The Lancaster Intelligencer.

"THAT COUNTRY IS THE MOST PROSPEROUS WHERE LABOR COMMANDS THE GREATEST REWARD."—BUCHANAN.

VOL. LVIII. LANCASTER CITY, PA., TUESDAY MORNING, JANUARY 5, 1858. NO 51.

INTELLIGENCER & LANCASTERIAN.

PUBLISHED EVERY TUESDAY, AT NO. 3 NORTH DUKE STREET.
BY GEO. SANDERSON.

TERMS.

SUBSCRIPTION.—Two Dollars per annum, payable in advance. No subscription discontinued until all arrearages are paid, unless at the option of the Editor.

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Senator Bigler on Kansas Affairs.

In the U. S. Senate, December 21, 1857.

Mr. President, no one has regretted more than myself that the discussion on the Kansas policy of the Administration has been precipitated upon the Senate and the country. I preferred to avoid discussion until the result of the election on the slavery clause had transpired, and until Kansas should present herself for admission as a State; but the Senator from Illinois [Mr. Douglas] deemed a different policy necessary and proper, and no alternative was left to the friends of the Administration but to respond.

I think I am duly sensible of the important and delicate character of the subject to be discussed, and I am sure I never was more anxious to do my duty; never more willing to sacrifice pride of opinion, or to restrain passion and prejudice in order to see clearly the public good. That other Senators are actuated by motives equally proper, I have no doubt.

The Senator from Illinois has delivered what may be termed a great speech against the Kansas policy of the Administration. No man who knows him will doubt his ability to make the most out of any state of facts and circumstances before him.—Few men can equal him in this particular. For myself, I make no such pretension: but, as to our rights, privileges, and responsibilities, on this floor, we are equals. Fortunately, in our present difference, I think my cause the stronger of the two, and on it I can rely with safety.

Now, sir, it would be idle to attempt to answer the Senator's arguments, and controvert his conclusions, were I to concede the correctness of all his premises. This I cannot do, and I shall show why I cannot, at different points, as I proceed. This great speech of the Senator, with all due respect, was, in my humble estimation, after all, only a huge structure, resting on a very unsound and insufficient foundation. He has applied the facts and circumstances, with great skill in maintaining his case; but he will pardon me for the expression of the opinion that, in tone and temper, in enlarged and sound theory, in practical and useful suggestion, in generous tolerance of differences with others, it will not, in my judgment, command so much of public favor as any one of the many former efforts of that gifted Senator.—It was his right—and no one will call in question his motives—but I do not believe it was wise in the Senator to precipitate the slavery agitation in this body and in the country; nor can I understand why he should have shown so much willingness to weaken public confidence in the policy of the men of his own party, whom he assisted to place in power, and who, at this critical moment, wield the only functions of Government capable of maintaining the public peace in Kansas; nor why he should have indulged in sarcastic ridicule when dealing with the views of the President.—The allegation that that able and accomplished statesman has fallen into "fundamental error," as to the meaning of the Kansas-Nebraska law, and the purposes of its authors, because he was not in the country at the time of its passage, can be estimated in no other light, and can subserve no useful purpose for the Senator or the country. True, it answered to excite momentary gratification on the other side of the Chamber, and chargin on this; but on neither side, nor in the country, will the sentiment meet even a respectful response, when the impulses of the hour shall have yielded to sober reflection.—The honorable Senator from Illinois was not in the country when the Declaration of Independence was enunciated, nor when the Constitution was made; and yet he claims to understand both these instruments, and the purposes in view by their authors. Is this Kansas law more difficult of comprehension? Perhaps it is. At all events, it has certainly required more explanation at the hands of its author; and it might seem that, so long as he finds it necessary to explain what he meant, every month of the year, he could afford to pardon the President for the commission of even a "fundamental error." But enough on this point. When the Senator shall have persuaded the people of the United States, that the President does not understand the subject, I shall recur to it again. But what will the honorable Senator say as to the views of the late President, who was *not* out of the country when the law passed, but participated in every step of the struggle that gave it existence. He certainly understands the question; and I have sufficient authority for saying that he agrees with his successor on his Kansas policy, and consequently differs with the Senator from Illinois.

