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The FIRST CAPITAL *of* KANSAS

Written by Henry Shindler for the Leavenworth Times and reproduced in Volume XII of Collections of the Kansas Historical Society, 1911-12, with notes added by the Secretary.

RESPONDING to a request of the Kansas legislature, the Secretary of War in 1910, issued to the Historical Society of the State a revocable license "to take possession of the old station building which was the first capitol, at Pawnee," on the Fort Riley military reservation.

Since taking such possession, the Society has caused to be placed upon the walls of the ruins, that those who pass on the "Overland Flyer" may read this legend: "The First Capitol of Kansas."¹

Upon what foundation is based this claim for old Pawnee, which the sign implies, has long been a mystery to those who have been studying Kansas history, as furnished in interesting doses by the Society. How, by any stretch of imagination, such a conclusion can be reached, is beyond the ken of the writer. As a matter of fact an assembling of all the evidence shows that Pawnee has no right to a standing in the column of "territorial capitals." It is here asserted that if any distinction attaches to having been the first territorial seat of government, it belongs to Fort

¹ The legislature of 1901 petitioned Congress to donate to the state of Kansas an acre of ground from the Fort Riley reserve, on which was located the building in which the first legislature met, July, 1855. This failed but resulted in a revocable license from the Secretary of War, giving the State Historical Society of Kansas authority to take possession of the ruins of the old capitol. The interest at that time was caused by Col. Samuel F. Woolard, of Wichita, and other mil-

Leavenworth. The writer has no desire to shatter any Kansas idols, but if what follows so results those who have been setting up false gods to worship should be held responsible.

Now, as to facts. By the organic act (May 30, 1854) under which the territory of Kansas was organized, Congress made the express direction that

“the seat of government shall be temporarily located at Fort Leavenworth, and the executive and legislative assembly are authorized to use the public buildings there which can be spared by the military authorities.”

In the absence of any legislative or executive power within this new territory, Congress was the only authority which could fix “a temporary seat of government” therein, and Fort Leavenworth was so designated.

In August of the same year Congress appropriated \$25,000 for public buildings in Kansas, to be paid in event that the Secretary of War should decide it to be inconsistent with the interests of the military ser-

itia officers, who were holding annual encampments on the old town site of Pawnee immediately facing the building. In October, 1907, Colonel Woolard raised \$500 to restore the walls of the building. A bill passed Congress about this time donating to the state the acre referred to, but in the meantime the question of policing the ceded territory caused the State Historical Society to lose interest in the movement. And so, after consultation with the then commanding officer it was concluded that if the bill was not mandatory no action would be taken. Therefore, the title still remains with the federal government. The state legislature never would furnish a policeman to guard the place, and the military having no authority, it would become a great nuisance. However, the money having been raised, the walls of the building were reinforced by a bountiful supply of cement, a few stones restored, and some iron rods put in, making it sound for years to come. The first attempt at a Kansas legislature was held in the building July 2, 3, 4, 5, 6, 1855, hence its claim as a capitol.

vice to permit the use of the public buildings at the post. Hon. Jefferson Davis, then Secretary of War, was opposed to making a military post a political mecca. He told Congress that

“all of the buildings at the post were needed for military purposes, but that the location of a seat of government, even temporarily, within the lines of a military reservation, where military law must prevail, would be inconvenient, if not injurious to the public service.”

Congress permitted its direction to stand. The President appointed Andrew J. Reeder, of Pennsylvania, governor of the territory. Reeder arrived at Fort Leavenworth on October 4, 1854. He established the executive offices of the territory in a building the military authorities provided. This building stood at the northeast corner of the garrison, a one-story building, L shape, built entirely of stone.² It was torn down in 1893, to make place for the magnificent edifice

² Captain Henry Kuhn, a surveyor, came to Fort Leavenworth in 1854. He resided there for sixteen years, and knew every inch of ground in the post and on the reservation. In responding to a request of the secretary of the Kansas Historical Society for information on this subject, he wrote under date of May 2, 1886: “The old one-story building, L-shaped, where Reeder had his office, is on the north-east corner of the plaza (Sumner place) immediately south of the prison building, a street 100 feet wide intervening. In the triangle formed by two wings, was a stone monument, about three feet high, on which was an old fashioned sun-dial. The sun-dial was placed there by Lieutenant Sims, of the Ordnance Department, and was distinguished from present day sundials in that it would only give the shadow for the noon hour.

