of the Territorial laws, and counsel a total disregard of these enactments." Without making further quotations of similar character, from other dispatches of Governor Walker, it appears by reference to Acting Governor Stanton's communication to Secretary Cass, under the date of the 9th of December last, that "the important step of calling the Legislature together was taken after Gov. Walker had become satisfied that the election, ordered by the Convention on the 21st inst., could not be conducted without collision or bloodshed." So intense was the disloyal feeling among the enemies of the Government established by Congress, that an election which offered them an opportunity, if in the majority, of making Kansas a free State, according to their own professed desire, could not be conducted without collision and bloodshed. The truth is, that until the present moment the enemies of the existing Government still adhere to the Topeka Revolutionary Constitution and Government. The very first paragraph of the Message of Gov. Robinson, dated the 7th of December, to the Topeka Legislature, now assembled in Lawrence, contains an open defiance of the Constitution and laws of the United States. The Governor says: "The Convention which framed the Constitution at Topeka originated with the people of Kansas Territory. They have adopted and ratified the same twice by a direct vote, and also indirectly through two elections of State officers and Members of the State Legislature, yet it has pleased the Administration to regard the whole proceedings as revolutionary."

This Topeka government, adhered to with such treasonable pertinacity, is a government in direct opposition to the existing government as prescribed and recognized by Congress. It is an usurpation of the same character as it would be for a portion of the people of any State, to undertake to establish a separate government within its limits for the purpose of redressing any grievances, real or imaginary, of which they might complain, against the legitimate State government. Such a principle, if carried into execution, would destroy all lawful authority, and produce universal anarchy. From this statement of facts, the reason becomes palpable why the enemies of the government authorized by Congress, have refused to vote for Delegates to the Kansas Constitutional Convention, and also, afterwards, on the question of slavery, submitted by it to the people. It is because they have ever refused to sanction or recognize any other Constitution than that framed at Topeka. Had the whole Leecompton Constitution been submitted to the people, the adherents of this organization would doubtless have voted against it, because if successful they would have the removed it from the way of their own revolutionary Constitution. They would have done this not upon consideration of the merits of the whole or part of the Leecompton Constitution, but simply because they have ever resisted the authority of the government authorized by Congress, from which it emanated.

Such being the unfortunate condition of the affairs of the Territory, what was the right, as well as duty, of low-abiding people? Were they silently and patiently to submit to the usurpation, or adopt some necessary measure to establish a Constitution under the organic law of Congress? That this law recognized the right of the Territory, without the enabling act of Congress, to form a State Constitution, is too clear for argument, for Congress "to leave the people of the Territory perfectly free," in framing their Constitution, "to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States," and then to say they shall not be permitted to proceed and frame a Constitution in their own way, without the express authority from Congress, appears to be almost a contradiction of terms. It would be much more plausible that the people of a Territory might be kept out of the Union for an indefinite period, and until it might please Congress to permit them to exercise the right of self government.—This would be to adopt, not "their own way," but the way which Congress might prescribe.

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

In pursuance of this decision of the people in favor of a Convention, the Territorial Legislature, on the 27th of February, 1857, passed an act for the election of delegates on the third Monday of June, 1857, and they did not think proper to submit the whole of this Constitution to a popular vote, but did submit the question, whether Kansas should be a Free or a Slave State, to the people.—This was the question which had lighted the flames of civil war in Kansas, and produced dangerous sectional parties throughout the Confederacy. It was of a character so paramount in respect to the condition of Kansas, and had riveted the attention of the people of the whole country upon it alone. No person

in order to avoid all interference from neighboring States or Territories with the freedom and fairness of the election, a provision was made for the registry of qualified voters, and pursuant thereof, nine thousand and fifty-two voters were registered. Governor Walker did his whole duty in urging all the qualified citizens of Kansas to vote at this election.

In his inaugural address on the 27th of May, he informed them that "under our practice the preliminary act of passing a State Constitution is uniformly performed through the instrumentality of a Convention of Delegates, chosen by the people themselves; that the Convention is now about to be elected by you under a call of the Territorial Legislature created, and still recognized, by the authority of Congress, and clothed by it, in the authoritative language of the organic law, with full power to make such an enactment. The Territorial Legislature, then, in assembling this Convention, were fully sustained by the Act of Congress and the authority of the Convention is distinctly recognized in my instructions from the President of the United States." The Governor also clearly and distinctly warns them what would be the consequence if they did not participate in the election. "The people of Kansas, then," he says, "are invited by the highest authority known to the Constitution to participate freely and fairly in the election of delegates to frame a Constitution and State Government. The law has performed its entire and appropriate function when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout the whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage, authorize those who do vote, to act for them in that contingency, and absences a.e. as much bound by the law and the Constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as if all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy and despotism would remain as the only alternative."

