Hon. Lyman Trumbull

Speech. U.S.S. Mar. 14, 1856

AFFAIRS IN KANSAS TERRITORY.

SPEECH

OF

HON. LYMAN TRUMBULL, OF ILLINOIS

DELIVERED

IN THE SENATE OF THE UNITED STATES, MARCH 14, 1856,

On the motion to print thirty-one thousand extra copies of the Reports of the Majority and Minority of the Committee on Territories, in reference to Affairs in Kansas.

WASHINGTON, D. C.
BUELL & BLANCHARD, PRINTERS.
1856.

AFFAIRS IN KANSAS.

IN SENATE, FRIDAY, MARCH 14, 1856.

Mr. JOHNSON. Mr. President, I ask leave to make a report on the resolution referred to the Committee on Printing on Wednesday last, to print sixty-two thousand copies of the majority and minority reports of the Committee on Territories in relation to Kansas affairs. The cost of printing sixty-two thousand extra copies, as proposed by the Senator from Ohio, [Mr. PUGH,] will be $2,213. The Committee on Printing have authorized me to report in favor of printing thirty-one thousand instead of sixty two thousand—just half the number. Sixty-two thousand would give one thousand copies to each Senator; but we have thought that five hundred would be sufficient. It is for the Senate to judge, however. We report in favor of printing thirty-one thousand of those two reports from the Committee on Territories, the cost of which will be $1,106.

The PRESIDENT. The question is on concurring in the report of the committee.

Mr. TRUMBULL said: Mr. President, I cannot consent, entertaining the views which I hold, that this report shall go before the country without expressing my dissent. I am aware, sir, that it is here accompanied by a minority report, which, in my judgment, presents this Kansas question in a masterly manner. It utterly refutes the majority report upon the great question at issue; but having been prepared without an opportunity to examine the majority report, it was impossible that it could meet and expose all its unfounded assumptions. Had the two reports gone out together, I would have been content; but, sir, the report of the majority has already been placed before the country, unaccompanied by that of the minority. It was sent out in advance of its delivery to the Senate, and has appeared in a newspaper published in the city of New York before it could be printed in Washington; and containing, as in my judgment it does, many unwarranted assumptions, many inconsistencies, many false deductions from admitted premises, and advancing many erroneous propositions, I cannot consent that it shall now pass from our consideration unnoticed, inasmuch as, losing this opportunity, we may not soon have another to express our views upon it.

In the remarks which I have to make, I have no idea of putting myself, or the State which I have the honor in part to represent, in the position of defending any such doctrines as the majority report seeks, by *argument* rather than by direct assertion, to attribute to those who differ from its conclusions.

I do not intend to justify interference in the internal affairs of Kansas by the people of any portion of the Union, contrary to law, and in violation of the Kansas-Nebraska act. I do not design to justify either insurrection or treason in any quarter; nor am I to be frightened from a statement of what I believe to be the true condition of things in Kansas, by the cry of insurrection and treason where none exist. While opposed to insurrectionists and traitors, I am equally opposed to tyrants and usurpers; and would be as ready to assist in putting down the one as the other.

I deny, sir, that there is occasion to speak of any of the inhabitants of Kansas as traitors to this Government, or that there is any insurrection in that Territory, such as has been indicated in some of the documents which have been sent to this body.

In discussing this matter, it is important to keep in view the distinction between a State and a Territorial Government. Much is said in the report before us of the injustice of one State interfering in the domestic affairs of another—much about the impropriety of attempting to impose an inequality on any of the States. Is there any man in this land who ever thought that the citizens of one State had a right to interfere with the domestic institutions of any other State, or is there one who denies that the States of this Union are entitled to equal rights? Is that the position of those who have opposed the measure which has caused the present agitation, and is threatening us with civil war?

Sir, the people whom I in part represent entertain no such views. The people of the State of Illinois, permit me to say, are loyal to this Union, to the Constitution, and all provisions of the Constitution; and when they condemned the depart-

ure from the measures of 1850 by the repeal of the Missouri Compromise, and the opening afresh of this dangerous Slavery question—which, to use the language of the distinguished Senator from Michigan, [Mr. Cass,] is the only question "which can ever put to hazard our Union and safety"—they had not the remotest idea of interfering with the domestic institutions of the States. Why, I ask, is it eternally thrust in the faces of those who oppose the extension of Slavery into free *territory*, that they want to produce an inequality among the States? Whether Slavery shall be permitted to extend into Territories belonging to the United States from which it was excluded by acts of Congress for more than a generation, is quite another thing from going into the States, and interfering with the institution there. Persons who were opposed to the repeal of the Missouri Compromise, and who are now opposed to the spread of Slavery to the Territory it ma le free, are not Abolitionists, though they may be falsely so called. The expression "abolitionize" appears in this report, is sometimes used in this Chamber, as also the epithet "Black Republican;" but I trust that neither Senators nor the people are to be driven from a just consideration of public measures by the fear of incurring some opprobrious epithet, applied to them by those who have no other argument to offer. The veriest simpleton in your streets may cry out "Black Republican" or "Abolitionist." I do not design applying offensive names to the people of any part of this country, nor is it my intention to say anything offensive to any gentleman upon this floor, or to advocate any other doctrines than those which have been handed down to us by the Democratic fathers of the Republic. My position on the subject of Slavery is the one occupied by all parties, but a very few years ago—by men in the South as well as in the North.

Having said thus much, I propose to refer to some portions of this report. And the first proposition to which I desire to call attention is the argument to show that the power of Congress to regulate the Territories of the United States is derived from that clause in the Constitution which authorizes the admission of new States into the Union. I think it is not very material whence the power of Congress to regulate the Territories is derived; it is enough that it exists; but in hunting for that power, it occurs to me that one of the last causes from which it can be properly deduced is that from which the committee seek to derive it. The power "to admit new States" into the Union gives to Congress, says this report, the power to govern Territories! Why, sir, the very action recommended by the committee contradicts the assumption. The report concludes with the statement that a bill is to be introduced to authorize the people of the Territory of Kansas, when its population shall have attained a certain number, to form a State Government, preparatory to admission into the Union. The power to pass such an act may be derived, perhaps, from the clause in the Constitution of the United States which authorizes the admission of new States; and the very fact that a new law is necessary since the act was passed organizing the Territory of Kansas, in order to admit it into the Union, shows that the first act was not passed with that view. The first act does not provide for the admission of Kansas as a State; and yet we are gravely told in this document, that the only power which the Congress of the United States has to form a Territorial Government is that which is derived from the power to admit a new State!

I have no difficulty, myself, in finding the power in that other clause of the Constitution which declares that "Congress shall have power 'to make all needful rules and regulations respecting the territory or other property belonging to 'the United States." I see no propriety in limiting the word "territory" merely to land. The men who framed our Constitution understood the English language. They would not have used more words than were necessary to express the idea they had in view. If the design was simply to allow Congress under that provision to make needful rules and regulations respecting the property of the United States, why say "the territory or other property?" It would have been sufficient to have said, simply, "they shall have 'authority to make all needful rules and regula-'tions respecting the property belonging to the 'United States." But, sir, they did not stop there. They said respecting "the territory" as well as the "other" property, and it should be borne in mind that the framers of the Constitution were laying the foundations for a political Government. The great object in view was to prepare a Constitution for the government of persons, not merely to regulate the sale of lands. At that very time there was belonging to the United States the Northwestern Territory, and provision had then been made for its government. Some of the very men in the Convention which formed the Constitution had co-operated in passing the Ordinance of 1787 respecting that Territory, and they doubtless incorporated this clause in the Contitution with the very intention of continuing the power to govern it.

In view of these facts, is it reasonable to suppose that they intended the word "territory" in that limited sense which the committee have thought proper to give it?

Sir, there are other clauses in the Constitution of the United States from which this power might be derived. There is the treaty-making power. Can it be said that this great Government was formed with authority to declare war and make peace, and yet was left without the power to provide a temporary Government for the countries it might, at any time, by the chances of war, conquer and possess? We should not be an independent nation if we had not this power to acquire territory by the force of arms, and, when we obtained it, to protect and govern its inhabitants until they should become sufficiently numerous to form a State Government for themselves.

