VOLUME IV.
Transactions for 1883–84.
KANSAS STATE HISTORICAL SOCIETY.

NINTH ANNUAL MEETING.

RETIRING ADDRESS OF PRESIDENT BAKER.

The ninth annual meeting of the Kansas State Historical Society was held in the Senate Chamber, at Topeka, January 20th, 1885. Hon. Floyd P. Baker, President of the Society, opened the meeting by delivering the following address:

THE KANSAS LEGISLATURE IN 1862.

The second session of the Kansas State Legislature convened at Topeka, January 14, 1862. The Senate had a chamber at the southeast corner of Kansas avenue and Sixth street; the House had their hall at the place where the new Topeka (Crawford's) Opera House now stands; and the State officers had their apartments contiguous to and between the two chambers. The Capital City then had a population of about 800; the streets were without sidewalks and crossings, and the dwellings of the citizens were not surrounded by even the most primitive inclosures.

The First Ward of the city — North Topeka — was then a howling wilderness: The log cabin of A. J. Curtis, in the mass of timber, was conspicuous as being the main objective point of this present metropolis. The main outlying point then north of the Kaw river, was Indianola, which had aspirations of becoming a central point on the Kansas Pacific Railroad, when it should be built. That point will be preserved in Kansas history as the point near which is located the State Reform School. Later settlers of Kansas may imagine, if they cannot fully comprehend, the Topeka of some twenty years ago. The legislative bodies of this session were conspicuous for the number of men who since then have served in prominent capacities in the State and Nation, some of whom remain in the public service to this time. The following partial mention is made of a few members of each of the branches.

United States Senators.—John J. Ingalls, a Senator from Atchison, and successor to our Governor, John A. Martin, who was twelve years later chosen to succeed Senator Samuel C. Pomeroy, and was re-elected in 1879, and will be in 1885. Preston B. Plumb, one of the Representatives then from Breckinridge — now Lyon county — was elected Speaker of the House
in 1867. Fifteen years subsequent to that first legislative term of Mr. Plumb he succeeded Senator Harvey in the United States Senate. He was reëlected in 1888, and tradition has it that a candidacy for U. S. Senator was suggested to him during that second legislative session, 1862, as a possible successor of Senator Lane, who was then becoming so much of a military man that it was presumed that his Senatorial seat would become vacant, and that this suggestion to the Senator created a hope within him that never died out until the goal of his ambition was attained.

Governors.—Thomas Carney, of Leavenworth, a member of the House, was elected Governor in November, 1862; and on February 9, 1864, while Governor, was elected to the United States Senate to succeed Senator Lane, he having received 68 votes. Thirty members of the joint convention of both houses refused to vote for Senator, claiming that there was no vacancy to fill. Gov. Carney sent a letter to the Republican State Convention of April 21, which selected delegates to the National Nominating Convention at Baltimore, in which he resigned all claims to the office of United States Senator. This gave Senator Lane an almost clear field in January, 1865. Thomas A. Osborn, Senator from Doniphan county, was elected Lieutenant Governor in 1862, over Senator Ingalls, who ran on another ticket with Wm. R. Wagstaff, of Miami county; (who was a member of the House of 1862,) for Governor. Mr. Wagstaff is now judge of the Tenth Judicial District.

On April 20, 1864, Mr. Osborn was appointed United States Marshal, and in 1872 was elected Governor, and reëlected in 1874. Governor Osborn was a candidate for the United States Senate in January, 1877, and reached his highest vote, 44, on the tenth joint ballot. He was appointed by President Hayes, Minister to Chili, and he is now Minister to Brazil.

Lieutenant Governors.—James McGrew, a member of the House, was elected Lieutenant Governor in 1864, following Governor Osborn in the office. Charles V. Eskridge, a Representative from Lyon county was elected in 1868. Peter P. Elder, a Senator from Franklin county, was elected in 1870; and in 1877 was elected Speaker of the House.

State Treasurers.—William Spriggs, Senator from Anderson county, was elected State Treasurer in 1862, and reëlected in 1864. Martin Anderson, Representative from Jackson county, was elected in 1866. Samuel Lappin, Senator from Nemaha county, was elected in 1874.

