

ADDRESS OF HON. BENJAMIN F. SIMPSON.

Hon. Benjamin F. Simpson, a member of the Wyandotte Constitutional Convention, and the first Attorney General of Kansas, was then introduced, and delivered the following address:

THE WYANDOTTE CONVENTION.

We are here at this silver wedding, not as historians, but as annalists. We paint pictures from recollection, rather than solve problems. The great problem to which many of those present gave their earliest and best efforts, has been solved ever since the 29th day of January, A. D. 1861—ever since Kansas was admitted into the sisterhood of States with a constitution forbidding slavery and involuntary servitude. The solution of that problem for Kansas was the "beginning of the end" of slavery throughout the Union. Let no man undertake to write the history of that great preliminary struggle for freedom unless he lived within the circle of the endeavor, or so near its circumference that he felt its momentum and caught its spirit. A stranger to it may wander along the banks and note the drift-wood that clings to the shore or is tossed about on its eddies; these but represent the bickerings of the leaders, or the timid souls who shrank in fright from the fury of the contest. To appreciate the depth of the tide of sublime sentiment that made Kansas free, he who records it must have waded to the center of the stream, felt the force of the current and the vigor of the undertow. Alphabetical tinkering, word-tinting and phraseological architecture, are but poor tributes to the earnest minds and willing hands that built on everlasting rocks a great State.

I remember the earlier part of the night of the 29th day of January, 1861, very distinctly. I was at the Eldridge House, in Lawrence, a member of the last Territorial Legislature, that was then holding its session in that dearly beloved Free-State city. There were from three to four inches of snow on the ground, (an unusual sight in Kansas in those days,) and the night was windy and cold. It must have been as late as 9 o'clock when D. R. Anthony, the same Anthony who is now President of our Historical Society, came into the hotel with sturdy stride and flashing eyes and told us that the President of the United States had that day signed and approved the bill admitting Kansas into the Union. He brought with him and scattered around extras issued by a newspaper published at Leavenworth, called the *Conservative*, announcing the joyful tidings in flaring headlines. The leading spirits in this newspaper were D. R. Anthony and D. W. Wilder. Just think of it, Web. Wilder and Dan. Anthony editing a conservative newspaper! It was the most impudent example of sarcastic misnomerature that ever was perpetrated. You might as well try to think of old John Brown of Osawatimie (God bless his memory!) as a Pro-Slavery Border Ruffian, as these two knights militant of the Free-State party as conservatives. There was a "sound of revelry" that night in Lawrence, for the news ran through the town like wild-fire. Houses were lighted, doors were thrown open, (and some were broken open,) the people gathered in public places. Old Sacramento was taken from his resting-place and emphasized with hoarse throat the good tidings; toasts were drank; songs were sung; speeches were made, and—well, the truth is that my recollection is not good after midnight. You must recollect that the main question then was admission, not prohibition.

The next day, however, a very curious question arose with the members of the Territorial Legislature as to whether the admission of the State had not taken the life of that body, and hence had destroyed its power to pass laws. The session, however, continued for some days, and many acts of a general nature were passed, and the validity of some of these laws was subsequently affirmed by a decision of the

Supreme Court of the State of Kansas; and as I see before me representatives of every branch of the State Government, I want to remind them of the logic of that decision, and it is this: that however often a mourning State may be bereft of its Executive and Judicial branches, the Legislative branch is immortal. It is well, perhaps, to add here, in justice to the absent members of the Wyandotte Constitutional Convention, that the present spasmodic session of the Legislature is not the fault of the members of that body, but is attributable to some of those carefully prepared and studiously worded amendments, that destroy the harmony and defeat the wisdom of original provisions. Another incident of that last Legislature must not be forgotten. Some of its members conceived the idea, that by the admission of the State while the Territorial Legislature was in session, that body became the first State Legislature, and had the right to elect United States Senators; and a resolution passed both houses to go into joint convention on the first day of February for that purpose. There was no election, however, because the friends of the various candidates became somewhat suspicious that the movement was intended as a slaughter-pen for fond hopes and bright ambitions, and when the time came there were no victims.