But, sir, I will not dwell on this. The power is admitted, but it is admitted to a very limited extent. Here I wish to point out one of the inconsistencies of the report. It says:

"So far as the organization of a Territory may 'be necessary and proper as a means of carrying 'into effect the provision of the Constitution for

' the admission of new States, and when exercised ' with reference only to that end, the power of ' Congress is clear and explicit; but beyond that ' point the authority cannot extend."

The proposition is here broadly laid down, that, beyond the point of providing the means of carrying into effect the provision for the admission of new States, the power to govern the Territories does not exist. Is that true? Can it be maintained? Is it one of the necessary means, in order to admit a Territory into the Union as a State, that Congress should govern it before it comes in? Is the exercise of the power conferred by the Kansas-Nebraska act necessary for the admission of those Territories as States into the Union? What is that act? A long law, containing thirty-seven sections, and providing for those Territories Governors and Legislatures, judges and marshals; defining the jurisdiction of justices of the peace, and providing all the machinery for the Territorial Governments. I desire to know what the jurisdiction of a justice of the peace, or any of these provisions, have to do with the admission of Kansas into the Union as a State? Can the position be maintained for a moment, that it is necessary or proper, as preliminary to the admission of a State into this Union, that Congress should declare that a Territorial justice of the peace should not have jurisdiction in cases exceeding $100, or relating to real estate? If the assumptions of this report are correct, such is the case; for we are told that it is only when the power of Congress is exercised in reference to the admission of a new State, that it has any right to legislate for a Territory, and of course it will not be contended that the Kansas-Nebraska act is not constitutional.

Again, it is said:

"The act of Congress for the organization of the Territories of Kansas and Nebraska was designed to conform to the spirit and letter of the Federal Constitution, by preserving and maintaining the fundamental principle of equality among all the States of the Union, notwithstanding the restriction contained in the eighth section of the act of the 6th of March, 1820, preparatory to the admission of Missouri into the Union."

I would like to know from the committee what under heaven the organization of a Territorial government in Kansas has to do with equality among all the States? What has it to do with the equality of right between New York and Ohio, Illinois and Georgia? Still, that is the object which is avowed, to preserve equality among the States, and that "notwithstanding the restriction contained in the eighth section of the act of the 6th of March, 1820, preparatory to the admission of Missouri into the Union, which assumed to deny to the people forever the right to settle the question of Slavery for themselves, provided they should make their homes and organize States north of 36° 30′ north latitude." Did the eighth section of the act preparatory to the admission of Missouri into the Union assume what is here alleged? That provision, in my judgment, has been very much misunderstood. It is a provision relating to the "*territory*" north of 36° 30′ north latitude, and not to the States to be formed out of it. I have not the provision before me, but I know that it provides, substantially, that "in all that territory" north of 30° 30′, Slavery shall be forever prohibited. The word "forever" occurs in it; and that word seems to be very potent, in the estimation of some gentlemen; but, like the word "hereafter," or any other word used in a law in reference to a Territory, it ceases to have effect whenever the Territory ceases to exist. After the Territory is admitted into the Union as a State, the laws providing for its government while a Territory become nugatory, unless some provision be made for their continuance.

It is conceded by all, that any of the old *States* may abolish or establish Slavery at pleasure; and, as a new State is admitted into the Union on an equal footing with the original States, it has, when admitted, the same right, whether there had been an inhibition against Slavery while it was a Territory or not. The Missouri Compromise would therefore have an end as fast as the Territory north of 36° 30′ was formed into States and admitted into the Union. The provision applies in terms to the "territory," and not to the States which might afterwards be formed out of that territory. The constant attempt to make prominent the equality of the States, as if somebody doubted it, and to assimilate States to Territories, is only calculated to confuse the mind. It is desirable that the people of the South should understand that there is no disposition in the North to interfere with the rights of the people in any State of this Union in reference to Slavery. They should cease to believe that there is any considerable number of persons entertaining such a sentiment; for I leave out of my remarks that little fraction of fanatics, some of whom may be found both North and South, who are hostile to the Union of the States, who bear no considerable proportion to the people of this Union, North or South, and with whose disorganizing schemes the great mass of those who are to-day opposing the spread of Slavery have no more sympathy than the slaveholders themselves.

Mr. TOUCEY. Will the Senator allow me to ask him a question for information?

Mr. TRUMBULL. Certainly.

Mr. TOUCEY. I wish to ask the Senator whether, in his opinion, a restriction of that kind can be imposed on a new State, as a condition of admission into the Union?

Mr. TRUMBULL. I shall be very happy to answer the Senator. The propriety of admitting a State into the Union is to be determined when that State makes application for admission. It is not an absolute right. Congress is not bound to admit into the Union every new State which presents a republican Constitution, whether tolerating Slavery or containing a provision prohibiting it. It is a matter to be decided under the circumstances existing at the time; and if ever an application shall be made, while I have the honor to hold a seat here, either by a State presenting a free or a slave Constitution, and I shall believe that the admission of such State into this Union will seriously endanger its existence, I will never give my vote for its admission. If Utah, with her

plurality wife system, and other obnoxious provisions in her Constitution, tending in my judgment to sap the foundations of our institutions if admitted to an equal heritage with us, should ask admission, Congress would have the right, as I conceive, to refuse it until the obnoxious provisions were stricken out.

In advocating these views, I am committing nobody but myself, for I am not speaking for any political organization in the country. I would not undertake to speak for Senators on the opposite side of this Chamber, although from childhood up I have always maintained, to the extent of my ability, Democratic principles, and sustained Democratic men. I have done so on principle, believing the policy of the Democratic party best for the interests of the country. I never was one of those, however, who supported a measure without examination, merely because it was proposed by political friends; or condemned it without investigation, simply because it came from a political opponent. Having, myself, been united with none of the new parties of the day, whether they be called Republican or American, or by any other name—having been associated with no political organization in my life, public or private, except the Democratic party, it will not be understood that, in the views which I advance, I profess to speak for anybody except for myself, and the constituency I in part represent.

Another branch of this report, to which I desire to call attention, is in these words:

"In obedience to the Constitution, the Kansas-'Nebraska act declared, in the precise language 'of the Compromise Measures of 1850, that 'when 'admitted as a State, the said Territory, or any 'portion of the same, shall be received into the 'Union with or without Slavery, as their Consti-'tution may prescribe at the time of their ad-'mission.'"

From this clause, which has no practical effect whatever, either in the Compromise Measures of 1850 or the Kansas-Nebraska act, it has been contended that the Compromise Measures of 1850 were inconsistent with the Compromise of 1820. I deny the position. There is no inconsistency between them. The Missouri Compromise, as already shown, did not prevent the admission of a State into the Union with or without Slavery, as its Constitution might prescribe at the time of its admission. The clause incorporated into the Kansas-Nebraska act does not have the effect to bring a State into the Union, either with or without Slavery, or to bind any future Congress to do so. Congress will act on that question when it arises. When Kansas shall present herself, with a Constitution either establishing or prohibiting Slavery, is there any Senator who will consider himself bound by a declaratory provision inserted in the act organizing her Territorial Government? I presume not. This report concludes with the recommendation of the passage of a bill to enable the people of Kansas to form a State Government. Is it not competent for Congress, if it should think proper, to insert in that bill a provision that this particular clause shall be repealed, or to insert a clause, that Slavery shall not exist in Kansas while a Territory?

The assumption, then, that the clause which I have cited, and which was inserted in the Territorial acts of 1850, is inconsistent with the Missouri Compromise, is not maintainable, unless you say that the Missouri Compromise, prohibiting Slavery in a *Territory*, is to have effect after that Territory becomes a State, which I deny. This report proceeds to quote further from the Kansas-Nebraska act, as follows:

"It being the true intent and meaning of this 'act, not to legislate Slavery into any State or 'Territory, nor to exclude it therefrom, but to 'leave the people thereof perfectly free to form 'and regulate their domestic institutions in their 'own way, subject only to the Constitution of 'the United States."