The most harmless part of the Senator's speech is that in which, whilst making a broad issue with the Administration, he has attempted to show that the President's views sustain those expressed by himself. He is certainly entitled to all he can make for his cause in this way; but if there was no great difference between the President and himself, there was then the less reason for making the issue. The President's character for candor and fairness forbade that he should withhold or give the slightest coloring to any fact in the case, with a view even of sustaining the conclusions at which he felt required to arrive. Nor could he approach the subject in a partizan spirit. He has not cared to deal with the follies, wrongs, and bitter feelings which have been manifested on either side of the question, in or out of Kansas; but he has preferred to consider the present and the future, and to determine what is best for the country. I do not claim for him infallibility of judgment, for that does not belong to humanity; but I do claim for him the highest degree of patriotism and disinterestedness in all he has said and done on this dangerous question. The idea that he would seek to oppress any class of the people of Kansas, or desire to impose upon them an odious Government, should not be, and I trust is not, entertained in any quarter; that he will not trifle with this, or any other great question; and that, having recognized the validity of the laws in Kansas, and the right of the convention to make a constitution and State government one day, he does not discard that view the next, is but consistent with his character for integrity of purpose, and clearness of perception.

But what does the Senator mean by assuming that the Kansas policy of the message is not an Administration measure? Does he mean that the Cabinet do not agree with the President? I understand differently. Or does he mean that the Administration, having laid down its policy, will hold that those who assail and denounce that policy do not oppose the Administration? There is surely no room for misunderstanding on this point, and it is certainly not difficult to discover from the message of the President what that policy is. The Administration recognizes the legality of the proceedings in Kansas, so far as they have progressed in the matter of making a constitution and State government preparatory to admission into the Union as a State. They hold that the Legislature of the Territory had the right to call a convention of delegates to be elected by the people to form a State Constitution; that the convention, when so formed, had the legal right to form a constitution and submit their doings to the test of a popular vote, or send them to Congress, and ask admission for the State under them; that the organic act having special reference to a controversy about slavery, which involved the whole country, the convention was morally bound to ascertain the sense of the people on this feature of their domestic policy, otherwise the spirit of the compromise on this angry feud would have failed of its true purpose, so far as Kansas is concerned. They hold, further, that when the State shall ask admission, the constitution being republican in form, it will not be a sufficient reason to deny her admission, and thereby perpetuate the contest about slavery, that the ordinary forms of State government, about which there is seldom much controversy, and which can be changed at any time, had not first received the sanction of a popular vote; that this process is safest as a general principle, but that, under the clear terms of the organic law, it is a question for the people and their representatives in convention, with which the Federal Government has now no right to deal; that, if the delegates had acted in bad faith, they are accountable to the people who elected them, and not to Congress or to the Administration. So much for the views of the Administration.

Now I understand the Senator from Illinois not only to deny nearly all these positions of the Administration, and especially the right of the Legislature to call a convention—for he has said the law for that purpose was "null and void from the beginning;" but he goes farther, and maintains that to admit the soundness of all the positions of the Administration, the State must be admitted until the question of courts, corporations, banks and railroads shall be settled by a vote of the people, and herein is the issue. As to the power of the Legislature to call a convention, it will be seen that the Senator comes in direct conflict with the views of Governor Walker, who, in his inaugural address, held that the Legislature was "the power ordained for that purpose." But the most startling doctrine involved in this position of the honorable Senator is the assumption, that it is the *right and duty of the Federal Government to interpose between the people of a Territory and their own local representatives.* This never could have been a sound or safe practice as to any State or Territory; but it is utterly out of the question under the organic act for Kansas, which has committed all domestic and internal affairs to the people, to be regulated "in their own way."