When we come to review the history and proceedings of the Wyandotte Constitutional Convention after it has been the subject of legal interpretation and supplementary legislation for twenty-five years, two important considerations first claim notice and comment, and these are the circumstances of its origin, and the class of men that composed it. How can I describe the five years of organized usurpation in the interests of slavery that hung over the Territory like a funeral pall? Organized bands from neighboring slave States raided through the Territory; they shot down unarmed men in cold blood; they burned and sacked towns; they burned the cabins of the first settlers; they committed the most outrageous and unblushing frauds on the ballot-box; they intimidated voters and drove them from the polls; they hunted Free-State leaders like bloodhounds; they imprisoned men for opinion's sake; they filled both branches of the Territorial Legislature with ruffians, who were residents of Missouri; and in all this were protected and encouraged by a National Administration as devoted to the propagation of slavery as were the vile instruments they employed to drive the Free-State settlers from the Territory. During these cruel years several attempts were made by the Free-State men to relieve their condition, and relief could only come by admission as a State, or a change of National Administration. The Topeka and the Leavenworth Constitutional Conventions were attempts in that direction, but the time for deliverance was not ripe; yet through all these cruel years, angels of hope sat upon the hearthstone of the Kansas cabins, singing:

"For Freedom's battle once begun,
Bequeathed by bleeding sire to son,
Though baffled oft, is ever won."

Time aided the persistence and patience of the Free-State settlers; immigration was coming in from the North; the Legislature and local offices were now controlled by the *bona fide* residents, and the friends of Kansas were about to control the lower house of Congress, and were gaining in the Senate. Encouraged by these good indications, the Legislature of 1859, on the 11th day of February, passed an act authorizing a vote of the people to be taken on the question of the formation of a Constitution and State Government. The vote was taken on the 28th day of March, and resulted four to one in its favor. An election for delegates was then ordered on the 4th day of June. At that election there were more than 14,000 votes cast. The convention met on the 5th day of July. It was bravely right that it should meet at Wyandotte, within sight and hearing of slave soil.

The personal composition of this body of men was peculiar, and it may be that it was this peculiarity that made their work a success. For causes that are unnecessary and unprofitable to here discuss, not a single one of the numerous and worthy men who were by common consent regarded as leaders in the Free-State movement, had a seat in the Convention. It was composed of that great middle class, who are the strength and wisdom of a political organization. It was a class of men who acted from conviction with a sense of their responsibilities, and not from any hope of their personal advancement. These members had more or less local prominence, or they would not have been selected as delegates, but not one of them, with the possible exception of Winchell, was possessed of that influence, standing and general acquaintance through the Territory that would entitle them to be considered in any sense as leaders. They were strangers to each other, and when they assembled in Wyandotte, on the 5th day of July, I personally knew but four of them, and many members were more unfortunate in that respect than I was. They had no personal ambition to gratify, no animosities to resent, no friends to favor. Their sole aim and object seemed to be (and in this connection I speak of them as individuals and as an organized body), to frame a fundamental law that embodied every safeguard to the citizen, that was abreast with the progressive sentiment of the Nation, in favor of human freedom and human rights, and was adapted to the wants and conditions of the people of Kansas. They worked conscientiously and with great industry, and completed their labors in twenty-one working days. Of course there were schemes and jobs and old claims and special provisions that were sought to be engrafted on that instrument, but there is not a paragraph or section of that Constitution within which lurked any suspicion of a scheme or job. That Convention was singularly free from political manipulation and figuring, as to State officers and other positions that were so soon to follow if the work was ratified by the people. On the 4th day of October it was ratified by the people. There were about 16,000 votes polled at the election, and more than two-thirds of them were for the Constitution. On the 6th day of December an election for State officers, a member of Congress and members of the Legislature was held. On the 14th day of February, 1860, it was presented to the Senate of the United States. On the 29th of February, Senator W. H. Seward made a strong speech in favor of the admission of the State. On the 29th day of March, Mr. Grow, of Pennsylvania, from the Committee on Territories in the House of Representatives, made a report recommending admission. On the 11th day of April the House voted to admit Kansas—one hundred and thirty-four for and seventy-three against. On the 7th day of May, Senator Wade, of Ohio, moved to take up the House bill admitting Kansas, but was beaten by a vote of twenty-six for and thirty-two against. On the 4th day of June Charles Sumner made a speech in favor of admission, after a silence of four years, caused by the brutal assault of Preston S. Brooks. After the discussion, Hunter, of Virginia, moved a postponement of the Kansas bill, and it carried by a vote of thirty-three for and twenty-seven against. On the 21st day of January, 1861, the bill for the admission of Kansas passed the Senate by a vote of thirty-six for and sixteen against. On the 29th, President Buchanan signed the bill, Kansas became a State, the struggle was over, the battle was won; and the good people of Kansas are to-day enjoying the fruits of the victory. I have on another occasion given personal sketches of the members of that Convention, but the subject is not exhausted. Columns might be written about Thacher, Kingman, Stinson, McDowell, Ingalls, Winchell, Blunt, and others. Two members of that Convention have represented the State in the United States Senate. John J. Ingalls is now serving, as senior Senator, his third term in that illustrious body. E. G. Ross, now Governor of New Mexico, served by appointment and election nearly five years as Senator. S. A.