Why thrust into this provision the word *State?* as if there were somebody in the country who wanted Congress to legislate Slavery into a State or out of a State? No person, as far as I know, maintains such a position; and it is well known that this clause in the Kansas-Nebraska act, couched in the language in which it is, has given rise to various constructions in different parts of the Union. I believe it is the universal understanding with Southern men, that under this provision they have a right to go with their slaves into the Territory of Kansas, and hold them there as such. A majority of those who voted for the Kansas-Nebraska act, and who carried it through Congress, understand that the moment the Missouri Compromise was repealed, those Territories were open to the admission of Slavery. This has been the practical operation of the law. I have in my possession the proceedings of a mass meeting held in the Territory of Kansas, as early as September, 1854, before any Territorial Legislature convened, and of course before there was any legislative action in the Territory on the subject of Slavery. Among their resolutions I find these, endorsing the principles of the Kansas Squatter Society:

"That Kansas Territory, and as a consequence 'the State of Kansas, of right should be, and 'therefore shall be, Slave Territory.

"We hereby declare that, as this [Squatters'] 'society embraces nine-tenths of the present set-'tlers of this Territory, we are entitled to and 'will exercise the right of expelling from the Ter-'ritory, or otherwise punishing, any individual 'or individuals who may come among us, and 'by act, conspiracy, or other illegal means, en-'tice away our slaves, or clandestinely attempt 'in any way or form to affect our rights of prop-'erty in the same."

How did it happen that there were slaves in the Territory at that early day, and that nine-tenths of the settlers should resolve to expel from the Territory any individual who should attempt to affect their right of property in the same, unless, in the absence of any local law on the subject, the pro-slavery party supposed they had a right to hold slaves in the Territory? This action of the Squatters' Society took place before the first emigrants who went to Kansas under the patronage of the Emigrant Aid Society had ar-

rived in the Territory, and shows, not only the construction the Squatters' Society put on the Kansas-Nebraska act, but a fixed determination, from the outset, to force Slavery into Kansas by violence.

I am aware that the Kansas act was differently understood in some other parts of the Union. The distinguished Senator from Michigan [Mr. CASS] believes, if I understand his position correctly, that Slavery cannot exist without a municipal law to protect it; and that, in the absence of any local law on the subject, Slavery cannot legally exist in any of our Territories. That was the doctrine of the whole country a few years ago. The committee have not thought proper to tell us, in this lengthy report, whether it is the doctrine now. Such was formerly the law, South as well as North. I wish to read an extract, not however, from this report, which I have taken upon this subject. It is this:

"The relation of owner and slave is, in the 'States of the Union in which it has legal exist-'ence, a creature of municipal law. Although, 'perhaps, in none of them a statute introducing 'it as to the blacks can be produced, it is be-'lieved that in all, statutes were passed for reg-'ulating and dissolving it."

Here is a direct assertion that Slavery, in the States where it exists, is a creature of municipal law; and from what source do you suppose it comes? Probably the "New England Emigrant Aid Society" have advanced that opinion. No, sir; it is the doctrine promulgated in the State of Louisiana, by its Supreme Court, (14 Martin's Louisiana Reports, 401.) Again, I read from another decision:

"Slavery is condemned by reason and the laws 'of nature; it exists, and can only exist, through 'municipal regulations."

Whence do you suppose this sentiment comes, which, if promulgated in Kansas, would subject its author to punishment? It was proclaimed as law by the courts of Mississippi, and is to be found in 1 Walker's Mississippi Reports, at page 36. I could detain the Senate for hours in reading from the opinions of courts in various sections of the Union, establishing this same principle; but a change has occurred. The entire South, so far as I know, and some even in the North, now repudiate the doctrine, and those who still adhere to it are stigmatized by many as Abolitionists. This is an evidence of the advance which pro-slavery sentiments are making in the country.

But, sir, the Kansas-Nebraska act is understood differently in different sections of the Union, in another respect. In the North, it is very generally insisted, that under that act the Territorial Legislature has the right to establish or abolish Slavery; but, in the South, that position is controverted. The assumption is now put forth, that Slavery, by virtue of the Constitution of the United States, may lawfully exist in the Territories, and that the Territorial Legislatures have no power to exclude it.

The Kansas-Nebraska act, having, as has been shown, no fixed and certain principle, but subject to as many different versions as there are sections in the Union, and upon which opposite constructions may be put with equal plausibility, to suit the peculiar views of each locality, is the law which is so much extolled in this report, which, however, omits to explain the meaning of the principle it so much eulogizes, and about which so much controversy has arisen; but its author, [Mr. DOUGLAS,] in a speech delivered in this body, in 1850, showed the fallacy of the positions now assumed by the South, and that to prohibit Slavery in a Territory was no violation of Southern rights. He then said:

"What share had the South in the Territories? 'or the North? or any other geographical divis-'ion unknown to the Constitution? I answer, 'none; none at all. The Territories belong to 'the United States as one people, one nation, and 'are to be disposed of for the common benefit of 'all, according to the principles of the Constitu-'tion. Each State, as a member of the Confed-'eracy, has a right to a voice in forming the rules 'and regulations for the government of the Ter-'ritories; but the different sections—North, South, 'East, and West—have no such right. It is no 'violation of Southern rights to prohibit Slavery, 'nor of Northern rights to leave the people to 'decide the question for themselves."

Again, in the same speech, my colleague said:

"Some species of property are excluded by 'law in most of the States, as well as Territories, 'as being unwise, immoral, or contrary to the 'principles of sound public policy. For instance, 'the banker is prohibited from emigrating to Min-'nesota, Oregon, or California, with his bank. 'The bank may be property by the laws of New 'York, but ceases to be so when taken into a 'State or Territory where banking is prohibited 'by the local law. So, ardent spirits, whisky, 'brandy, all the intoxicating drinks, are recog-'nised and protected as property in most of the 'States, if not all of them; but no citizen, 'whether from the North or South, can take this 'species of property with him, and hold, sell, or 'use it at his pleasure, in all the Territories, be-'cause it is prohibited by the local law—in Ore-'gon by the statutes of the Territory, and in the 'Indian country by the acts of Congress. Nor 'can a man go there, and take and hold his slave, 'for the same reason. These laws, and many 'others involving similar principles, are directed 'against no section, and impair the rights of no 'State of the Union. They are laws against the 'introduction, sale, and use of specific kinds of 'property, whether brought from the North or 'the South, or from foreign countries."

The distinguished Senator from Michigan, in his speech when the Kansas-Nebraska act was under consideration, devoted a large portion of it to this question, and proved conclusively that the exclusion of slaves from a Territory was no encroachment upon the equal rights of the people of the South.

Now, sir, I assert that the boasted principle of the Kansas-Nebraska act, which is claimed to be of such vital moment, has no sort of importance except for evil, in consequence of its vagueness and uncertainty; that it is a principle which is not understood alike in the North and in the

South; and that, while much pains is taken in the report to discuss constitutional questions, it does not inform us whether, under the Constitution and the Kansas act, slaves may rightly be taken to and held in that Territory, in the absence of any municipal law on the subject. Nor are we told distinctly, in the report, whether the Territorial Legislature has a right to prohibit or to establish Slavery. I admit it does tell us that the people of the Territory are to regulate their own domestic institutions in their own way; but when, is not said.

This clause is understood by some to apply to the people of a Territory when they come to form a State Government, and that they are to be permitted *then*, and *not before*, to regulate their own domestic institutions in their own way. That I believe to be the Southern understanding of the bill. But the author of the report has not thought proper to tell us distinctly whether it is his understanding or not.

I come next to that portion of the report which assails the Emigrant Aid Society. Sir, I am not the apologist of that society. There are Senators here much better acquainted with its operations, and much more capable of defending it, if it needs defence, than I am; but I wish to look at it in the light in which it is presented in this report. I will not travel out of the record after rumors, as has sometimes been charged, but will take the statements of the report itself, and then call the attention of the Senate to the doctrines which were promulgated when the Kansas-Nebraska act was passed, and ask whether there be anything in the action of the Emigrant Aid Society, as *set forth*, not as *argued*, in the report, at all inconsistent with the doctrines which were promulgated on all sides of the Senate when that act was under consideration. The report says:

"Although the act of incorporation does not 'distinctly declare that the company was formed 'for the purpose of controlling the domestic institutions of the Territory of Kansas, and forcing it into the Union with a prohibition of 'Slavery in her Constitution, *regardless of the 'rights and wishes of the people, as guarantied by 'the Constitution of the United States*, and secured 'by their organic law, yet the whole history of 'the movement, the circumstances in which it 'had its origin, and the professions and avowals 'of all engaged in it, render it certain and undeniable that such was its object."