It is no matter of pleasure to me to recur to the unpleasant difference between the honorable Senator and myself, the other day, touching the consultation of Senators at his residence, in July, 1856, on the policy of the Toombs bill; but, however disagreeable the task, justice to myself requires that I should do so, especially since the character of that conference has been misunderstood in certain quarters.—Nothing was further from my mind than to allude to any social or confidential interview. The meeting was not of that character. Indeed it was semi-official, and called to promote the public good. My recollection was clear that I felt the conference under the impression that it had been deemed best to adopt measures to admit Kansas as a State through the agency of one popular election, and that for delegates to the convention. This impression was the stronger, because I thought the spirit of the bill infringed upon the doctrine of non-intervention, to which I had great aversion; but with the hope of accomplishing a great good, and as no movement had been made in that direction in the Territory, I waived this objection, and concluded to support the measure. I have a few items of testimony as to the correctness of these impressions, and with their submission I shall be content.

I have before me the bill reported by the Senator from Illinois, on the 7th of March, 1856, providing for the admission of Kansas as a State, the third section of which reads as follows:

"That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas, when formed, for their free acceptance or rejection; which, if accepted by the convention, and ratified by the people at the election for the adoption of the constitution, shall be obligatory upon the United States and the said State of Kansas.

The bill read in place by the Senator from Georgia, on the 25th of June, and referred to the Committee on Territories, contained the same section, word for word. Both these bills were under consideration at the conference referred to; but, sir, when the Senator from Illinois reported the Toombs bill to the Senate, with amendments, the next morning, it did not contain that portion of the third section which indicated to the convention that the constitution should be approved by the people. The words, "*and ratified by the people at the election for the adoption of the constitution,*" had been stricken out. Who struck these words out, or for what purpose they were omitted, is not for me to answer. But, sir, I cannot be persuaded that it was intended thereby to secure to the people of Kansas the right to vote on the constitution. I know the Senator assumed the other day, that wherever the law is silent on the subject, the inference is in favor of submission; but, sir, a full examination of the precedents bearing on that point has shown me that the converse of the proposition has the weight of authority, and that which he has laid down as the rule precedent, has seldom, if ever, happened.—Indeed, I failed to discover a single instance in which the people have voted on the preparatory constitution where the act of Congress was silent on the subject. But, yielding this point, how is the Senator to reconcile his position with the understanding of the subject he has so clearly indicated on other occasions? For instance, if it be an allowable conclusion, that where the law is silent on the subject, the constitution must be submitted to a vote of the people, why did the Senator insert the clause which I have already quoted in his bill of the 7th of March; and why did he insert a similar provision in the law for the admission of Minnesota? Then, again, if by striking these words out of the bill of the Senator from Georgia, its import was in no wise affected, why were they stricken out?

Such, sir, were the facts and circumstances which led me to believe that the Toombs bill was to bring Kansas into the Union without a vote on the constitution. Possibly my impressions are not warranted; but be that as it may, I cannot be persuaded that the Senator intended to secure to the people the right to vote on the constitution, by striking from the bill the words making such a policy necessary, or that the convention would have been bound to extend that opportunity to the people, simply because the act of Congress said no such thing. But enough on this point. Now let me proceed to a more important branch of my remarks.

In order to have a proper understanding of the subject under discussion, it is necessary to start with a clear view of the relations existing between the Territory of Kansas and the Federal Government.—The organic law declares that "the legislative authority of the Territory shall extend to all rightful subjects of legislation;" and also that the people shall be left "perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States."

I hold that the extension to the people of the opportunity of so forming and regulating their institutions, by designating the times and places where they may meet and elect delegates, and where the delegates shall assemble when elected, and how they should proceed, is a rightful subject of legislation; and that the legislature of Kansas was bound, as a matter of duty, to respond to the almost clamorous demand of the people for a change from their territorial to a State government, as manifested for two years past, a portion of whom had attempted to erect the Territory into a State in the most irregular and unlawful manner; as they had also a right to take notice of the manifestations of willingness on the part of Congress, expressed in 1856, to receive the Territory into the Union even with her then meagre population.