State Auditor.—A. Thoman, Representative from Douglas county, was elected Auditor of State in 1868 and in 1870.

State Superintendent of Public Instruction.—Isaac T. Goodnow, of Riley county, a Representative, was elected State Superintendent of Public Instruction in 1862, and reëlected in 1864.

Associate Justice of the Supreme Court.—Daniel M. Valentine, then of Franklin county, a member of the House, was in 1862 elected to the State Senate, and in 1868 he was elected Associate Justice of the Supreme Court, and has since been elected to the office in 1874 and in 1880.
Members of Congress.—Sidney Clarke, of Douglas, securing a seat in the House on a contest with George W. Smith, was elected a member of Congress in 1864, 1866, and 1868; and was Speaker of the Kansas House of Representatives in 1879. Robert S. Stevens, Senator from Douglas, is now a member of Congress from western New York.

 Speakers of the House.—M. S. Adams, of Leavenworth, was Speaker of the House in 1862 and 1869; Preston B. Plumb, in 1867; George W. Smith, in 1868; Sidney Clarke, in 1879; S. N. Wood, Senator from Chase, was Speaker in 1877.

 Journalists.—F. P. Baker, Representative from Nemaha county; Sol. Miller, from Doniphan; John J. Ingalls, Senator from Atchison; P. B. Plumb and C. V. Eskridge, of Lyon; and S. N. Wood, of Chase, might be named in the list from that Legislature, who have had more or less to do with journalism.

 Miscellaneous.—Among the Senators and Representatives not otherwise mentioned, who have been somewhat conspicuous, were Edward Russell, of Doniphan; Thomas Murphy and R. A. Van Winkle, of Atchison; W. B. Barnett, of Brown; H. B. Denman, E. McRillius, and James A. McGonigle, of Leavenworth; Edward Lynde, Azel Spaulding, and Paul E. Havens, of Jefferson; Golden Silvers, of Jackson; O. J. Grover and Welcome Wells, of Pottawatomie; Davies Wilson, of Riley; A. C. Pierce, of Davis; J. M. Hubbard and J. B. Ingersoll, of Wabaunsee; H. W. Martin and Charles H. Welsh, of Shawnee; O. H. Sheldon, of Osage; C. Columbia, of Morris; M. R. Leonard, of Chase; P. B. Maxson and E. P. Bancroft, of Lyon; F. W. Potter, of Coffey; George A. Reynolds, of Bourbon; J. A. Broadhead, of Linn; Henderson Rice, of Miami; W. H. M. Fishback, Charles G. Keeler, and Wm. M. Shean, of Johnson—the last named now a Senator from the same county; O. B. Gunn, of Wyandotte; Robbert Morrow and D. T. Mitchell, of Douglas; Benjamin F. Van Horn, of Woodson, now residing in Shawnee county. There is scarcely a name to be omitted, in fact, from this Legislature. For a State as young as Kansas, the House of 1862 contained a good list of active and practical business men, who readily became accustomed to legislative workings.

War and Other State Bonds of Kansas.

On the 6th day of the session, Mr. Baker, then of Nemaha county, offered a resolution, which was adopted, and from which has grown out much very important and interesting Kansas history. It was as follows:

"Resolved, That the Governor of the State be requested to communicate to this House any information in his possession, relating to the sale of the $20,000 war bonds, authorized to be issued by the act of May 7, 1851; and also in relation to the sale of $150,000 of bonds authorized to be issued under the law passed May 3, 1861, setting forth—first, by whom sold; second, when sold; third, to whom sold; fourth, at what price sold."

On the 30th of January the House received a message from the Governor, which submitted an answer to the House resolution above referred to, from
Auditor Hillyer, signed also by Secretary Robinson, which stated that a contract had been entered into with Robert S. Stevens, as State agent, the terms of which were that "he should receive all that he could obtain over sixty cents on the dollar," and this notwithstanding there was a limitation at seventy cents, by the enactment providing for the sale of certain specified bonds. From the sale of $87,200 of bonds there had been paid into the State treasury $30,000 in cash, and something over $20,000 was on deposit in New York, to be paid into the State treasury as called for.