In a letter from Gen. J. A. Halderman, dated April 8, 1896, the following description of the governor's office at Fort Leavenworth is given: “The furniture consisted of a few chairs, writing table, boxes of books covered with newspapers for seating visitors, a letter press, stove and other crude contrivances of comfort.”

now adorning the spot, known as "Pope Hall." For his residence the governor had assigned him some rooms in a stone building near the executive departments, known in the post as the "Rookery," the oldest building now standing on the reservation. The interior was recently remodeled at considerable expense.

The above, while it establishes the claim that Fort Leavenworth was the "first capital of the territory," it is not all the evidence on the subject.

Finding the accommodations for the executive departments of the territory too limited, the governor decided to remove them from Fort Leavenworth to the Shawnee Mission Manual Labor School, and this he did on November 21, 1854, on which day the post ceased to be the capital of the territory, so far as the governor was concerned. Whether this removal was by authority is not known. At any rate, it was not done by any act of Congress and under the law Fort Leavenworth continued to be the legally designated capital, until the territorial legislature convened and designated some other locality.

At the next session, Congress, heeding the commendation of Secretary Davis, made an additional appropriation of \$25,000, coupled with the following proviso:

"That said money, or any part thereof, or any portion of the money heretofore appropriated for this purpose, shall not be expended until the legislature of said territory shall have fixed by law the permanent seat of government."

The governor, long in advance of his arrival in the territory, was preceded by an army of would-be office holders and land speculators from his native state. These at once set to work to obtain a "view" of the promised land and select a site for a new town

for a commercial center and the capital of the territory. The Kaw river having been found navigable to its source, formed by the junction of the Smoky Hill and Republican rivers that point, being considered the geographical center of the United States as well as the territory, was deemed suitable and a decision reached to locate the town there, to be called Pawnee. However, as the lands desired were within the Fort Riley military reservation, nothing could be done unless the Fort Riley military authorities consented to exclude the land wanted. That they so consented is shown by the following extract from a communication to the town promoters written by Major W. R. Montgomery, Second Infantry, the commanding officer of Fort Riley, who said it

“gave him pleasure of assuring them as to the propriety and necessity for such a mart to supply the present and prospective commercial wants of the citizen community, now rapidly locating in this vicinity, and in view of the fact that the point designated below One Mile creek is unessential to the requirements of this command, and decidedly the most eligible for the purpose specified, I cheerfully consent to exclude it from the reserve about being surveyed and definitely fixed for the use of this post.”

The field was now clear for action. On September 27, one week following the receipt of Major Montgomery's communication, the Pawnee Townsite Association was organized. It consisted of fourteen army officers and several territorial officials, including Governor Reeder. Among the army officers were Major Montgomery,³ Dr. W. A. Hammond, later Sur-

³ Major Montgomery was president of the Pawnee Town Site Association and Doctor Hammond, secretary. This Society has among its manuscripts certificates of shares in the association signed by them.

geon General of the Army, Captain Nathaniel Lyon, Second Infantry, the hero of Wilson's Creek, and Major E. A. Ogden, quartermaster. The shares of stock, or rather the number of acres those named members of the association were to receive, follows. Governor Reeder, eighty acres, Dr. Hammond, forty and one, Robert Wilson, a territory official, eighty, while Montgomery was to share with Hammond and Wilson jointly.

The purpose of making the town of Pawnee the capital of the territory was kept a profound secret among the Pawnee boomers. They believed that their scheme could not be carried out if others were taken in, thus concluding that a secret policy would win. That these Pennsylvanians were not up in the game of securing political plunder will be shown further on. In a note to Secretary Martin of the Historical Society in 1903, General John A. Halderman, Reeder's private secretary, concerning the Pawnee town site said:

"Governor Reeder, shortly after his arrival at Fort Leavenworth, in 1854, made a trip into the interior, and was reported to have spoken words of commendation at sundry places and times to the effect, 'this would be a magnificent site for the capitol building,' etc. I remember that old Squire Dyer, at the 'crossing of the Blue' had hopes for this place. So they did at Tecumseh, Lawrence Leavenworth, and other places. Council Grove was a beautiful site, and there was no reason why it should be without hope. My frequent questionings, 'Where will go the capital?' were answered in pleasant evasion. Later in confidence, the governor advised me to buy in Pawnee. This I did, purchasing from him 100 shares. I know he intended to befriend me, though the purchase ended in a total loss. From that day I felt sure that Pawnee would be selected, though the public was not advised until a later date."