Thus the charge is distinctly made, that the object of the Emigrant Aid Society was, "regardless of the rights and wishes of the people, as 'guarantied by the Constitution of the United 'States, and secured by their organic law," "to 'force Kansas into the Union with a prohibition 'of Slavery in her Constitution." Let us see how that charge compares with the declarations of Senators at the time the bill was under consideration. The Senator from New Hampshire [Mr. HALE] took the trouble, a few days since, to read to the Senate the opinions of Senators, both from the North and the South, delivered when that bill was pending; and I think he read from the remarks of ten or a dozen Senators, in which they stated in the strongest language that the question of the repeal of the Missouri Compromise was of no practical importance, and that Slavery could never go to Kansas. It was then asserted, by some of the advocates of the bill, that every sensible man knew, and every candid man would admit, that soil and climate forbade the introduction of slaves into the Nebraska-Kansas region, which is all above 36° 30′. This opinion was sustained, as the Senator from New Hampshire proved, by Mr. Pettit, of Indiana; Mr. Hunter, of Virginia; Mr. Toucey, of Connecticut; Mr. Thomson, of New Jersey; Mr. Brodhead, of Pennsylvania; Mr. Badger, of North Carolina; Mr. Everett, of Massachusetts, (who quotes, as sustaining him in his opinion, "what everybody knew;") Mr. Douglas, of Illinois; Mr. Dixon, of Kentucky; Mr. Jones, of Tennessee; and Mr. Cass, (who quotes all these.) All these Senators, except Mr. Everett, were advocates of the bill; and it was proclaimed on all sides of the Senate that no practical importance attached to the repeal of the Missouri Compromise, because Kansas was not intended to be a slave Territory, and Slavery would never go there. One Senator, on a previous occasion, had said, "I know of no 'man who advocates the extension of Slavery 'over country now free." This was very strong language, and it is to be found in a speech delivered in the Senate, in 1849, by the author of the report upon which I am commenting, and afterwards reported in the *Congressional Globe*. It was proclaimed to the world by the advocates of the Kansas-Nebraska bill, that Kansas was to be a free Territory. It was said on the face of the bill that its intention was "not to legislate Slavery into" the Territory. Then, let me ask, how did the Emigrant Aid Society, as is charged in this report, act "regardless of the rights and wishes of the people," as secured by the organic act, in aiding to settle Kansas with a free State population? It was proclaimed to the citizens of Massachusetts, that Kansas was to be a free State. Gentlemen from the South said they expected nothing else. Still, when a society is formed for the purpose of aiding emigrants to settle in it as a free Territory, and to make it a free State, they are charged with acting "regardless of the principles" of the Kansas-Nebraska act!

Again, the report states that the society secured the color of legal authority to sanction their proceedings, and acted "in perversion of the plain provisions of an act of Congress." The objects of the Emigrant Aid Society, as set out in the report, are said to be, to aid emigrants going to Kansas, with the expectation that it will be a free State. Was not that your expectation here? Now, it is charged upon those who went to work to accomplish the very object which you yourselves said was to be brought about, that they acted "in perversion of the plain provisions of an act of Congress." A plain statement of facts is all that is necessary to expose the unfairness of this part of the report. Let the people—the candid and the considerate, those not led by impulse and prejudice, but by their reason and judgment—look at the facts, and ask themselves

if the persons assisted on their way to Kansas by the Emigrant Aid Society did anything wrong—if they violated any provision of the organic act when they went there to do that which, upon all sides, it was admitted was to be done?

Again, this report, after admitting the right of persons from any quarter to go to the Territory and settle as independent freemen, says:

"But it is a very different thing where a State 'creates a vast moneyed corporation for the pur-'pose of controlling the domestic institutions of 'a distinct political community fifteen hundred 'miles distant, and sends out the emigrants only 'as a means of accomplishing its paramount 'political objects. When a powerful corpora-'tion, with a capital of $5,000,000 invested in 'houses and lands, in merchandise and mills, in 'cannon and rifles, *in powder and lead*, in all the 'implements of art, agriculture, and war, and 'employing a corresponding number of men, all 'under the management and control of non-res-'ident directors and stockholders, who are au-'thorized by their charter to vote by proxy to 'the extent of fifty votes each, enters a distant 'and sparsely-settled Territory with the fixed pur-'pose of wielding all in its power to control the 'domestic institutions and destinies of the Ter-'ritory"—

And so it would be a very different thing; but has any such thing occurred? Never. The proceedings of the Emigrant Aid Society, which are incorporated in the report, do not set forth any such state of fact. They do not show that the Emigrant Aid Society has invested a capital of $5,000,000, or one cent, in powder and ball, in cannon and rifle. Oh, no! The report is very far from charging that. Such a charge, if made, could be met and refuted. What is charged? It is alleged in the report that an Emigrant Aid Society was incorporated, &c.; and then it declaims against a society that should invest its means in powder and cannon, rifle and ball, to control the domestic institutions of a distant Territory. This is not charged directly upon the Emigrant Aid Society, but by inference only. When a society shall be found so engaged in fact, I will unite with the committee in opposition to its insurrectionary movements; but I am not Quixotic enough to combat with windmills and shadows.

A society relying upon force and ammunition for its success would more nearly resemble those which were organized in western Missouri; and the mistake on the part of the author of this elaborate report seems to have been in assigning the formation and existence of the society he described to a wrong locality.

We might take up the charter of the Colonization Society, and, after reading it, proceed to declaim against the abomination of getting up an organization to produce insurrection among the negroes; but the Colonization Society and insurrection would have no more to do with each other than good and evil. They are as far apart as the poles; and so is the real action of the Emigrant Aid Society and that action which is argued against in this report. It is against assumptions of this kind in the report that I am speaking.

Here is another specimen of its fairness:

"When the emigrants sent out by the Massa-'chusetts Emigrant Aid Company, and their af-'filiated societies, passed through the State of 'Missouri, in large numbers, on their way to Kan-'sas, the violence of their language, and the un-'mistakable indications of their determined hos-'tility to the domestic institutions of that State, 'excited apprehensions that the object of the 'company was to abolitionize Kansas."

What! "*abolitionize* Kansas!" It was said, on all sides of the Senate Chamber, that it was never meant to have Slavery go into Kansas. What is meant, then, by abolitionizing Kansas? Is it abolitionizing a Territory already free, and which was never meant to be anything but free, for Free State men to settle in it? I cannot understand the force of such language; but they were to abolitionize Kansas, according to this report; and for what purpose? "As a means for prosecuting 'a relentless warfare on the institution of Slavery 'within the limits of Missouri." Where is the evidence that such was the design? I would like to see it. It is not in this report; and if it exists, I will go as far as the gentleman to put it down. I will neither tolerate nor countenance, by my action here or elsewhere, any society which is resorting to means for prosecuting a "relentless warfare upon the institution of Slavery within the limits of Missouri," or any other State. But there is not a particle of evidence of any such intention in the document which professes to set forth the acts of the Emigrant Aid Society, and which is incorporated into this report. But the report goes further, and says:

"The natural consequence was, that immedi-'ate steps were taken by the people of the west-'ern counties of Missouri to stimulate, organ-'ize, and carry into effect a system of emigration 'similar to that of the Massachusetts Emigrant 'Aid Company, for the avowed purpose of coun-'teracting the effects, and protecting themselves 'and their domestic institutions from the conse-'quences of that company's operations.

"The material difference in the character of 'the two rival and conflicting movements con-'sists in the fact, that the one had its origin in 'an aggressive, and the other in a defensive pol-'icy; the one organized in pursuance of the pro-'visions and claiming to act under the authority 'of a legislative enactment of a distant State, 'whose internal prosperity and domestic security 'did not depend upon the success of the move-'ment; while the other was the spontaneous ac-'tion of the people living in the immediate vicin-'ity of the theatre of operations, excited by a 'sense of common danger to the necessity of 'protecting their own firesides from the appre-'hended horrors of servile insurrection and in-'testine war."