On the same day, Mr. Anderson, of Jackson, offered a resolution, (and which, as amended by Mr. Thoman, of Douglas, was adopted,) which provided for the appointment of a special committee of five to examine and investigate the accounts of the Auditor and Treasurer of State, and to ascertain all the facts connected with the sale of the bonds of the State of Kansas; the disposition of the proceeds thereof; what amount of scrip there had been issued; what amount bonded; what amount redeemed; whether or not State officers had been speculating in the indebtedness of the State of Kansas; and by what authority the Treasurer of State received $12,400 for $91,000 of war bonds, when the law authorized only the issue of $20,000 of bonds for war purposes. The committee appointed under this resolution consisted of Messrs. Anderson, Carney, Sidney Clarke, Hartley, and H. L. Jones; and on February 13 they submitted quite a voluminous report, and unanimously reported the following resolution, recommending its adoption:

"Resolved, That Charles Robinson, Governor, John W. Robinson, Secretary of State, and George S. Hillyer, Auditor of the State of Kansas, be and they are hereby impeached of high misdemeanors in office."

On the following day the above resolution was adopted by a vote of 65 yea's to 0 nays. Under a resolution for that object, Speaker Adams appointed P. B. Plumb, Azel Spaulding, F. W. Potter, W. R. Wagstaff and Davies Wilson a committee, empowered to conduct the impeachment cases before the Senate. This action was supplemented by the appointment of a committee of three, consisting of Sidney Clarke, W. H. M. Fishback, and John McCarthy, to notify the Senate of the action of the House. This committee of three reported that they had performed the duty assigned to them on the same day, by appearing at the bar of the Senate, and by reading to the Senate, and by delivering to the Secretary thereof, a formal notice and demand, as in such cases made and provided.

REPORTING ARTICLES OF IMPEACHMENT.

On February 20, Mr. Plumb, from the committee of managers of the impeachment of C. Robinson, Governor, and the others, reported eight articles of impeachment of John W. Robinson, Secretary of State; and the House, resolving itself into committee of the whole on the articles of impeachment, recommended their adoption without division, and the report of the committee of the whole was agreed to.
On February 26, Mr. Plumb from the same committee, reported seven articles of impeachment of George S. Hillyer, Auditor of State, and five articles of impeachment of Charles Robinson, Governor. Those against Auditor Hillyer were adopted without division; those against Governor Robinson by a vote of 53 to 7.

THE INTENSE INTEREST ATTENDING AND WAITING THE VOTE.

On the afternoon session of this day, as the House was called to order at two o'clock, after the roll call, the body went into committee of the whole on bills Nos. 164, 179 and 245; Mr. Dickinson, of Wyandotte, in the chair. After some time spent therein, the committee arose, and through its chairman reported back the bills, with progress thereon, and asked leave to sit again, which was agreed to. Then came a message from the Senate, and then—then, with the great surging mass of humanity, which had located itself within the chamber to witness the action of the House, the impeachment cases came up. It is hard, at this time, to conceive the intense interest manifested on that occasion. The very air seemed charged with angry feelings against the Governor, Secretary, and Auditor. The Lane and anti-Lane feeling was intense. Kansans, especially those around the capital here since that time, have often thought that there is great excitement over Senatorial elections and nominating State conventions in these days; but those who were in the city at that time will agree with me that nothing has ever exceeded, in fact not equaled, the feelings on that occasion. It required greater courage to vote "no" on the question of the impeachment of Gov. Robinson, in the face of the crowd in that old hall, situated in what was then called the Gale block, than it did to face an army in battle array. I recollect telling my wife in the morning that I should vote "no" on the impeachment of the Governor, and after being seated in the hall that afternoon she sent me a note by a page, saying, "Don't vote 'no; it will kill you." She had imbibed the magnetism of the crowd, and felt as many did, that to vote against the impeachment of Charles Robinson was one of the unpardonable sins. When the roll call was commenced, the silence was almost painful.