I hold, also, that there are but two sources of governmental authority for the people of a Territory—the one is Congress, the other is the people themselves; and that when Congress, as in the case of Kansas has conferred upon the people all the legislative authority with which they were invested, the people are entirely unrestrained in the matter of institutions of government, except by the Constitution of the United States. It needs no argument, then, to show that the people of Kansas have a right, under the organic law, to adopt any measures they may deem proper to change their form of government; that in doing this they have a right to delegate their sovereign authority to representatives to any extent they please—to the extent only of preparing forms of government for their supervision, acceptance and ratification, or to the extent of making and adopting a constitution and State government for admission into the Union; that where there is no limitation in the original grant of authority, the latter measure of power may be exercised; that the sovereignty of the people is inalienable, and must revert to them after having performed the functions for which it was delegated, and that therefore the people are at all times clothed with authority to alter and amend their forms of government; but to hold that the people cannot delegate their sovereign authority to make laws for their own use and enjoyment, is to discard our whole representative system, and the practice under it since the Government began. And to say that laws so made, unless the popular sense is taken upon them, are oppressive or wanting in authority, is to lay down a rule which would require the submission of all the statutes to the popular vote. Indeed, on this principle, the Declaration of Independence, the Bill of Rights, the Constitution of the United States, might be called acts of oppression, for neither received the sanction of a popular vote.

I maintain that the people of Kansas have the right to make a constitution and State government; that Congress cannot participate in that work, either as to its substance or form; that whilst Congress might attempt to prescribe how the people should do this, it would be optional with them whether they adopted that way or pursued some form of their own. Congress may invite the people to make their government in a prescribed mode, but cannot require compliance, except that Congress could refuse the Territory admission as a State; but this proceeding of the people must be in accordance with and under the direction of the laws of the Territory; it must be the offspring of law, not of a spirit of rebellion, as in the case of the Topeka Convention.

I do not understand the honorable Senator from Illinois to hold an enabling act to be indispensable in all cases. He cannot hold this in the face of the numerous precedents to the contrary: but he certainly does maintain that in the case of Kansas, all that the people have done shall be disregarded, not because they have not done it according to law, but for the reason that, in his opinion, they have not done it in the right way. Waiving for the present the question as to whether their way was right or not, the first question that suggests itself to the mind is, what has become of the great Kansas-Nebraska law; that new charter of rights to the people of the Territories, which declares that it is "not intended to legislate slavery into any Territory, or exclude it therefrom, but to leave the people perfectly free to make their domestic institutions in their own way?" Is it to be abandoned, and thus summarily pronounced a failure? Be that as it may, he cannot convince me that the people have not the right to make their domestic institutions in their ownway, uutil he *repeals so much of the organic act as says they shall do this precise thing.*

It has conferred upon the people not only all the powers Congress possessed under the Constitution, as to the kind of institutions which should be made, but also, and just as expressly, as to the mode, manner, and way of making them. The Senator proposes to reject what the people have done, and confer upon them new grants of power: and yet, if there is any one thing clear in all this Kansas question, it is, that as to the kind of institutions the people shall have, and the way in which they shall be made, they already have complete authority. It is true that Congress still has the power to say that Kansas shall not come into the Union; but I cannot see how that body can confer any additional authority as to the way in which she shall be prepared to come in. I will not be contradicted when I say that the question between the friends and enemies of the Kansas bill, was, whether the people of the whole Union, acting through their representatives in Congress, should legislate on slavery in the Territory—no one ever claimed the right to legislate on any other domestic institution—or whether the question should be dealt with by the people of the Territory, in their own way, through local representatives of their own selection. This question was settled as no other question had ever been settled before—by the concurrence of all the departments of Government, by Congress, by the executive, by the judiciary, and by the people at the polls. And, Mr. President, I must confess to great amazement when I heard the honorable Senator assume, the other day, that the people of Kansas, acting under his boasted grant of "perfect freedom," could not, in the matter of making a government for themselves, rise above the dignity of suppliants to Congress to ratify their irregular and unauthorized proceedings; not on the ground, even, that what they had done was itself entirely inadmissable, but because it had not been done in the right way. The organic act says they shall do this thing "in their own way." Will the Senator say the way they have embraced was not the way of the people? Will he contend, in the face of his Springfield speech—to which I shall allude more particularly hereafter—that the people have not had a fair opportunity to reflect their will through the ballot-box: or, if a portion of them refuse to do this when invited, because they are determined to disregard their own local laws, that the responsibility is not their own? Certainly not.