I could bring the President of the United States as a witness against these assumptions; for he has told us, in his special message on Kansas affairs, in alluding to the action of the Emigrant Aid Society, that its action was "far from justi-'fying the illegal and reprehensible counter-'movements which ensued."

Now, sir, what are the facts? Will those two

movements bear comparison at all? Are they of the same character? The report sets forth, in its most objectionable features, no doubt, the action of the Emigrant Aid Society, and it amounts simply to this: that it was taking measures to aid persons on their way to Kansas for the settlement of the country, to remain there as settlers. There is not a particle of evidence in the report—it is not even asserted—that the emigrants who went forth under the patronage of the Emigrant Aid Society did not go to Kansas to reside. There may be an argument in the report against persons who went there under the patronage of that society without the intention of residing; but there is no allegation that any such did go.

Well, sir, what are the facts in reference to the organizations in the western counties of Missouri? I shall not detain the Senate by going over a minute history of the transactions on that border. The Senator from Massachusetts, [Mr. WILSON,] a few days ago, did that; and he showed that men went into Kansas from Missouri in organized companies, with music beating and banners flying; that they went to the polls, took possession of them, and voted; that in that Territory, where there were but 2,877 voters when the census was taken in February, more than 6,000 votes were cast in the month of March following. He read from papers to show that the Missourians returned in companies to their homes, after the election was over. The matter was of public notoriety. Everybody knew it. Is there any instance where the Emigrant Aid Society, or persons sent out under its patronage, ever drove a man from the polls? It is not pretended. Is there any comparison between the peaceable emigrant who goes into a Territory to settle and reside, and an army of invaders who go there to impose laws on its defenceless inhabitants? To show the spirit of the men upon the Missouri border, and those affiliated with them in Kansas, I will read an article from the *Squatter Sovereign* of May 29, 1855, which was before the Legislature met; this is it:

"From reports now received of Reeder, he never
'intends returning to our borders. Should he do
'so, we, without hesitation, say that our people
'ought to hang him by the neck like a traitor-
'ous dog as he is, so soon as he puts his unhal-
'lowed feet upon our shores.

"Vindicate your characters and the Territory;
'and should the ungrateful dog dare to come
'among us again, hang him to the first rotten
'tree.

"A military force to protect the ballot-box!
'Let President Pierce or Governor Reeder, or any
'other power, attempt such a course in this, or
'any portion of the Union, and that day will
'never be forgotten."

The paper which contained this article has flaunting at its head these words: "In this pa-
'per the laws of Congress are published by au-
'thority." The editors of the paper are "String-
'fellow and Kelly." It will be remembered that the election for members of the Legislature took place on the 30th of March, 1855.

In the *Squatter Sovereign* of April 1, following, is published this article:

"INDEPENDENCE, *March* 31, 1855.

"Several hundred emigrants from Kansas have
'just entered our city. They were preceded by
'the Westport and Independence brass bands.
'They came in at the west side of the public
'square, and proceeded entirely around it, the
'bands cheering us with fine music, and the emi-
'grants with good news. Immediately follow-
'ing the bands were about two hundred horse-
'men, in regular order; following these were one
'hundred and fifty wagons, carriages, &c. They
'gave repeated cheers for Kansas and Missouri.
'They report that not an Anti-Slavery man will
'be in the Legislature of Kansas. We have made
'a clean sweep."

Had the Emigrant Aid Society been guilty of half the outrages which are here published to the world with impunity by the Missourians, do you believe the facts would have been smothered up by this report? The most objectionable features in the transactions of that Society are set forth in the report; and is there anything in them to compare with what the Missourians boast of having done? Two hundred horsemen were following in the rear of the army as it returned from Kansas—the army which, in the language of Governor Reeder, while Governor, had "conquered and subjugated" the people of the Territory. And this we are told was an organization similar to the Emigrant Aid Society.

Next, Mr. President, the report gives in detail the proceedings of Governor Reeder preparatory to the election, the orders which he issued for protecting the polls, and various matters connected with the election. Bear in mind that it does not deny this invasion from Missouri. No, sir, that fact is too well authenticated; but it argues that the persons elected as members of the Territorial Legislature received certificates of election from Governor Reeder, were recognised by him as a Legislature, and therefore its acts are binding! That is the substance of the argument. It does not pretend to deny that the elections were carried by fraud; that the people of Kansas were conquered and driven from the polls, as was published and alleged all over the country, and is a fact as well known to every intelligent man in the land as it is that the English and the Russians have lately been at war.

But, sir, it is said that the laws passed by this spurious Legislature are binding, and are to be enforced at the point of the bayonet; and those who deny their validity are to be treated as insurrectionists and traitors. The action of Governor Reeder is referred to as giving validity to the Legislature of the oppressors. Can that give any force to these acts, if the facts alleged be true? Does the report meet the real question at issue? If it be true that the elections in any Territory of this Union were carried by people from a neighboring State, or from a foreign country, and a Legislature were thereby imposed upon the people of the insulted Territory, I ask, is there a man in America who would have the hardihood to say that the acts of the Legislature must be obeyed, because the Governor of the Territory had recognised it, or because those elected by the invaders decided their election to be valid?

Of course the Legislature so decided. Did you ever know a tyrant or a despot trampling on the necks of his subjects deny his own right to do so? Such an act would be the most remarkable exhibition the world ever saw. And yet it is gravely argued in this report, that, because the oppressors decided that they had the right to oppress, we cannot, therefore, inquire into the fact whether they were oppressors or not. It has been contended, in debate here, that we are estopped from looking into the transaction, in consequence of the acts of Governor Reeder.

Sir, who was Governor Reeder? An instrument in the hands of the Executive, appointed by the President of the United States, and removable at his will. It has been contended that the Kansas-Nebraska act established the principle of self-government and popular sovereignty in the people of the Territory; but when you look into the act, you find that the Governor is not elected by the people, that they have no voice in his election, or in his removal, but that he is the mere instrument of the President, and liable to be removed at any moment.

I deny that a Territorial Governor can make valid the acts of an assembly of usurpers, by recognising them as a Legislature. The great fact remains, and it is not met by the report, that the people of Kansas have been conquered, as the Governor himself once said, and a Legislature has been imposed upon them by violence. Without denying this, the report, to use a legal phrase, demurs to the declaration, thereby admitting the charge, but denying that it affords any reason why the acts of such a Legislature should not be enforced!

But, sir, an attempt is made to get rid of the odium justly attaching to many of the acts of this spurious Legislature, not by directly denying the existence of the obnoxious acts, but by introducing into the report the proceedings of a Convention of the people of Kansas, composed chiefly of office-holders, as it would seem—the Governor, judges, marshal, and district attorney, being present—which undertook to say that the laws of the Legislature had been most grossly misrepresented. I wish to look a little at the justification thus set up, and see whether it is warranted by the facts. That Convention declares:

"It has been charged, and widely circulated, ' that the Legislature, in order to perpetuate their ' rule, had passed a law prescribing the qualifica- ' tion of voters, by which it is declared ' that any ' one may vote who will swear allegiance to the ' Fugitive Slave Law, the Kansas and Nebraska ' Bill, and pay one dollar;' such is declared to ' be the evidence of citizenship, such the qualifi- ' cation of voters. In reply to this, we say that ' no such law was ever passed by the Legislature. ' The law prescribing the qualification of voters ' expressly provides that to entitle a person to ' vote, he must be twenty-one years of age, an ' actual inhabitant of this Territory and of the ' county or district in which he offers to vote, ' and shall have paid a Territorial tax. *There is ' no law requiring him to pay a dollar tax as a qual- ' ification to vote.*"

We happen to have the laws here, and I wish to call attention to some of their provisions. In chapter 138 of the Kansas Statutes is this provision:

"In addition to the provisions of the act enti- ' tled 'An act for the collection of the revenue,' ' the sheriff of each and every county shall, on ' or before the first Monday of October, 1855, col- ' lect the sum of one dollar, as a poll tax, from ' each person in the said Territory of Kansas who ' may be entitled to vote in said Territory, as is ' provided in the said act to which this is supple- ' mentary."

