

Speech of Gov. Cass. Fellow-citizens of the Legislative Council. Detroit June 7, 1824.

SPEECH OF Gov. CASS.

Fellow-citizens of the Legislative Council,

I congratulate you and our fellow-citizens generally, upon the favorable change which has taken place in the Legislative department of the Territorial Government.—You are the first representative body, deriving its authority from the people, which has ever been convened in the Territory.—The Legislative power, heretofore exercised, has been vested in officers, over whom the people had no direct control. Authority thus held is certainly liable to abuse; but its practical operation was restrained and secured, as well by the limitations provided in the fundamental Ordinance, as by the spirit of our institutions, and the superintending control of the General Government, Still that change in our political system which gives to the people the right of electing their own Legislature, is not only correct in principle, but will be found most salutary in its operation.

The territorial governments of the United States are created for temporary and local objects. To preserve the peace of society in those sections of the national domain, whose resources are inadequate to defray the necessary expenses of their government, and where the population is too weak to justify admission into the Union. They terminate with the political majority, which many of these younger members of the republican family have already attained, and to which the others are rapidly approaching Eight territorial governments have heretofore existed, which now constitute integral members of the confederacy; and some of them have increased in population and improvement with a rapidity unparalleled in the history of nations. The natural advantages of this territory, connected with the great improvements, affecting it, which are making without and within, warrant the opinion, that our own advance in all the elements of future greatness will equal the progress of most of those territories, which have preceded us in this interesting political career from infancy to maturity.

To those, whose knowledge of the history of this country is confined to the early date of its first settlement, and who are ignorant of the series of adverse events, which have checked its growth, it is matter of surprise, that our population is yet so weak.—But it should be recollected, that under the French and British governments, this was a remote portion of a remote colony, originally settled by adventurers in the fur trade. Agriculture and those arts which minister to it were neglected for a traffic of doubtful advantage. Although secured to the United States by the treaty of peace of 1783, still possession was not obtained till 1796. It then became a part of the immense territorial government Northwest of the Ohio, but separated from the local seat of that government and from all its principal officers by an extensive wilderness, in possession of its aboriginal inhabitants. It thus

continued with no identity of interest, and but little intercourse with the seat of territorial power, until 1803, when the state of Ohio was formed. This country was then attached to the territory of Indiana; from whose government and people it was still more remote. In 1805 this territorial government was organized, but the commencement of its operations was marked by a signal calamity. The town of Detroit, the mart of business, and in fact the only place of any importance, was utterly destroyed by one of the most awful conflagrations, which has ever visited any portion of the Union.

About this period commenced a series of legislative measures on the part of the General Government for the examination and adjustment of land claims in the territory. Not more than six tracts were held by legal titles; a striking proof of the little importance attached to this colony by both the parent countries. The tenure of lands depended upon improvement and possession, and the initiatory grants were made by subordinate officers. In many instances farms had thus descended in the families of the occupants for several generations. It became equally important to the people and to the future prosperity of the country, that these claims should be examined, and that all equitable interests founded on possession and improvement, should be confirmed by legal grants to the occupants. The wise and liberal policy of the general government led to the adoption of this measure, but its final execution was delayed by difficulties incident to the determination of such a complicated subject until 1812.

In 1807, that feverish excitement became visible among the Indians, which terminated in open hostilities at the battle of Tippecanoe. During its progress and developement, this frontier was subject to frequent alarms, and furnished no attraction for the peaceable and industrious emigrant, which could counterbalance the danger of an Indian war.

The disastrous effects of the last war upon this territory, are recorded in the history of our country. The whole population was prostrated at the feet of relentless savages, and such atrocious circumstances, as have no parallel in the annals of modern warfare. Menaces, personal violence, imprisonment and deportation were indiscriminately used, as either appeared best calculated to effect the object; which avowedly was to sever our citizens from the allegiance they owed to their country. Fortunately their patriotism and energy resisted these efforts, and probably, in no portion of the Union was more devotedness to the general cause manifested than here.

This state of calamitous exposure was terminated by the treaty of peace; but it was not until 1818, that any of the public lands were brought into market. From this period, we may date the actual commencement of the settlement of the territory. Prior to it, these lands could not be purchased, and our fellow-citizens in the older sections of the republic could have no motive to remove to a

country, of which the national government was under such unfavorable circumstances, almost the only proprietor.