The first name called was Martin Anderson, of Jackson county, who voted aye; the next was that of F. P. Baker, of Nemaha, who voted no. Then came the names of Black, Brown, Carney, Church and Sidney Clarke, ayes; followed by W. W. Dickinson, of Wyandotte, the ninth on the roll, no; next, Eskridge, Fishback, Foster, O. J. Grover, Grube, Hartley, Havens, Hersey and Huber, ayes; followed by J. B. Ingersoll, of Wabaunsee, the nineteenth on the roll, no; then Jewell, J. L. Jones, W. T. Jones, Johnson, Karr, Leard, Leonard, Lowrey and Macy, ayes; followed by Jacob A. Marcel, of Franklin, the twenty-ninth on the roll, no; then came the names of Marshall, Martin, Maxson, Macauley, McCarthy, McClure and James McGrew, ayes; followed by Sol. Miller, of Denison, the thirty-seventh on the roll, no; then came D. T. Mitchell, aye; followed by Thomas Murphy, the
thirty-ninth on the roll, no; then the roll call gave Patterson, Pierce, Plumb, Potter and Rice, ayes; followed by Edward Russell, of Doniphan, the forty-fifth and last name on the roll; closing with Sabin, Shean, Silvers, Spaulding, Starms, Steele, Thomman, Valentine, Van Horn, Van Winkle, Wagstaff, Welsh, Williams and Wilson, ayes.

Seven only of the members of the House voted no. Of those, W. W. Dickinson, J. B. Ingersoll, J. A. Marcell and Thos. Murphy, are, I think, dead. Hon. Ed. Russell, one of the seven, is an honored resident of Lawrence. Hon. Sol. Miller is now serving his constituents as Senator, as he has a number of times; and your speaker is the third of those now living.

The Senate convened as a court of impeachment on June 2, and adjourned to June 16; Samuel A. Stinson, Attorney General, Azel Spaulding, W. R. Wagstaff and Davies Wilson appearing for the prosecution, and Wilson Shannon, Frederick P. Stanton and N. P. Case, attorneys for the defense. The Senate, as a jury, by a vote of 17 to 4, found Secretary Robinson and Auditor Hillyer guilty on the first article of impeachment, and voted by 18 to 3 to remove Secretary Robinson from office; and by 18 to 2, to remove Auditor Hillyer. Governor Robinson was acquitted; and President pro tem. of the Senate, Senator Osborn, thus stated the case:

"On the first article, two gentlemen have pronounced Guilty, and nineteen Not guilty; on the second article, there is a unanimous vote of Not guilty; on the third and fourth, the same; on the fifth article, one has said Guilty and twenty Not guilty; hence it appears that there is not a constitutional majority of votes finding Charles Robinson guilty on any one article. It therefore becomes my duty to declare that Charles Robinson stands acquitted of all the articles exhibited by the House of Representatives against him."

If "time at last makes all things even," the seven members who months before voted no on the articles of impeachment preferred against Governor Robinson were most amply vindicated.

It has been sometimes asked why the State Treasurer went scot free, while three other State officers were impeached by the House of Representatives. The following resolutions were introduced in the House on March 1:

"Whereas, It appears from the testimony taken by the House Investigating Committee, that the official conduct of H. R. Dutton, acting as the Treasurer of the State of Kansas, in the issue and sale of bonds of the State of Kansas, issued under the provisions of 'An act to authorize the State of Kansas to borrow money to repel invasion, suppress insurrection and to defend the State in time of war,' approved May 7, 1861, is sufficient to warrant, the finding of articles of impeachment: therefore, be it

"Resolved, That such Investigating Committee be instructed to report at an early day, to this House, resolutions of impeachment against H. R. Dutton, as appears from the testimony herein referred to."

On March 3 the resolution was called up, but by the action of the House it was laid on the table.