In chapter 66 of the same book, the qualification of voters is prescribed as follows:

"Every free white male citizen of the United ' States, and every free male Indian who is made ' a citizen by treaty or otherwise, and over the ' age of twenty-one years, who shall be an *in- ' habitant* of this Territory, and of the county or ' district in which he offers to vote, and shall ' have paid a Territorial tax, shall be a qualified ' voter."

Section thirteen declares:

"It shall be the duty of the sheriff to have his ' tax-book at the place of holding elections, and ' to receive, receipt for, and enter upon his tax- ' book, all taxes which may be tendered him on ' the day of any election."

Do not these statutes prove the truth of the allegation which the office-holders' Convention has undertaken to deny? Is it not true that any inhabitant may vote who will pay his dollar tax? Is not every voter required to pay the tax? Is not the sheriff required to be present at the polls to receive it? Is any residence necessary? Not a day. It is enough if he who claims the right of suffrage is at the time an "inhabitant" of the Territory and district where he offers to vote. We all understand how this word "inhabitant" may be construed so as to require nothing more than inhabitancy at the moment of voting.

Mr. COLLAMER. I will remark to the gentleman, if he will allow me, that the law requiring a poll tax, and providing for its collection, was to take effect immediately; and the other law which he has read was to take effect in October, 1856. One was the dollar tax, and the other a fifty cent tax; and provision was made for paying at any time a man pleased.

Mr. TRUMBULL. I think, then, that the allegations which have gone abroad are fully sustained by an examination of the statutes themselves, and that the Convention of Kansas office-holders were themselves mistaken. Another section of the election law declares that any person offering to vote shall be presumed entitled to vote; but if his right is challenged, he is required to swear to support the Kansas-Nebraska act and the Fugitive Slave Law. There are many persons who would object to swearing to sustain the Fugitive Slave Law; and are they to be deprived of the right of suffrage on that account? I will not undertake to justify people who set at defiance the Fugitive Slave act. My opinion is, that under the Constitution of the country the owners of slaves have a right to a reasonable law for their reclamation when they escape.

These are my views. I avow them here and everywhere. But, while such is my opinion, I do not think it proper to prevent an individual who thinks differently, and who believes the Fugitive Slave Law to be unconstitutional, from voting. There are persons, South as well as North, who believe it to be unconstitutional; and to require of such persons, or any person, an oath to support it as a qualification to vote, is oppressive. There are features in the Fugitive Slave act repulsive to many persons. No man wants to take an oath to assist in apprehending runaway negoes.

Again, it is said, in reference to this election law:

"It is difficult to see how a more guarded law ' could be framed for the purpose of protecting ' the purity of elections and the sanctity of the ' ballot-box."

It is difficult to see how a more guarded law could be framed than that which permits any male citizen of twenty-one years of age to vote, who is an inhabitant of the Territory, and pays a dollar! That is a guarded law, in the opinion of the officials of Kansas. Again, they say:

"It has also been charged against the Legisla- ' ture, that they elected all the officers of the ' Territory for six years. This is without any ' foundation. They elected no officer for six ' years; and the only civil officers they retain the ' election of, that occur to us at present, are the ' Auditor and Treasurer of State, and the district ' attorneys, who hold their offices for four and ' not six years. By the organic act, the commis- ' sions issued by the Governor to the civil officers ' of the Territory all expired on the adjournment ' of the Legislature. To prevent a failure in the ' local administration, and from necessity, the ' Legislature made a number of temporary ap- ' pointments, such as probate judge, and two ' county commissioners and a sheriff for each ' county. The probate judge and county com- ' missioners constitute the tribunal for the trans- ' action of county business, and are invested with ' the power to appoint justices of the peace, con- ' stables, county surveyors, recorder, and clerk, ' &c. Probate judges, county commissioners, ' sheriffs, &c., are all temporary appointments, ' and are made elective by the people at the first ' annual election in 1857."

Now for the facts: chapter 93, section 4, of the Kansas Laws, is as follows:

"Every justice of the peace shall hold his office ' for the term of five years, and until his successor ' is duly chosen and qualified."

That is very plain. Justices of the peace are to hold their offices for five years, and that is, I suppose, considered but temporarily in Kansas. Another act, chapter 37, provides for the organization of Arrapahoe county, and section 2 is as follows: "Allen P. Tibetts is hereby appointed judge of the probate court of Arrapahoe county."

Section 4 declares:

"The said judge of probate shall have power ' to appoint such officers of the county as are ' specified in this act, and not appointed, and ' *justify* the same. All such appointments made ' by the judge of probate shall be entered of ' record."

Section 8 declares:

"The said judge of probate shall have full ' power to appoint a justice or justices of the ' peace within and for said county. Section 9. ' There shall be appointed by said judge one ' sheriff, one treasurer, (who shall be *ex officio* ' assessor,) and one surveyor."

The Legislature create a judge, who is authorized to appoint the sheriff, the treasurer, justices of the peace for five years—all the officers; and this is what is denominated the "self-government," and "popular sovereignty," guarantied by the Kansas-Nebraska act to the people of those Territories, and these are the laws which are to be enforced at the point of the bayonet.

I come now to a portion of this report with which I am very much gratified, a part of it which I can endorse, as enunciating the true doctrine in reference to the rights of a people in a Territory; but it is very much at war with that other doctrine which has been proclaimed throughout the land on nearly every stump in the West, that the people of a Territory possess the power of self-government, and the right of sovereignty. The question has been asked over and over again, by every village politician advocating the Kansas-Nebraska act, "Why does not a man possess just as much power to govern himself when he moves out of a State into a Territory, as he did when he lived in a State?" The question has been asked of assembled thousands, "Do you lose your senses when you go into a Territory, that you cannot govern yourselves?" The "great principle" of the Kansas-Nebraska bill was said to be, that it guarantied "sovereignty" and "self-government" to the people of the Territory. The idea that self-government could be derived, and sovereignty conferred, was, of course, an absurdity; but "self-government and popular sovereignty" were captivating terms, and well calculated to mislead. They have answered their purpose, and are now cast aside. The report says:

"The sovereignty of a Territory remains in ' abeyance, suspended in the United States, in ' trust for the people, until they shall be admitted ' into the Union as a State."

Never was a truer sentiment advanced; and I hope never again to hear of "squatter sover- ' eignty," "popular sovereignty," and "self-gov- ' ernment," as applied to the people of a Territory under a Territorial Government; but the very next sentence of the report has the word "self-government" crowded into it, as if it would not do to omit it altogether. Hence it is asserted, that the people of the Territory "are entitled to ' enjoy and exercise all the privileges and rights ' of *self-government*, in subordination to the Con- ' stitution of the United States, and in obedience ' to their organic law, passed by Congress in ' pursuance of that instrument."

Nobody ever doubted that they had a right to exercise all the privileges, not of *self*-government, but of government, conferred upon them by the organic act. If the word "self" had been left out, the sentence would have been complete, and

consistent with the one which precedes it. The report says:

"These rights and privileges are all derived 'from the Constitution, through the act of Congress, and must be exercised and enjoyed in subjection to all the limitations and restrictions 'which that Constitution imposes. Hence it is 'clear that the people of the Territory have no 'inherent sovereign right under the Constitution 'of the United States to annul the laws and resist 'the authority of the Territorial Government 'which Congress has established in obedience to 'the Constitution."

There is the whole doctrine clearly stated. The people of a Territory have no *inherent* rights to pass laws except in accordance with the charter granted them by Congress. This was the doctrine of the fathers of the Republic; and I rejoice exceedingly that the committee have come to this conclusion in their report. I hope we shall hear no more about this idea of sovereignty in a Territory—an idea utterly inconsistent with its existence as a part of the Union. Two sovereignties cannot exist within the same dominion. One must be subject to the other.

The committee attribute the origin of the difficulties in Kansas to an attempt to violate the *principle* of the organic act. What this *principle* is, the report does not explain, except in the confused language of the Kansas-Nebraska act, which, as has already been shown, is understood differently in different parts of the Union.

Sir, I do not trace these difficulties to violations of the mongrel principle of the Kansas-Nebraska act. That act contains no definite, fixed, and certain principle. It is admitted in the report that all the powers of the people of the Territory are in subordination to Congress, and are held in abeyance by Congress so long as the Territory lasts. There is no principle established by the Territorial act, which has been violated. That act professed to throw the whole Territory open to competition, or rather the authors of the bill professed to believe, and informed the country, that Slavery was not intended to go into Kansas or Nebraska; that nobody expected it. It was but natural, then, that those persons who were opposed to Slavery, and who preferred to live in a community where Slavery did not exist, should have flocked to that Territory which they were told was to be free. This violated no principle of the law.