But an auspicious change has taken place in our situation and prospects. The advantages of the territory are every day more and more known and appreciated. The fertility of our soil, and its adaptation to the staple agricultural products of the middle states, promise rich rewards to the labor of our citizens. Our climate is highly favorable to health and to hardy and vigorous exertion. And all those considerations of cheap and easy access, of vicinity to old and flourishing settlements, and of other circumstances, which give hope and confidence to persons about to abandon their native home, unite to encourage the emigrant, who directs his views to this quarter. The flag of our country is already seen in every part of the internal seas which surround us, and ere long they will be crowded by the enterprise and industry of our citizens, with the varied productions of extensive and fertile regions. That great artificial river which is about to unite the Lakes with the Ocean, one of the proudest monuments of human genius and industry, has brought us almost in contact with the Atlantic border, and furnishes a communication with the commercial metropolis of the nation with an economy, safety and facility, which have almost annihilated the intervening distance.

Such are the favorable circumstances, under which the tide of emigration is now flowing towards this direction. And such are the cheering prospects, which mark the commencement of your legislative labors. Our population is partly native, and partly collected from various sections of the Union. Our political institutions are still in their infancy. The character of our laws is yet to be established. Their moral effect upon a community cannot be doubted. Alternately operating as cause and effect, results are produced, which are felt for ages. Much therefore depends upon your labors. And in laying a foundation for a system of legal and political institutions, we must look beyond the present state of society for their full practical operation.

I submit for your consideration the policy of establishing, as far as may be consistent with the Ordinance, a system of township government, in which matters of local police may be regulated by the people in their primary assemblies. The several counties are already divided into townships, but it will probably be necessary to change these and to establish others, as the population of the country increases, and its settlements advance. Should the existing acts of Congress present insurmountable obstacles to the full establishment of such a system upon this important subject, as our situation and the general feelings of the community may require, there is little doubt, from the many proofs of regard which we have received from the national legislature, but that ample power would be given, on application, for the organization of such a plan. In the mean time the subject may be commenced.

I consider this among the most important objects presented for your examination and decision. In the eastern States, these minor political subdivisions have produced the most salutary effects upon the character of the people, and upon the public institutions. The matters to be regulated being local, and within the personal observation of all, they are freely and fully examined and dispassionately decided. The habit of public discussion, which is created at these assemblies, affords perhaps the best practical security for the permanency of free institutions.

The power of appointment to office in free governments presents for solution a doubtful and delicate question. In this territorial government, that power is vested in the executive alone. I feel no disposition on the one hand to shrink from any necessary responsibility, nor on the other tenaciously to retain any power, originally granted for the public interest, but which the public interest now requires should be surrendered. The Ordinance of Congress, which forms the basis of our political fabric, was passed thirty-five years ago. It was a political experiment, and successive alterations have been made in it to remedy defects, which experience has shewn to exist, and to accommodate its principles to the advancing opinions of the age. My own observation has satisfied me, that a beneficial change may be made in the mode of appointment to office. All township and corporation & many county officers, and particularly those, whose duties relate to the police and fiscal concerns of the respective counties, should be elected by the people. In the appointment of others, it appears to me proper to give to the Council a participation. No system which has been adopted in the United States upon this subject, is better calculated to effect the object, than that which requires a nomination by an executive magistrate, and the concurrence of a deliberative body. By these means we have the advantage of individual responsibility in the nomination, and also a check upon its abuse, in the required concurrence of a co-ordinate branch of the government.

A bill making alterations in the system of appointment, is now pending before the Senate of the United States. Its passage, however, at the present session is doubtful. Should it be postponed till the next, an expression of your opinion respecting its principles, and a recommendation to the delegate from the territory to support it with such modifications, as you may propose, would doubtless aid its passage.

A limitation in the tenure of some of the territorial offices, would probably, ensure their more faithful execution, and would also facilitate changes for causes, which, although not amounting to positive offences, yet require correction. There are some offices too, particularly those of County Commissioners, in which a periodical and alternate vacation appears to be necessary—so as to require one incumbent to retire at the end of each year.

Application is frequently made to the executive for inquiries into the alleged misconduct of public officers, and for their removal. Justice to the community, as well as to individuals, requires that some definite mode should be provided, in which complaints, not furnishing grounds for indictment in the ordinary state of the laws, may be examined and redressed. The most obvious remedy is to grant jurisdiction to the courts, defining the causes, for which application may thus be made; and providing for a summary exercise of the power. It is impracticable for the executive of the territory to perform this duty. He can neither summon witnesses, nor administer an oath. And besides, the constitution of our courts is not only admirably adapted to the investigation of complicated facts, but the publicity and mode of their proceedings is equally adapted to give general satisfaction. An important consideration in all cases, affecting the interests of the community.