I think I can solve the question why this action was taken by the House. In those days, there was a "Northern Tier" interest, as well as other sectional ones. The State Treasurer was a resident of Hiawatha, Brown county.
The members from the Northern Tier did not believe he was guilty. Thinking there had been enough "impeached" for one session, they agreed among themselves (it being the last day of the session) that they would talk about him till the session closed, if it was necessary to defeat the resolution. This got noise about, and it was concluded by the House that the resolutions better be tabled rather than to have Sol. Miller, Ed. Russell and myself talk three or four hours. The idea of that infraction was too much for the members. I think Sol. Miller will bear me out in this statement.

The whole history of the negotiation of the State bonds through R. S. Stevens at the instance of Secretary Robinson and Auditor Hillyer, at a price below seventy cents to the dollar to the State, was of that nature, however much of it may have been revealed, that naught but censure could attach to this especial part of the action of these men; and whether the Representative and Senators in Congress and others may with them justly bear a share of the animadversion bestowed upon these two State officers, will undoubtedly ever remain a mooted question in Kansas history.

Kansas, in 1862, stood in the front rank in the attempt to impeach four of its prominent State officers, and that at the hands of the party who had promoted them.

It would not appear that there were always purely reciprocal relations between the Legislative and Executive Departments of the State; for the House, in adopting a series of resolutions bearing upon the presumption that Lieutenant Governor Root had been appointed, commissioned and sworn in as a surgeon in the Ninth Regiment of Kansas Volunteers, in the service of the United States, and upon the fact that Governor Robinson had appointed State officers and Senators to positions in the army, received an indignant response from the Lieutenant Governor, in which he said he should peacefully continue to discharge the duties devolving upon him under his oath to support the constitution and the laws. The Governor curtly communicated as follows:

"GENTLEMEN: I have the honor to acknowledge the receipt of House resolutions passed March 8, relative to the duties of the Governor of the State. By the Constitution, the Legislative and Executive Departments are coordinate branches of the Government, neither responsible to the other, but both accountable to their constituents. The House undoubtedly will discharge its duty in accordance with its views of the Constitution, and the Executive will endeavor to do likewise."

COMPILED OF THE LAWS OF KANSAS.

Of all the valuable work performed by the Kansas Legislature of 1862, none was relatively more important to the people of the State than the labor that resulted in the Compiled Laws of 1862. The labor was of a kind to require remarkable diligence, patience, fidelity, and celerity. Its initial work was in the following resolution, offered by Mr. Baker, of Nemaha, on January 27:

"Resolved, That the Speaker appoint a committee of two, whose duty it shall be— in connection with one member of the Senate, to be appointed by that body—to exam-
ine the general laws of the State, and ascertain what laws are in force at this time, and what laws have become obsolete or repealed by implication. It shall also be their duty to prepare and present to this House an act for the repeal, in fact, of all laws that have been repealed by implication, and all laws that have become obsolete, and prepare for publication in one volume, all of the laws that will be in force at the close of the present session."

The committee was appointed, consisting of Messrs. Baker of Nemaha and Wilson of Riley, of the House, and Senator S. E. Hoffman, of Woodson; and on February 23rd the following report from this committee was submitted:

"The committee appointed to compile the laws of the State have performed that duty, and beg leave to report the bill herewith submitted, entitled 'An act relating to the publication and distribution of the laws in force at the close of the present session of the Legislature.' Owing to the want of time, the committee have not been able to give the work that care and attention which it should have had, in consequence of which, the bill will not be free from errors. It would indeed be difficult, in the time allowed us to perform this work, to select from the mass of legislation now upon our statute books, all the laws and parts of laws in force, and omit all which have been repealed, suspended, and become obsolete, without fault or mistake; but we hope that members of the Legislature will generally unite in making the bill as perfect as possible before its final passage. The obstacles encountered in compiling the laws have arisen principally from an inaccurate system of legislation, hereofore indulged in by our law-makers; laws incomplete in themselves are passed upon particular subjects, containing many provisions which are already the subjects of statutory enactments contained in the exact words of former laws, and again differing slightly from them, yet often presenting entirely new features. These laws almost invariably contain a clause or section that all acts inconsistent with this act are hereby repealed, rendering it exceedingly doubtful what is affected by the repealing clause. We have inserted all laws about which we have any doubt, preferring that the error, if there was any, should be on the safe side."