What, then, sir, is the occasion of the excitement now existing throughout the length and breadth of this land? I will tell you. It has its origin solely in that one fatal mistake made two years ago, when the Missouri Compromise was repealed. If the policy adopted in 1850, which was to leave the question of Slavery in a country, when organized into a Territory, in the condition Congress found it at the time, had been adhered to, there would have been no difficulty; we should have had no Slavery agitation; and at this time there would have been no occasion for proclamations from the President, nor orders from the Secretary of War, to enforce the laws in any part of the country at the point of the bayonet. The policy of 1850 was a let-alone policy. Congress at that time found the territory which we had acquired during the Mexican war with an existing law prohibiting Slavery; and what did Congress do? Did it repeal that law? Certainly not; but it organized the Territories of Utah and New Mexico, leaving the law as it found it. It was then contended on this floor by Senators North and South, and I could read by the hour from the opinions of the most distinguished men of this body at that time, to show, that the Mexican laws by which Slavery was abolished were left in full force. That was the opinion of the distinguished Senator from Michigan.

The Committee on Territories, who reported the first Nebraska bill, stated that it would be a departure from the policy adopted in 1850, which was to leave the Territories of Utah and New Mexico as Congress found them, with the Mexican law untouched, if they were now to introduce a provision to repeal the eighth section of the act for admitting Missouri into the Union; and, therefore, they recommended not to repeal that provision. Afterwards different counsels prevailed, and it is to those different counsels that we owe all the excitement, and all the agitation, and all the danger, which have grown out of this question. Such was the opinion of the distinguished Senator from Michigan at the time the Nebraska bill was under consideration; and, in the commencement of his remarks on that occasion, he expresses his regret that a provision should have been introduced to repeal the Missouri Compromise, and open again the agitation of this dangerous question.

Now, sir, what is the remedy? It is obvious. If we could approach this question calmly and dispassionately, without excitement; if Senators could be actuated by that feeling which seemed to animate them some years ago, when they said they had no expectation of Slavery going into Kansas, and which animated our fathers when the Missouri Compromise was adopted, it seems to me they would consent to restore it, and in so doing they would, in my opinion, in thirty days give peace to the country. If we could forget the excitement growing out of misapprehension, in different parts of the country, as to the views entertained in other parts, and look upon this question as friends of the Union, as lovers of the Constitution, as men willing to do all that lies in our power to perpetuate the glorious heritage which has been handed down to us, I think we should be willing to do this. I shall not, however, make the proposition, for the reason that I cannot see any probability of its passage at this time. It should have my vote, and I should be exceedingly glad to see it proposed with a prospect of success, and coming from Senators residing in the South.

But, sir, if that cannot be done, what is it our duty to do? Shall we sit still and leave these obnoxious laws which have been alluded to, and many others to which I have not alluded, but to which the attention of the Senate has been heretofore called in this discussion, in full force? Is that statute to remain in force in the Territory which makes it a penal offence, punishable by imprisonment for two years, for a person to say that

Slavery does not rightfully exist in Kansas? Why, sir, before God, I believe it does not rightfully exist there. Every man who believes that the Territorial Legislature which sat in Kansas was imposed upon the people by fraud and violence—that it was a usurpation—and that Slavery cannot exist without a municipal law to protect it, must believe that Slavery does not rightfully exist in Kansas; and yet he is liable to punishment for avowing that opinion; and not only for avowing it, but for circulating a document that avows it!

Instead of meeting this question in a fraternal spirit, with kindness upon all sides, we hear it said that these laws are to be enforced at the point of the bayonet; and the President is commended by Senators for the course he has taken in reference to this matter. Now, I wish to review the President's action upon this subject. I know it has been said that the laws are to be enforced, and that we must put down traitors and insurrectionists. True, sir; but we must find traitors before we hang them; there must be an insurrection before we undertake to quell it. As yet, that state of things has not arisen, in my judgment, which makes it proper to denounce as traitors the settlers of Kansas, who have resorted to the only means left in their power to escape the despotism which is being imposed upon them. I do not understand them to have organized any resistance to the General Government. I recognise the authority of Congress to govern the Territories of this country while they remain Territories, and deny the right of that or any other Territory to set at defiance the action of Congress. Were the people of Kansas to do that, and levy war against the United States, they would be guilty of treason, and the whole power of the Government should be exerted to reduce them to subjection and enforce the laws. But that case has never arisen, and I trust it never may. It is a very different thing from treason for the people of Kansas to resist the acts of usurpers and tyrants. Sir, we are told, by an authority little less than Divine, that "Resistance to tyrants is obedience to God." If the Legislature which sat in Kansas was composed of men who were elected, in defiance of the act of Congress, by an army of invaders from abroad, I say there is no obligation on anybody to obey their laws; and so far from condemning as insurrectionists those who resist them, we should strengthen the hands of the men who are seeking to set them aside.

The message and documents the President has sent us are said to contain "all the information on the subject" of Kansas affairs in the Department of State. This was on the 18th of February, 1856. We have, then, before us all the information in the possession of the Executive on the 18th of February last.

To show how the people of Kansas have not only been imposed upon by a spurious Legislature, but also the means which have been resorted to to embarrass and place them in a false position before the country, and in an attitude of hostility to the General Government, I beg attention particularly to the documents which have been laid before us; and I will undertake to show, to the satisfaction of any intelligent mind, that there was no just occasion for the invasion of Kansas in December last; that it was gotten up, as appears from the documents themselves, upon false rumors, and without sufficient cause. The first we know of this difficulty is in a telegraphic dispatch from the Governor, Wilson Shannon, as follows:

"WESTPORT, MISSOURI, *December* 1, 1855.

"I desire authority to call on the United States
'forces at Leavenworth to preserve the peace of
'this Territory; to protect the sheriff of Douglas
'county, and enable him to execute the legal pro-
'cess in his hands. If the laws are not executed,
'civil war is inevitable. An armed force of one
'thousand men, with all the implements of war,
'it is said, are at Lawrence. They have rescued
'a prisoner from the sheriff, burnt houses, and
'threatened the lives of citizens. Immediate
'assistance is desired. This is the only means
'to save bloodshed.

"Particulars by mail. WILSON SHANNON.

"*His Excellency Franklin Pierce.*"

Now, sir, on what was Governor Shannon's dispatch founded? On Sheriff Jones's letter, telling him that Branson, a person arrested on a peace-warrant, had been rescued by an armed body of between forty and fifty men, as the Governor writes; but of between thirty and forty, as Buckley, who was present at the time of the rescue, swears.

This was the immediate and the main cause of that modest request of Sheriff Jones for "three
'thousand men to aid him in the execution of the
'warrants in his hands, and to protect him and
'his prisoner from violence." The prisoner alluded to was Coleman, who had killed Dow, but who does not appear from the papers communicated to have been at the time in the sheriff's custody.