Although, as I have before stated, agreeably to the present provisions of the ordinance and acts of Congress, all civil officers are required to be appointed by the Governor, still the mode of removal from office is matter of local legislative regulation.—There are some offices, necessarily connected with and subordinate to others, and between which such a connexion exists, as to render it proper that one should have an immediate and decisive control over the other. Among these are the clerks of Courts. Full confidence between the judges and their clerks is so essential to the correct performance of the important functions of both, that provision should be made for preventing the occurrence of a different state of things. This object would probably be accomplished by granting to the courts the power to remove their Clerks.

The facility with which persons committing the most dangerous offences, in this territory, and in the neighboring Province of Upper Canada, may flee beyond the proper criminal jurisdiction, and the consequent impunity, which they find, require the legislative interference of both governments. Life itself is insecure, where punishment may be thus easily avoided. How far the the comity of nations would authorise a surrender in such cases, without some express provision, legislative or conventional, may be considered a doubtful question in the United States. Different judicial decisions have been given upon the subject, but I believe the execution of such a principle would be found extremely difficult, unless a previous recognition of it by the other departments of the government had been made and the details for its execution provided.—I submit, therefore, to your consideration, the expediency of passing a law, similar to one enacted by the legislature of New-York, enumerating certain offences, more immediately affecting life and property, and providing that persons committing them in Upper Canada, and fleeing to this Territory, shall be surrendered to the authorities of that province, on proper requisition, and on the production of such testimony as, by our laws, would be sufficient to justify the commitment of an accused person for trial. It would be

a necessary provision in such a law, that it should be inoperative until a reciprocal arrangement be made by the bordering Province.

The present system of trials in the Supreme Court is susceptible of much improvement. As that Court is now constituted, all issues are tried at Detroit. The expense and inconvenience of bringing parties and witnesses, and, in some instances, jurors, from other parts of the Territory, will be more and more felt as the population and business of the country increase, and with them the probable sources of litigation. It is far better to send the courts to the people than to bring the people to the courts. Issues should be tried in the proper counties, and for that purpose Circuit Courts might be organized, each to be held by one Judge of the Supreme Court. Such an arrangement would be advantageous to the public, and not burthensome to the Judges.

The situation of the Territorial Militia will require your deliberate attention. As a most important branch of the system of national defence, the militia of the United States has attracted the attention of the government and people, since our admission into the family of nations. Its organization has furnished almost an annual theme of executive recommendation and of legislative deliberation. That its improvement has not kept pace with the public feeling, is known to all. This failure is certainly not attributable to any inherent and insuperable difficulty in the subject itself, but rather to the various modifications which have been attempted. The general plan is so consonant to the spirit of our institutions, and so compatible with our internal security, that no efforts should be omitted to render it as efficient in practice, as it is unexceptionable in principle. Our own local situation renders this subject as important to us as to any part of the Union. Ours is a border country, and the lessons of experience have been too recent and too dear-bought to be speedily forgotten.

One principal source of the inefficiency of the Territorial Militia, results from the fluctuations which continually take place in the offices. So long as this evil operates to its present extent, we can expect no permanent improvement. Inducements must be held out to officers for their continuance in service. Exemption from militia duty, after a certain term, would probably produce beneficial results.

The reports of the Adjutant General, which are herewith presented, will shew the strength of the militia, agreeably to the last returns, and will disclose some of the most prominent causes, whose operations paralyze the exertions upon this subject. I cannot but hope, that you will be able to apply an efficient remedy. The report of the Quarter-Master General will exhibit the number and quality of the arms received from the United States, the disposition which has been made of them, and the amount still due to the territory.

It is always desirable, that the connexion between the representative and the constituent should be as intimate as practicable, and with this view districts are usually established, within which it may

fairly be presumed, the electors will be acquainted with the characters and pretensions of those, who request their suffrages. When these districts are extensive, and particularly when they embrace a whole state or territory, the immediate accountability of the representative to those among whom he lives, and who know him best, is weakened. I believe it would be expedient to divide the territory into districts, and to assign to each the election of two members of the Council. A fair construction of the act of Congress of March 3, 1823, will authorize the exercise of this power.

Connected with this subject, and in order to furnish the means of executing the proposed plan, it will be necessary to provide for taking a periodical census of the inhabitants of the territory. And should a majority of our citizens ever claim the privilege of substituting a General Assembly for the present legislative body, agreeably to the power given in the act I have mentioned, such an inquiry would be important, with a view to the apportionment of the representation. A census might be annually taken by the assessors in the respective counties, when the taxable lists are required, with little, if any, additional expense to the public. These statements would also furnish important statistical information.