Wherein, then, is the case of the convention defective? I deny *in toto* the Senator's right to go behind the legal and authorized aspect of the case. Congress is not hereafter to deal with the question of making institutions in Kansas, either as to their character or mode of formation. The rights of the people as to this matter are circumscribed by the Constitution only; and when an issue between their action and that instrument shall arise, it must be a question for the judiciary, and not for Congress; and so the Senator from Illinois has often held, especially on the question of squatter sovereignty. When, therefore, the people apply to Congress for admission as a State, through the agency of a convention of delegates selected by themselves in a legal and orderly manner, under the broad terms of the organic act, and in these days of non-intervention, having decided the slavery question by popular vote, the only proper inquiry for Congress will be: Is the constitution republican? Mr. Madison's discussion of the obligations of the Federal Government to guaranty to every State in the Union a republican form of government, to be found in the "*Federalist*," but which is too voluminous for use on the present occasion, is to my mind, clear on this point.

The honorable Senator has resorted to musty authorities to sustain his new positions; but I am not disposed to resort to means of that kind to controvert them. Indeed, it would hardly be fair in these days of non-intervention. I had supposed that, after the era of this new doctrine, old relics would be forgotten, and that we were to have a simple plain system for the Territories, to wit: that the people from all the States should go into the Territories with all their property, including slaves, and legislate for themselves up to the full measure allowable by the Constitution of the United States, without revision or interference by Congress; and that, in their own time and in their own way, they should be allowed to prepare for and ask admission as State. Besides, it is extremely difficult to tell exactly what the precedents of Congress, States, and statesmen, would teach on this subject. I have taxed my brain to the utmost to make a fair deduction from this complicated contest, and find it exceedingly difficult to show decisive authority for any of the points involved. I discovered that the States of Maine, Michigan, Vermont, Arkansas, Tennessee, Texas, Iowa, Florida, and California, were admitted into the Union without what is called enabling acts; Ohio, Indiana, Mississippi, Louisiana, Illinois, Alabama, Missouri and Arkansas, came in under acts of Congress; and that Vermont, Ohio, Kentucky, Tennessee, Alabama, Missouri, Arkansas, and Wisconsin, according to the best authority I can find, came into the Union under constitutions which had not been submitted to the popular vote. Certain States, under enabling acts, may have submitted their constitutions to a vote of the people, and others have not. There seems to have been no uniformity of action on the part of the new States or of Congress. The precedents established by statesmen are still more dubious.

Even the honorable Senator from Illinois does not seem to have held the same views at all times on the question under consideration. At present, he doubts the policy of admitting Kansas, because the entire constitution was not submitted to a vote of the people; yet he voted for an enabling act for Kansas, which did not require that any part of the constitution should be submitted. He denies the authority of a convention of the people of the Territory of Kansas to make a State government, even under the enlarged power conferred by his own favorite law of 1854; and yet he voted to admit California as a *State*, she having made a *constitution* and *State* government *without* even *the* color of *authority* from Congress, *the* incipient *steps* of which had *their* origin in the orders of a military commander. I make no charge of inconsistency against *the* honorable Senator, and surely none as *to the* purity of his motives. I *state these things to* show *the* difficulty of the subject; but I do say, *that* when *the* Senator picked up *the* charge of inconsistency made against *the* President *the* other day, by his colleague, on *the* Michigan and Arkansas cases, and when afterwards, replying *to* a similiar allegation against himself, he said: "I am not one of those who boast *that* they have never changed *their* opinion," and "I do not know *that* a month has ever passed over my head in which I have not modified some opinion *to* some degree," he ought to have extended *the* same charitable rule *to the* President.

But he holds that when the people of Kansas move in the matter of establishing their goverement, that movement, though it may not be illegal, is irregular, and does not rise above the importance of a petition for redress of grievances. How will this sentiment be relished by the proud men who have gone to Kansas from all parts of the Union, believing they had been vested with the "great principle of self-government?" They will scarcely realize their new attitude.