The affidavits of Jones the sheriff, of Buckley, who sued out the peace-warrant against Branson, of Hargis, and the letter of Clark to the Governor, all bear date subsequent to the Governor's dispatch to the President, and could not, therefore, have furnished the grounds on which it was sent. To go still further back, we find there was a very slight excuse, either for the suing out of the peace-warrant, or the conduct of Jones in arresting Branson. At the risk of making myself somewhat tedious, I will read a portion of Buckley's affidavit, made on the 6th of December, 1855, as he gives the origin of the siege of Lawrence. He swears:

"That he *was informed on good authority*, and
'which he believed to be true, that Jacob Bran-
'son had threatened his life, both before and
'after the difficulty between Coleman and Dow,
'which led to the death of the latter. I under-
'stood that Branson swore that deponent should
'not breathe the pure air three minutes after I
'returned, this deponent at this time having gone
'down to Westport, in Missouri; that it was
'these threats, made in various shapes, that made
'this deponent really fear his life, and which in-
'duced him to make affidavit against the said
'Branson, and procure a peace-warrant to issue,
'and be placed in the hands of the sheriff of
'Douglas county; that this deponent was with

'the said sheriff (S. J. Jones) at the time the 'said Branson was arrested, which took place 'about two or three o'clock in the morning; that 'Branson was in bed when he was arrested by 'said sheriff; that no pistol or other weapon was 'presented at the said Branson, by any one; that 'after the arrest, and after the company with the 'sheriff had proceeded about five miles in the 'direction of Lecompton, the county seat of 'Douglas county, the said sheriff and his posse were 'set upon by about between thirty and forty men, 'who came out from behind a house, all armed 'with Sharpe's rifles, and presented their guns 'cocked, and called out who they were; and said 'Branson replied, that they had got him a prisoner; 'and these armed men called on him to come 'away. Branson then went over on their side, 'and Sheriff Jones said they were doing some-'thing they would regret hereafter, in resisting 'the laws; that he was sheriff of Douglas county, 'and as such had arrested Branson. These armed 'men replied, that they had no laws, no sheriff, 'and no Governor; and that they knew no laws 'but their guns. The sheriff, being overpowered, 'said to these men, that if they took him by force 'of arms, he had no more to say, or something 'to that import, and then we rode off."

Jones's account of the *forcible rescue* agrees substantially with that of Buckley. Buckley's complaint against Branson was founded upon rumor. It scarcely amounted to sufficient to justify a justice of the peace in issuing a warrant. When the warrant was issued, it afforded no sort of excuse for the arrest of Branson at the time and place and in the manner it was made.

Branson was the friend of Dow, who had been killed a few days before by Coleman, who had escaped; the neighborhood was excited, party feeling ran high, Branson was quietly sleeping at home, when, at the dead hour of night, his dwelling was entered by Jones and his posse of ten men, of whom Buckley, who had sworn out the peace-warrant, was one; the arrest was made, and Branson was hurried off in the darkness of night in the direction of a distant county seat. His neighbors, learning that a body of men had entered Branson's house, had seized and were carrying him they knew not whither, nor for what purpose, very naturally gathered together to learn what these things meant. While assembled, Jones and his party, having Branson in custody, came passing by. The assembled neighbors call out in the darkness to know who is there, and, on being answered by Branson, they tell him to come with them, which he quietly does; and this is the rescue of the prisoner, to recapture whom, and for his own protection when no man pursued, Sheriff Jones calls on Governor Shannon for three thousand men, and the Governor responds to his call by issuing orders to Generals Richardson and Strickler to fly to his protection with the militia, and calls on the President for the additional assistance of United States troops.

Governor Shannon, in his letter of December 11th to the President, says that not more than three or four hundred of the militia of the Territory assembled at the call of Generals Richardson and Strickler, but that their forces were soon swelled by men from Missouri to near two thousand men, and that "the great danger to be ap-'prehended was from an unauthorized attack on 'the town of Lawrence." What a change was wrought on Governor Shannon, when he saw how he had been imposed upon by false rumors, and learned the real truth! His great fear now was, that the *law and order men*, whom he had unnecessarily assembled for the protection of Jones, would make an *unauthorized* attack upon the people of Lawrence! Governor Shannon repaired to that place, satisfied himself that no one against whom a writ had been issued was in Lawrence, had no difficulty in coming to a satisfactory arrangement with its inhabitants as to the execution of the laws, which a large majority of the people claimed they had always been willing to uphold, though they denied the validity of the acts of the bogus Legislature. A treaty was then concluded between Governor Shannon and the people of Lawrence. They were authorized by him to protect themselves against the army assembled at Wakarusa under Generals Richardardson and Strickler, which subsequently disbanded, and the disturbances in the Territory were quieted, as the President tells us in his special message, "*in a satisfactory manner.*" The history of this whole disturbance, from its inception in the issuing out of a peace-warrant for an insufficient cause, till the final disbanding of the invading army, when the Missourians returned grumblingly to their homes, has more the appearance of a conspiracy on the part of the officials and others in Kansas, to place the Free State settlers in a false position, that an excuse might be found for attacking and exterminating them, than of an honest effort to enforce the laws.

Branson seems to have been a quiet, inoffensive man, who needed not to have been put under bonds to keep the peace, when he was fleeing as for his life. Sheriff Jones needed no army for his protection, for no one seems to have been disposed to molest him; nor was an army necessary for the maintenance of law in Lawrence, for the people professed themselves willing to submit to the laws, save those of the assumed Legislature, which, by the treaty of peace, which seems to have been satisfactory to the President, they were not required to acknowledge. It is manifest that Governor Shannon acted without sufficient cause when he assembled an army, chiefly of Missourians, to enforce the laws against the citizens of Lawrence; and this is virtually acknowledged by the treaty of peace which he subsequently made.

The disturbances of December last, the President tells us, "were speedily quieted, without the effusion of blood, and in a satisfactory manner." What occurred afterwards, and before the 11th of February last, to justify the President in issuing a proclamation, placing the troops of the United States at the service of Governor Shannon? We have all the papers before us, and they contain no application from Governor Shannon for United States forces, since that of December last in reference to a disturbance which was satisfactorily terminated long before the proclamation was issued. I take it, then, the proclamation must have been issued upon the information communi-

cated to the President by Lane and Robinson, informing him that an "overwhelming force of the citizens of Missouri" were organizing upon the borders of Kansas, for the purpose of demolishing the towns and murdering the unoffending Free State citizens of the Territory. If it was upon that information that the proclamation was founded, then it is cruelly unjust to the Free State men who asked for protection; for it is mainly directed, not against aggression from Missouri, but against some fancied insurrection within the Territory, when there is no evidence of any such contemplated insurrection in any of the documents communicated; and we have all the information which was in the State Department at the time the proclamation was issued.

But the order of the Secretary of War to Colonels Sumner and Cooke is still more objectionable than the President's proclamation. The material part of it is as follows:

"If, therefore, the Governor of the Territory, 'finding the ordinary course of judicial proceed-'ings and the powers vested in United States 'marshals inadequate for the suppression of in-'surrectionary combinations or armed resistance 'to the execution of the law, should make requi-'sition upon you to furnish a military force to 'aid him in the performance of that official duty, 'you are hereby directed to employ for that pur-'pose such part of your command as may in your 'judgment consistently be detached from their 'ordinary duty."

Would the officers to whom this order is directed be authorized to go to the assistance of the Governor, to repel the expected invasion from Missouri, should it be attempted? If not, and the order is only designed to allow the United States forces to be used to prevent the Free State men within the Territory from organizing and arming to protect themselves against the apprehended invasion, it is both cruel and unjust. I can hardly think the order could have been so intended. But the point has been made before, and never satisfactorily answered. The order is unfortunately worded, to say the least; and it is much to be regretted that it should have been so framed as to give color even to the idea that the General Government was more willing to use its power to put down insurrection in the Territory than invasion from without. Senators have justified and commended the entire action of the Executive in reference to Kansas affairs; but, for my part, I can see no justification in the documents before us for *such* a proclamation and *such* orders as have been issued. When an invading army marched into Kansas, and controlled its elections by driving its inhabitants from the polls, we were told the President had no such official knowledge of the fact as would justify his interference to protect the ballot-box. How is it that he could neither see nor hear of those invasions, in utter disregard of an act of Congress, and yet is so ready, without any official information, to take notice of an opposition to the enactments of a spurious Territorial Legislature? The fact that Governor Reeder did not officially notify him of the Missouri invasions is no excuse. It is the duty of the President to see that the laws of the United States be faithfully executed; and if Reeder neglected his duty, he should have removed him. It cannot be that the President was uninformed of the manner in which the elections in Kansas were carried; the facts were proclaimed throughout the land, and known to everybody.

I would not censure the President for making use of the army of the United States to prevent civil war in Kansas, or to put down resistance to acts of Congress; but I hope never to see the United States soldiers engaged in forcing submission to the barbarous and inhuman acts of that spurious Legislature which was forced upon the people of Kansas by violence and against their will. As a remedy for existing evils, if Congress will not restore the Missouri Compromise, it ought at least to annul the present Territorial acts, and give the actual settlers an opportunity to elect a Legislature for themselves—a privilege which they assert has thus far been denied them, and which assertion this report does not venture to deny.

Published by the Republican Association of Washington.