Following the completion of the census in February, 1885, the governor convoked the legislature to meet at Pawnee on July 2, following, and with this proclamation came the first official announcement that the governor had selected the Pawnee townsite for the capital, subject, of course, to the action of the new legislature. That the governor was "interested" in Pawnee and determined to force the legislature to do his bidding, is evident.

Preparations for the holding of the legislative session at Pawnee were rushed along, the principal need being a hall in which to meet, and hotel accommodations. For the first named object the building now designated as "the First Capitol of Kansas" was erected. On this subject Secretary Martin of the Kansas Historical Society, in his very excellent paper on "The Territorial and Military Combine at Fort Riley" says:

"It was two stories, and the council met on one floor and the house on the other. The officers sat at the end of the building next to the fort and the large hole, still there, left open through which to handle material, and not caused by a cannon ball, was closed during the session by a canvas."

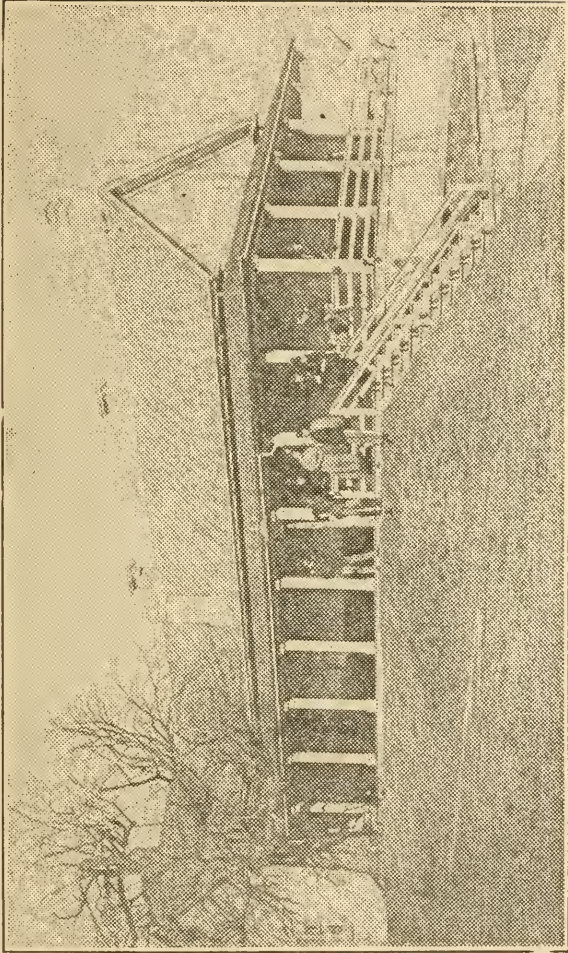
The legislature met on the day designated by the governor in his proclamation. Once organized it promptly enacted into law a measure providing for the transfer of the "temporary seat of government" to the Mission, and, though vetoed by the governor, was passed over his head. It then adjourned to meet at the Mission, July 16, and thus ended the effort to make Pawnee the capital of the territory and rent asunder "the Territorial and Military Combine at Fort Riley."

After the legislature re-convened at the Mission it enacted several laws which Reeder also vetoed, on

the ground that the legislature was "not doing business at the seat of government." This body then memorialized the President to remove the governor, and in answer to the point raised by him in his veto the memorial says:

"One point is, Fort Leavenworth is the seat of government, made so by the organic act; that a law passed anywhere else than at the seat of government would be illegal. That he had the right to call the legislature to meet at a point not the seat of government, (that is, Pawnee), and that laws enacted there (though not the seat of government) would be legal, thereby destroying the preceding proposition. That we could have passed an act at Pawnee, though not the seat of government, and by an illegal adjournment, because passed at a point not the seat of government, have met such a permanent seat of government, and there have made legal and binding statutes; or by the same illegal process, have adjourned to Fort Leavenworth the seat of government, and there have made legal and binding statutes. * * * If he believes that Fort Leavenworth is the seat of government, and that laws passed anywhere else than at that point would be illegal and void, then to call us to Pawnee to legislate is a willful, deliberate and base attempt to render all our acts of whatever character, wholly illegal and void; because, by his own showing, Pawnee is not the seat of government, and acts passed anywhere else than at the seat of government are of necessity void, and for which he should be removed."