Kingman was on the Supreme Bench of the State for many years, first as Associate and then as Chief Justice of that Court. S. O. Thacher, W. C. McDowell and John T. Burris have adorned the bench of the District Court in their respective judicial districts. Thacher has gradually grown in public estimation since his brilliant service in that Convention, until now he is a man of established national reputation, an honored citizen at home, a respected representative of his country abroad. The youthful Secretary of that Convention, whose years numbered only twenty-one, is now the Chief Magistrate of this marvelous Commonwealth. But the list is too long. I forbear, for your sake, further citation to the fact that the subsequent lives and services of the members of that body fully justify what I have claimed for them.

When we turn to the several articles and sections of that instrument that have been the subject of amendment, it will be found that most of the amendments thereof were not necessitated by the inherent defects of the instrument, but because of the rapidly changing condition of the State itself. The first amendment, adopted November, 1861, was that allowing banking institutions to issue circulating notes of the denomination of one dollar, the original section forbidding an issue of less than \$5 notes—an amendment that is practically useless now. The next amendment was made in November, 1864, and by it section 12 of article 2, that required that "All bills shall originate in the House of Representatives, and be subject to amendment or rejection by the Senate," was made to read, "Bills may originate in either house, but may be amended or rejected by either." And this was a decided practical improvement of the original text. Section 3 of article 5 was amended in November, 1864, the main object of the amendment being to confer on citizens who were serving in the volunteer army of the United States the right to vote, and authorizing the Legislature to make provision for taking the votes of the absent electors. Section 2 of that same article was amended in November, 1867, so as to withhold the right to vote or hold office from those who had been dishonorably discharged from the service of the United States; who had been found guilty of defrauding the Government; who had been guilty of giving or receiving a bribe, or offering to give or receive a bribe; who had borne arms voluntarily against the Government, or aided or abetted the attempt to overthrow the Government.