But it is said they can petition Congress for redress of grievances. When was it pretended that individuals or communities could not petition Congress for redress of grievances? In God's name, who ever denied that right? Is that all the people have gained by non-intervention? Is that the full fruits of perfect freedom in Kansas? Is that what we have gained in this long struggle? If it be, then I must confess I have never understood the question; nor do I believe the people have understood it. If the right to make institutions in such a way as Congress prescribes, and send them to Congress in the shape of a petition for redress of grivances, is all the people have gained by non-intervention, with the moral and legal right in Congress to send that petition back for alteration, though the constitution be republican in form, then the Senator's law of 1854 is a bold imposture, a delusion, and a deception—"the word of promise to the ear to be broken by the hope"—"the thorn beneath the rose."

But let us pass to a more practical view of the subject. My own reflections on the dangerous controversy in Kanas, considering the sources and the character of the strife, satisfied my mind, even before I became a member of this body, that the surest, if not the only way of ending this bitter sectional struggle, and quieting the country, was to admit Kansas as a State at the earliest period practicable, thereby circumscribing all concern about her affairs within her own limits, where the differences, whatever they might be, could not fail of prompt and legitimate adjustment. Entertaining these impressions and views, I was rejoiced to perceive that the people of Kansas had determined to call a convention to form a Constitution and State Government preparatory to admission into the Union as a State. The propriety and validity of this movement for a convention, under direction of the territorial laws, had been promptly recognized by the President in his instructions to Governor Walker, and then again in his Connecticut letter. Governor Walker did the same thing in his first address, and urged the people to the performance of their duty under the law, in the following emphatic terms:

"The people of Kansas, then, are invited by the highest authority known to the Constitution, to participate freely and fairly in the election of delegates to frame a Constitution and State government. The law has performed its entire appropriate function, when it extends to the people the right of suffrage, but it cannot compel the performance of that duty. Throughout our whole Union, however, and wherever free government prevails, those who abstain from the exercise of the right of suffrage, authorize those who do vote to act for them in that contingency, and the absentees are as much bound under the law and Constitution, where there is no fraud or violence, by the act of the majority of those who do vote, as although all had participated in the election. Otherwise, as voting must be voluntary, self-government would be impracticable, and monarchy or despotism would remain as the only alternative.

"You should not console yourselves, my fellow-citizens, with the reflection that you may, by a subsequent vote, defeat the ratification of the Constitution. Although most anxious to secure to you the exercise of that great constitutional right, and believing that the Convention is the servant and not the master of the people, yet I have no power to dictate the proceedings of that body. I cannot doubt, however, the course they will adopt on this subject. By why incur the hazard of the preliminary formation of a Constitution by a minority, as alleged by you when a majority, by their own votes, could control the forming of that instrument?

"But it is said that the convention is not legally called, and that the election will not be freely and fairly conducted. The Territorial Legislature is the power ordained for this purpose by the Congress of the United States; and in opposing it you resist the authority of the Federal Government. That Legislature was called into being by the Congress of 1854, and is recognized in the very latest congressional legislation. It is recognized by the present Chief Magistrate of the Union, just chosen by the American people, and many of its acts are now in operation here by universal assent. As the Governor of the Territory of Kansas, I must support the laws and the Constitution; and I have no other alternative, under my oath, but to see that all constitutional laws are fully and fairly executed."

Mr. Secretary Stanton, under the instructions of the President and Governor, addressed the people as follows:

"The Government especially recognizes the territorial act which provides for assembling a convention to form a constitution, with a view of making application to Congress for admission into the Union. That act is regarded as presenting the only test of the qualification of voters for delegates to the convention, and all preceding repugnant restrictions are thereby repealed. In this light, the act must be allowed to have provided for a full and fair expression of the will of the people through the delegates who may be chosen to represent them in the constitutional convention. I do not doubt, however, that, in order to avoid all pretext for resistance to the peaceful operation of this law, the convention itself will, in some form, provide for submitting the great distracting question regarding their social institutions, which has long agitated the people of Kansas, to a fair vote of all the actual *bona fide* residents of the Territory, with every possible security against fraud and violence. If the constitution be thus framed, and the question of difference thus submitted to the decision of the people, I believe that Kansas will be admitted by Congress without delay as one of the sovereign States of the American Union, and the territorial authorities will be immediately withdrawn."