The supreme court of the territory sustained the position of the legislature. It held, that after being called into existence, through executive action, authorized under the organic act, which gave life to the territory of Kansas, it became the supreme au-



BUILDING AT FORT LEAVENWORTH USED FOR FIRST TERRITORIAL CAPITOL

thority within the territory and not open to challenge on the score stated.

At any rate Governor Reeder was removed from office as a result of his speculations in Indian lands, etc., Major Montgomery, as soon as his conduct was disclosed, was tried at Fort Leavenworth, in July of the same year, convicted and dismissed. Of this court General Mansfield was president and Robert E. Lee and Albert Sidney Johnston members.

In passing upon the case Secretary Davis said:

“The Department cannot pass without notice the conduct of the other officers of the army who engaged in the Pawnee Association to establish a town upon the military reserve at Fort Riley. If they had no official responsibility in the case, they have much to reproach themselves for in influencing the commanding officer to take the step which has involved him in such difficulties.”

In view of this showing the writer hopes the Kansas Historical Society will disclaim any further distinction for the Pawnee capitol ruins, ask to be relieved from their further care, and request the Secretary of War to recall the license issued, so as to permit the department to destroy the last vestige of this pile of stone, that no more memory may be had of a transaction so discreditable to all concerned.

The Society, if it wishes to mark the spots where have stood historic buildings, just as it is aiding in marking the old Santa Fe trail, should come to Fort Leavenworth and there erect a tablet on the spot where stood Kansas' First Capitol, and place one upon the building occupied as the governor's first mansion in the territory. Such work would be worth while, because it would be real history.

On August 5, 1855, the Shawnee Mission legislature, in joint session, located the permanent capital at Lecompton. Fixing the permanency of the capital

enabled the territory to obtain the \$50,000 Congress had appropriated for a capitol building. This sum should have been sufficient had it been properly expended. As it was, the walls of the building had only advanced a few feet above the foundation when the appropriation was exhausted. To have completed the building upon the scale planned would have cost \$200,000 to \$300,000.

Governor Geary, who in the meantime had come upon the field, was not long in discovering that the money was being squandered for salaried inspectors and superintendents, and so used the executive ax with good purpose. In discharging some of the officials Geary wrote to one of them: "As your services as superintendent of the capitol building are no longer required, you are hereby notified that your appointment is revoked from this day."

In the meantime several influential members of the legislature secured large interests in a land company that had decided to start a new town in Franklin county, call it Minneola⁴ and make it the capital.

⁴ John Conover, the gallant colonel of the 8th Kansas regiment, now of the hardware firm of Richards & Conover Kansas City, Mo., tells a very interesting story of a search he made for a territorial capital. Conover was born in New Brunswick, N.J., November 27, 1835. He was the oldest son of John and Jane E. (Cornell) Conover, whose ancestors were among the earliest settlers of New Jersey. He was educated in the common schools of Camden. He came to Kansas on March 18, 1857, and settled at Leavenworth. July 22, 1861, he entered the army as second lieutenant, and on August 28 was attached to company A, 8th Kansas regiment. In December he was made a first lieutenant; March, 1862, a captain; in August, 1865, the President brevetted him a colonel for "gallant and meritorius services." He made a gallant record with the 8th Kansas during the war, but it is a territorial incident we desire to quote. The colonel tells about his search for Minneola as follows:

"Even as late as '58 capitals were scattered promiscuously throughout the state. I started horseback from

The legislature fell in with the scheme, and in February, 1858, enacted a law making the change. It then applied to the United States for an additional appropriation. The President referred the request to the Attorney-general of the United States, and this was his opinion, in part:

Leavenworth in '58 while clerking for Reisinger & Fenlon, who had a hardware store on Main street, between Shawnee and Delaware, to find the capital of Kansas. I had a note for \$97.50 for a set of chafing dishes and table appurtenances for the eating department of the new capitol, which was located on the first floor of the capitol building. The note was made and signed by Dr. J. B. Davis, Cyrus Fitz Currier, of Leavenworth; O. A. Bassett and Joel K. Goodin of Lawrence; E. C. K. Garvey and a lawyer by the name of Blackwell, of Topeka, but none of them had means enough to pay, at least that is what they said. The capital that I was looking for was Minneola, Kansas. I stopped at Lawrence overnight and the next day started south. I met a farmer and his wife in a wagon at a crossing of the Wakarusa, and inquired where Minneola was. They said they had never heard of it. I rode about three miles further, met another couple in a wagon and they stated they did not know of any town of that name. Riding three or four miles further I met a man coming up horseback who said he had heard some talk about the capital but did not know where it was. About three miles further on I met a carpenter riding an old mare, bareback, with a blind bridle. I inquired if he knew where the new capital of Kansas was. He said. 'Yes siree.' He had been working on the capitol building. 'You go one and a half mile further and you can see it about a mile off to the right.' I found it. The legislature had met there one morning about a week before and adjourned that afternoon to meet at some future time at Leavenworth. I was on a collecting tour, so I rode to Topeka and then to Manhattan, and then back to Leavenworth."

The following concerning the town of Minneola is taken from a paper on "Some Lost Towns in Kansas" by Geo. W. Martin, secretary of the Historical Society, published in its twelfth volume, 1911-12.

"In reading of the early days in Kansas frequent mention is made of a town called Minneola. Minneola was one of the most remarkable of all the projected towns in Kansas territory, and by only a hair's breadth did it miss becoming the

“ . . . Congress did not decide where the permanent seat of government should be, but located it temporarily at (Fort) Leavenworth. The territorial legislature, then, had power

capital and perhaps the metropolis of the state. The capital was at Lecompton, but the free-state legislature had a fashion of adjourning its sessions from that town to Lawrence on account of a proslavery reputation of Lecompton. This sort of a movable capital was not satisfactory, however, and under the leadership of Perry Fuller, of Lawrence, a scheme was evolved to go to Franklin county and start a capital in the midst of the virgin prairie. At the suggestion of E. N. Morrill, the new town was called Minneola, and the list of stockholders in the town company included almost every prominent leader in the free-state cause, including a majority of the members of the legislature. At once nine quarter sections of land were purchased, at a cost of \$3131. Money was raised by assessment and by mortgage. Inside of a week a hotel costing \$8000 had been completed, as well as a large hall to be used for legislative purposes. On February 10, 1858, the legislature, sitting at Lawrence, passed a bill making Minneola the territorial capital, but this bill was vetoed by Acting Governor Denver. Then an appeal was taken to the attorney general of the United States, who decided that the bill was in violation of the organic act, and therefore void.

“The same legislature which adopted the capital bill made provision for a number of railroads centering at Minneola. Maps and bird's-eye views issued by the company are still in existence, and made the town appear as a great railroad center. Before the decision of the attorney general town lots in choice localities sold at phenomenal figures. Many buildings went up, and the town had several hundred population. Although afterward it became the county seat for a brief period, its downfall dated from the constitutional convention which had been called by the legislature to meet there. This was March, 1858. The convention met in the big hall, and James H. Lane was elected chairman. At this point a motion was made to adjourn to Leavenworth. It was supported by all the delegates from localities which had ambitions to secure the state capital, and after a debate lasting all day and all one night the motion was carried. This convention was the one that drew up the Leavenworth constitution. It sealed the fate of Minneola, and today the former town site is the place of half-dozen farms, and there is nothing to show its former glory.”

to remove it as they saw proper, either for a short time or for all time. But Congress, when the appropriation of 1855 was made required, as a condition precedent to the payment of the money, that the seat of government should be permanently located, and left the territory, through its legislature, to do that for itself. Making a permanent location certainly did not mean designation of a place merely for the purpose of getting the money, and then making another change. Such a removal, if carried out, would defeat the manifest intention of Congress, violate the spirit of the act, and be a fraud upon the United States."

This blocked the scheme to make Minneola the territorial capital. The town was well laid out on a map, all the roads in the United States pointing in that direction, and, according to a prospectus, was the coming center of population and commerce. But it died.

Pawnee was an excellent location for the seat of government. Had Governor Reeder and his Pennsylvania friends confided their purpose to some of the legislature's influential members some time in advance of its session in July, 1855, and taken them in as shareholders, it is doubtful if any adjournment had been taken to Shawnee Mission, and it is not unlikely that Kansas' capital would have been at Pawnee and Junction City. That Minneola was out of the question, because of locality, was quite certain; that it was born in fraud official records prove.

Lecompton continued to be the capital until 1861, when the act of Congress ratifying the Wyandotte constitution of 1859 was approved by the President, which provided that Topeka should be the temporary capital.

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