Section 4 of article 15 was adopted in November, 1868. This is a change from letting the public printing to the lowest responsible bidder to the establishment of the office of State Printer, who receives a stated compensation for the work done. This change is perhaps an improvement on the method devised by the convention, and its success may be fairly attributed to the three faithful old Kansans who have successively been elected to that office—S. S. Prouty, George W. Martin, and T. Dwight Thacher. It can be truly said of them and of their work as State Printers: "Well done, thou good and faithful servants." In November, 1873, came the amendment increasing the number of Senators to 40, and the Representatives to 125. At the November election, 1875, the amendment providing for biennial sessions of the Legislature, commencing with the session of 1877, was adopted. The next that followed was the amendment prohibiting the manufacture and sale of intoxicating liquors, except for specified purposes. This was the introduction of new matter into the composition of the State Government—the constitution as adopted and existing up to that time having made no reference to the "liquor traffic." This completes the amendments made to this time. I make no reference to those now pending, except to express the wish that they may be adopted. I claim for the members of that body, who framed a fundamental law which has governed a State for twenty-five years—years of marvelous growth and unexampled development—that time has demonstrated that they had a very fair conception of the wants, con-

ditions and necessities of the people for whom they acted; and, notwithstanding the wonderful increase in population and production, that instrument has accelerated rather than retarded the growth that has never been equaled on the American continent. There are to-day within the boundaries of Kansas, 1,400,000 people. Even the most enthusiastic citizen of Kansas would not, a quarter of a century ago, have ventured to predict such a result; and yet an ardent admirer, an enthusiastic but philosophical lover of Kansas, Horace Greeley, peace to his ashes, said at Osawatomie on the 18th day of May, 1859, "The child is now born on Kansas soil that will live to see this State the fifth in agricultural production in the Union." When the Federal census of 1880 was taken, only twenty-one years had elapsed since the date of that prophecy, and the State was nearer the sixth than the seventh in rank, in the amount of agricultural products, including live stock, to which its soil is adapted, and if we take those conventional thirty years which are loosely supposed to constitute the space of time covered by one generation, as the life of that child, we have only to await the census of 1890 to verify the prophecy. I doubt whether the men of to-day, any more than those of twenty-five years ago, have given a thought or entertain a conception of what a grand, glorious, and prosperous commonwealth is building up among them; how this influx of people, how this blending of blood, how this everyday intercourse between people of different nationalities, and different sections of our own widespread domain, how this exchange of ideas and methods, how all these things, animated and dominated by the Anglo-Saxon blood, are producing on the prairies of Kansas a race of people and a condition of government and society that will make the State the "chosen land" of the best type of American civilization; and will ever keep green and fresh the memory of the noble pioneers whose blood will bring "God-like fruition" to the hopes, aspirations and ultimate destiny of the glorious young Commonwealth.

ADDRESS OF CHIEF JUSTICE A. H. HORTON.

Hon. Albert H. Horton, Chief Justice of the Supreme Court, was then introduced, and delivered the following address:

THE JUDICIARY OF KANSAS:

It is quite usual for the newspapers, and, indeed, for very many people, especially when displeased with a decision of the Supreme Court, to designate its members as a set of "stupid owls;" or, if milder language is employed, they are denominated "old grandmothers." Oftentimes, when a district judge is mentioned in a case where his decision is contrary to popular feeling, he is referred to as "an old granny," having some legal learning, but utterly destitute of common sense and knowing nothing of justice. Frequently, when a member of the bar is defeated in the trial court, and upon appeal to the Supreme Court is unsuccessful, he adjourns to the nearest hotel or other convenient resort, and compliments the members of the court with a red-hot vocabulary of "cuss" words. Speaking more elegantly, he violates extravagantly the third commandment. Even our State judges are not the sole victims of ridicule and wrath, as the Federal judges are also subject, now and then, to language not wholly complimentary, and their decisions are often reversed by the first newspaper published after judgment has been announced.

I am called upon this afternoon to say something of the "old owls," the "grandmothers" and the "grannies" of the courts; about those who are often "cussed" and "discussed" by disgruntled editors, by defeated lawyers, as well as others, in anything but favorable terms. You will therefore perceive that my remarks cannot be very entertaining. Many have been appointed to address you on this occasion, upon more interesting topics. They should be better able to delight and gratify