By an act of Congress of March 26, 1804, one township of land was granted for the support of a College in this territory. The Trustees who were incorporated for the management of the concerns of this College, by an act of the former legislature, believing, that the location of this tract of land in so large a body, would be injurious to the institution itself, as well as to that portion of the country, where it might be made, petitioned Congress in November last for permission to locate the same quantity of land in the various subdivisions of a township.—The fate of this petition is not yet known.

But as a provision similar in its features, has been made for other territories, and there appears to be no objection in principle to such a modification, it is not anticipated that the application will be unsuccessful. The expression of your opinion, if favorable to the measure, would probably aid its accomplishment.

A wise and liberal policy on the part of the general government has established as a principle in the disposition of all the public lands, that section numbered sixteen, in each surveyed township, shall be reserved for the support of schools therein. This reservation is equal to one thirty-sixth part of the national domain. Its immediate preservation and ultimate application, in conformity with a well digested system, are objects of paramount importance. No doubt can exist of your authority to protect these school lots from waste and trespasses, and there can be as little of the expediency of doing it. How far it is competent for the territorial legislature, without the express sanction of Congress, to provide for leasing these tracts, with a view to their improvement, and to the application of the eventual profits to the objects of the trust, is a question of much importance. Many of these sections, or portions of them, might now be advantageously leased, and as their

productiveness depends wholly on the state of these improvements, the period of their value to the community would, by these means be accelerated.

These reservations of land by the United States, of an entire township, and of all the sections numbered sixteen, together with three sections granted by the treaty of Fort Meigs, constitute all the public funds which are now provided for procuring the means of education. Whatever beyond these, the state of the country may require, must be furnished by the application of individual contributions, or by county or township assessments, authorized by law.

The importance of this subject to our present and future prosperity must be too well appreciated to require any observations from me. A practical and well digested system, which should extend to all the advantages of education, would be of inestimable value to this young and growing community. A more acceptable service could not be rendered to our fellow-citizens. And no more equitable tax can be levied in any country, than one, whose application is directed to preparing its citizens for appreciating and preserving the blessings of self government.

The situation of the roads in the settled parts of the territory, shew that there is some radical defect in the laws upon this subject, or some culpable neglect in the administration of them. Your attention cannot too early nor too earnestly be directed to this matter, with a view to ascertain the cause of the evil, and to apply the proper remedy. No labor can be more advantageously employed in a new country, than that which is expended upon the improvement of the roads, as well to facilitate the various intercourse, which the operations of society require, as to encourage those who are increasing our strength and wealth, by forming settlements in the interior of the Territory.

A part of the proceeds of the public lands, amounting to three per cent, upon the sales, has been heretofore granted by the government of the United States to the various territories, when about to be admitted into the Union. There are considerations connected with the situation and settlement of this frontier, as well as with the fiscal effect which the measure would produce in the increased sale of the lands, which would justify an application to Congress for the immediate grant of this sum. Should the effort to obtain it be successful, the amount thus procured, if divided among the several counties, would materially aid them in the formation and preservation of their roads.

The general subject of the Territorial Laws will doubtless engage your attention. Coming, as you do, from every part of the Territory, you must bring with you the public feeling on this important topic. Our code of laws has been in force sufficiently long to have submitted to the test of experience, the only unerring guide in political questions, their general operation. Changes will be found necessary. Some of the statutes are doubtful in their policy, & some are doubtful in their construction. The march of human improvement, in all the practical sciences, is steady and perceptible. In that which

embraces, within the sphere of its operations, protective or correctional, the concerns of all, and at all times, and whose penalties or obligations are felt in every relation of life, the progress of reason, and changes in the state of society and of public opinion, must produce important alterations. None but a despot, giddy with his insecure elevation, and presumptuously endeavouring to survey the future instead of regarding the past, would attempt to imprint upon any laws the character of permanent immutability. But there is reason to believe, that in the United States, our legal systems are altered too frequently, and with too much facility. In questions involving no principle of morality, it is often of more importance that the law should be settled than that it should be settled in any particular manner. A knowledge of its requisitions, and a respect for its obligations, are impaired by these perpetual fluctuations. It should never be forgotten by the lawgiver, that mere legal enactments afford inadequate remedies for many of the evils which disturb the peace of society. Their causes lie deeper than the operations of ordinary laws, and the remedy must be sought in applications not found in the statute book.