I remember very well when the resolution providing for the appointment of the committee was adopted, that P. B. Plumb said to me, "Well, Baker, you have got yourself fixed for an all-summer's job, for of course you don't expect to commence the work till after the adjournment of the Legislature." I replied, "The work will be completed and the committee ready to report before the session closes or not at all."

Very much of the credit of the compilation is due to Davies Wilson, then a member for what is now Davis county, residing at Ogden, at present a resident of Cincinnati, Ohio. The report of the committee was acted upon in committee of the whole the night before the adjournment, it having been made the special order for that time. The chairman stood for three hours reading the report, making motions to amend, strike out, &c., &c., and receiving the paper balls which were hurled at him. Every motion he made was carried with a whoop, and he might have inserted an appropriation to himself for any amount, without its being discovered.

I do not remember to have ever heard a complaint about that compilation, and although it may seem egotistical, allow me to say that I have always felt prouder of that work than anything of a similar nature I ever did. Hon. F. G. Adams, the Secretary of this Society, was selected to index the volume; and how well his work was done the lawyers of the State know.
I must in this connection refer to one other matter which occurred during that session. Sometime during the winter I introduced a resolution directing the Judiciary Committee to inquire into and report upon the expediency of passing an act to do away with the calling of a grand jury, and moved that it be made a special order for a given day. I did not expect it would pass, but I desired to start the agitation of the subject. The lawyers on the floor ridiculed me, and said I would remove the very groundwork of the institutions of the country and do away with one of the great bulwarks of liberty. I do not remember the exact number of members who voted for my resolution, but it was small. It however proved to be the entering wedge which entered in at last, partially doing away with that great wrong which, however much good it had done in its time, had become a burden to the people. Col. Wood took the matter up in after years, after it had been discussed thoroughly in the papers, and got the law through, which after some amendments in latter years is now in force.

But one thing more is necessary, and that is to amend the law as to make it impossible to ever have a grand jury called in this State. Whenever one has been called, during the last ten or fifteen years, the result has been a heavy bill of expenses for the people to pay, and with but little practical good accomplished.

CONCLUSION.

I admit, for it would be useless to deny, that this "retiring address" has been rambling, and that it adds nothing to the history of the State. Yet I have thought such reminiscences might sometimes reach and interest people who have not time to pore over old books in the library of the State Historical Society. My only excuse for this hasty and imperfect sketch, is the pressure of business and of my official duties, which for the past thirty days have been very great.

I thank you, gentlemen, for the attention you have given me, and the Society which made me its President two years ago, and from which, in a few minutes, I shall retire.

ANNUAL ADDRESS.

At the close of the retiring address of President Baker, Hon. M. W. Reynolds, of Lawrence, delivered the annual address before the Society on the subject of "Railroads;" the address being a sketch of the history of railroad building in Kansas, and especially of that of the two competing lines, the Fort Scott & Gulf, and the Missouri, Kansas & Texas roads.*

*At the annual meeting, January 17th, 1882, Dr. Richard Cordley, of Emporia, delivered the annual address on the subject of "The Convention Epoch in Kansas History."

At the annual meeting held January 15, 1884, Hon. James S. Emery, of Lawrence, delivered the annual address on the subject of "Revaluations in History," the address being a review of the events in the career of Captain John Brown in Kansas.

OTHER FORMER PROCEEDINGS.—At the annual meeting, January 15, 1884, by amendment to the constitution, the number of members of the Board of Directors of the Society was increased from thirty-six to forty-eight. At the same meeting, the Executive Committee was appointed for the year as follows: Geo. Geo. W. Glick, Col. Cyrus K. Holliday, Hon. James Smith, Hon. T. Dwight Thacher, and Hon. P. P. Baker.

At this meeting the following were elected as life members of the Society, they having paid into the treasury of the Society the life-membership fee of twenty dollars each: (Col.) Cyrus K. Holliday, of Topeka, Col. D. R. Anthony, of Leavenworth, and Hon. Solon O. Thacher, of Lawrence.