It may also be observed that at this period, any hope, if such existed, that the Topeka Constitution would ever be recognized by Congress must have been abandoned. Congress had adjourned on the third of March previous, having recognized the legal existence of the Territorial Legislature in a variety of forms, which I need not enumerate.—Indeed, the delegate elected to the House of Representatives under the Territorial law, had been admitted to his seat and had just completed his term of service the day previous to my inauguration. This was a propitious moment for anything all the difficulties in Kansas. This was the time for abandoning the revolutionary Topeka organization, and for the enemies of the existing government to conform to the laws and unite with its friends in framing a State Constitution. But this day they refused to do, and the consequence of their refusal to submit to lawful authority, and vote at the election of delegates, may yet prove to be of the most deplorable character. Would that the respect for the laws of the land, which so eminently distinguished the men of the past generation, could be revived! It is a disregard and violation of the law which have for years kept the Territory of Kansas in a state of almost open rebellion against the Government; it is the same spirit which has produced actual rebellion in Utah. Our only safety consists in obedience and conformity to the law. Should a general spirit against its enforcement prevail, this will prove fatal to us as a nation. We acknowledge no master but the law. And should we cut loose from its restraints, and every one do what seemeth good in their own eyes, our case is indeed hopeless.

The enemies of the Territorial Government are determined still to resist the authority of Congress. They refused to vote for delegates to the Convention—not because, from circumstances which I need not detail, there was an omission to register comparatively few voters who were inhabitants of certain counties in the early spring of 1857—but because they had predetermined, at all hazards, to adhere to their revolutionary organization, and defeat the establishment of any other Constitution than that which they had framed at Topeka. The election, therefore, was suffered to pass in default. But of this result the qualified electors, who refused to vote, can not justly complain.

From this review it is manifest that the Leecompton Convention, according to every principle of Constitutional law, was legally constituted and invested with the power to frame a Constitution.

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

The Kansas Convention, thus lawfully constituted, proceeded to frame a Constitution, and having completed the work, finally adjourned on the 7th of November last. They did not think proper to submit the whole of this Constitution to a popular vote, but did submit the question, whether Kansas should be a Free or a Slave State, to the people.—This was the question which had lighted the flames of civil war in Kansas, and produced dangerous sectional parties throughout the Confederacy. It was of a character so paramount in respect to the condition of Kansas, and had riveted the attention of the people of the whole country upon it alone. No person

thought of any other question. For my own part when I instructed Gov. Walker in general terms, in favor of submitting the Constitution to the people, I had no object in view except the all-absorbing question of slavery. In what manner the people might regulate their own concerns, was not the subject which attracted my attention. In fact, the general provisions of the recent State Constitutions, after an experience of eighty years, are so similar and excellent that it would be difficult to go far wrong at the present day, in framing a new Constitution.

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

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

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

The people of Kansas have then, "in their own way," and in strict accordance with the organic act, framed a Constitution and State government, have submitted the all-important question of slavery to the people, and have elected a Governor, a member to represent them in Congress, members of the State Legislature, and other State officers. They now ask admission into the Union, under this Constitution, which is republican in its form. It is for Congress to decide whether they will admit or reject the State which has thus been created. For my own part, I am decidedly in favor of its admission, and thus terminating the Kansas question. This will carry out the great principle of non-intervention, recognized and sanctioned by the organic act which declares in express language in favor of the non-intervention of Congress with slavery in the States and Territories," leaving "the people thereof perfectly free to form and regulate the domestic institutions in their own way, subject only to the Constitution of the United States." In this manner, by localizing the question of slavery and confining it to the people who are immediately concerned, every patriot anxiously expected this question to be banished from the halls of Congress, where it has always exerted a baleful influence throughout the country. It is proper that I should refer briefly to the election held under an act of the Territorial Legislature, on the first Monday in January last, on the Leecompton Constitution. This election was held after the Territory had been prepared for admission into the Union as a sovereign State, and when no authority existed in the Territorial Legislature, which could possibly destroy its existence or change its character. The election, which was peacefully conducted under my instructions, involved a strange inconsistency. A large majority of the persons who voted against the Leecompton Constitution, were, at the very same time and place, recognizing its valid existence in the most solemn and authentic manner by voting under its provisions. I have as yet received no official information of the result of this election.