The general principles of the Territorial Code, appear favorable to the security of public and private freedom, and in consonance with the feelings of our fellow citizens. I need not trouble you with a formal enumeration of those provisions which are defective or inexpedient. They are at least as well known to you as to me, and will probably occupy your deliberate attention.

The system, however, of regulating the manner of supporting paupers, threatens such serious consequences, that I cannot but recommend to you a careful revision of it. The obligation for providing for the maintenance of those who are unable to provide for themselves, is felt and acknowledged in all civilized communities. But the best method of collecting and applying these eleemosynary contributions, is a practical question in political ethics, which does not admit an easy solution. In almost all the nations of Christendom, this duty is left, like many others, to be performed by individuals, without deriving any part of its obligation from positive legislative enactments. In this country, and in that from which we have received our legal institutions, taxes are levied by the public authority, and the proceeds applied to the support of paupers: The plan which has been adopted in this Territory, does not sufficiently define who are proper subjects of this bounty; nor does it make any discrimination between the permanent resident and the stranger, who is thrown upon us for the very object of support. Many soldiers, who have exhausted their days and strength in the service of the nation, are discharged in the various counties and left to seek the public charity. Provision should be made by the general government for the support of these men. And besides, sick and disabled persons are frequently brought to our shores and abandoned. Duty to ourselves requires that means should be provided for sending these persons to the places of their embarkation.

The statement of the Treasurer, which you will receive will exhibit to you the situation of the Territorial Treasury. You will perceive by it, that there will be a surplus after meeting all the existing demands. It is due to the former legislature to remark, that besides defraying the ordinary expenses of the government, and redeeming a large amount of debt, which had been contracted previously to the war, they appropriated considerable sums to the erection of public buildings in the counties of Monroe and Macomb. They expended at least an equal amount upon roads and bridges, and they supported for some years the whole police of the Territory, including the maintenance of paupers, and the expense of all criminal prosecutions. After the organization of counties, their treasuries were required to meet some of these objects of expenditure; but many of them, and in fact all which related to matters of general concern, still remained charges upon the general treasury. Among these were several expensive criminal trials, some of which rendered it necessary to bring the parties and witnesses from one of the most remote counties of the Territory. No direct tax for these, nor for any other object has been levied by the Territorial government since eighteen hundred and twelve. The receipts of the Treasury have been derived from the licenses of stores, taverns, and ferries, and from auction duties. And in the counties of Crawford and Brown, the proceeds of these licenses and duties have always been paid into the county treasuries. The same indulgence was also extended to Michilimackinac for some years. These more remote and less populous portions of the Territory, were thought to be sufficiently burthened by their necessary local duties and demands.

The Territorial Treasury has been relieved from a heavy expense by the establishment of a superior court in the three northwestern counties; and should you deem it expedient to provide for the organization of Circuit Courts in the peninsular counties, that measure would still further diminish these claims upon the Territorial fund—for as all the courts would then be local, their necessary expenses should be defrayed by the local treasuries. Under this system the prosecuting attorneys in the respective counties should conduct all prosecutions before any court therein. As no duties would then remain to be performed by the Attorney General, the office itself might safely be abolished.

The appropriation made by congress for the expenses of the legislative department, has so reduced the demands upon the Territorial Treasury, that it appears to me inexpedient to continue its operations. The few objects of general concern now remaining, which require specific appropriations, may be paid from the fund of \$1200, placed at your disposition by the general government: and in cases where the claim is local in its origin, provision may be made for its payment at the proper county treasury. This arrangement will enable you to repeal the laws creating the offices of Territorial Treasurer and Supervisor of Taxes, and to abolish the Territorial Treasury. By these means, some reduction may be made in the duties upon licenses, and whatever is retained, may be retained as a county tax, and paid into the treasuries of the counties. A material diminution



may thus be made in the amount of the present assessments, and important relief afforded to our fellow-citizens.

The pecuniary situation of the country imperiously requires a system of rigid economy in the administration of the concerns of the Territory, whether general or local; and I am confident, that I only anticipate your views, when I recommend the adoption of measures, having for their object a retrenchment of the public expenditures.

I have only to add, in conclusion, that I shall zealously co operate with you in the promotion of every measure, calculated to give satisfaction to our fellow citizens, and to secure the important interests committed to our administaation.

Detroit, June 7, 1824.

James to Peter

Peter Force Esqr Editor National Journal Washington D. C.

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