As a question of expediency, after the right has been maintained, it may be wise to reflect upon the benefits to Kansas and to the whole country, which would result from its immediate admission into the Union, as well as the disasters which may follow its rejection. Domestic peace will be the happy consequence of its admission, and that fine Territory, hitherto torn by discussions, will rapidly increase in population, and wealth, and speedily realize

the blessings and comforts which follow agricultural and mechanical industry. The people then will be sovereign, and can regulate their own affairs in their own way. If the majority of them desire to abolish domestic slavery within the State, there is no other possible mode by which it can be effected so speedily as by its prompt admission. The will of the majority is supreme and irresistible, when expressed in an orderly and lawful manner. They can make and unmake Constitutions at pleasure. It would be absurd to say they can impose fetters upon their own power, which they cannot afterwards remove. If they could do this, they might tie their own hands for a hundred as well as for ten years. These are the fundamental principles of American freedom, and are recognized, I believe, in some form or other, by every State Constitution; and if Congress, in the act of admission, should think proper to recognize them, I can perceive no objection to such a course. This has been done emphatically in the Constitution of Kansas. It declares in the Bill of Rights, that "all political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit, and, therefore, they have at all times an inalienable and indefeasible right to alter, reform or abolish their form of government, in such manner as they may think proper." The great state of New York is at this moment governed under a Constitution framed in direct opposition to the mode prescribed by the previous Constitution. If, therefore, the provision changing the Kansas Constitution after the year 1864, could by possibility be construed into a prohibition to make such a change previous to that period, this prohibition would be wholly unavailing. The Legislature already elected, may at its very first session, submit the question to a vote of the people, whether they will or will not have a Convention to amend their Constitution, and adopt all necessary means for giving effect to the popular will.

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

On the other hand, should Congress reject the Constitution, under the idea of affording the disaffected in Kansas a third opportunity to prohibit slavery in a State which they might have done twice before if in the majority, no man can foretell the consequences. If Congress, for the sake of those men who refused to vote for delegates to the Convention, when they might have excluded slavery from the Constitution, and who afterwards refused to vote on the 21st of December; when they might, as they claim, have stricken slavery from the Constitution, should now reject a State, because slavery remains in the Constitution, it is manifest that the agitation on this dangerous subject will be renewed in a more alarming form than it has ever assumed.

Every patriot in the country had indulged the hope that the Kansas-Nebraska Act would put a final end to the slavery agitation, at least in Congress, which had, for more than twenty years, convulsed the country, and endangered the Union. This act involved great and fundamental principles; and, if fairly carried into effect, will settle the question.—Should the agitation be again revived; should the people of the sister States be again estranged from each other with more than their former bitterness, this will arise from a cause so far as the interest of Kansas is concerned, more trifling and insignificant than has ever stirred the elements of a great people into commotion. To the people of Kansas the only practical difference between admission or rejection depends simply upon the fact whether they can themselves more speedily change the present Constitution, if it does not accord with the will of the majority, or frame a second Constitution to be submitted to Congress hereafter. Even if this were a question of mere expediency, and not of right a small difference of time one way or the other, is of not the least importance, when contrasted with the evils which must necessarily result to the whole country from a revival of the slavery agitation. In considering this question, it should never be forgotten, that in proportion to its insignificance, let the decision be what it may, so far as it may affect the few thousand inhabitants of Kansas, who have from the beginning, resisted the Constitution and laws. For this very reason the rejection of the Constitution will be so much more the keenly felt by the people of the fourteen States of the Union whose slavery is recognized under the Constitution of the United States. A man, the speedy admission of Kansas into the Union would restore peace and quiet to the whole country. Already the affairs of the Territory have engrossed an undue proportion of public attention, and have sadly affected the friendly relations of the people of the States with each other, and aroused the fears of patriots for the safety of the Union. Kansas once admitted into the Union, the excitement becomes localized, and will soon die away for want of outside ailment.—Then every difficulty would be settled at the ballot-box; besides, and this is no trifling consideration, I shall then be enabled to withdraw the troops from Kansas and employ them on service much needed. They have been kept there on the earnest importunity of Gov. Walker, to maintain the existence of

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