These quotations are full of striking ideas, which invite special attention at this time. The first is the full recognition, by both the Governor and Secretary, of the validity of the law calling the convention; another is, that the convention, when formed, would have a right to make a constitution and submit it to a vote or not; and this is one of the reasons of the Governor for urging the people to attend the polls and vote. "Those who abstain from the right of suffrage," says the Governor, "authorize those who do vote to act for them." He says "the convention is legally called," "because the Territorial Legislature is the power ordained for this purpose." But what is the most remarkable, and most to the point, is, that Mr. Stanton indicated, at that early day, that the submission of "the great distracting question" (slavery) was all that would be necessary to give Kansas peace and the dignity of a State. He even then indicated, most pointedly, the policy afterwards adopted by the convention.

The Senator from Illinois, in a speech delivered at Springfield, in his State, on the 12th of June last, said:

"Kansas is about to speak for herself through her delegates assembled in convention to form a constitution preparatory to her admission into the Union." "The law under which her delegates are about to be elected is believed to be just and fair in all its *objects and provisions.*"

With all this mass of authority to sustain them, the people of the Territory, or those of them who were willing to sustain the laws which the President, Governor Walker, and the Senator from Illinois held to be proper and binding, proceeded to make a constitution and State government. But those who said the laws should not be obeyed refused to participate in this work, and from this spirit of insubordination, in my judgment, all the subsequent mischief has arisen. They would not attend at the polls, and vote for delegates to carry out their will in the convention; not because they did not wish to have a State government—for the same men had attempted to erect Kansas into a State in the most irregular and unauthorized mode—but for the reason that they had commenced rebellion against the laws, and were determined to persist in it! And it is, in the main, these very men who at this moment are clamoring most about oppression and usurpation, and about sacred rights, which they indignantly refused to exercise.—Governor Walker labored zealously to bring these men to the performance of their duty, as is shown in the extract I have given from his address. But they were joined to their idol—the Topeka farce. The consequence was, that there was virtually no contest for delegates, and only about twenty-two hundred votes were polled.—But still the convention, on the theory of Governor Walker, had been invested with the authority of nearly the whole population to make a constitution and State Government.

This large class of the people who neglected to vote for delegates became clamorous against the convention, and even assembled at Topeka for the avowed purpose of putting their own bogus government into operation. I was in the Territory, for some time prior to and after the election, and speak from personal observation as to the spirit of insubordination manifested by some, expending itself in bitter denunciations of the President and Governor Walker for attempting to administer what, in the chaste phrase of the malcontents, were the "bogus laws of a bogus Legislature," avering that they would have no form of government from the convention gotten up under these laws, no matter how perfect it might be; that though that "bogus convention" should submit for their approval their own Topeka constitution, they would spurn it with contempt. This spirit was persisted in to the end. Gov. Walker, as must be obvious to all, was not and could not be vested with any authority over the subject of making a State government. His functions were to administer the laws, and perform the executive duties generally, which he did discharge with great ability. But beyond this he could not go. He had no connection with, agency in, or responsibility for the work of making a constitution. In the the exercise of his discretion, and with the intention of doing what was best, he had at first advised the people to vote, but all would not do so. He also urged the delegates composing the convention to submit their work to the approval of the people, holding this to be right as a general principle, and especially necessary in view of the small vote cast for delegates. But the convention submitted only the article relating to slavery. That it ought to have submitted the constitution in some form to give the people the right to judge of its several parts, I agree; and as a citizen of Kansas I should have insited on this policy, but I should certainly have desired a vote on the question of slavery as proposed by the late convention, disconnected from all other subjects, in preference to a vote on the constitution as a whole.

For its action, the convention has been most roundly abused; and I do not intend to come to its defense, for from many of the details of its proceedings I dissent. But it would not be candid to contend that there was nothing in the bearing of enemies of the convention to impel it to fully exhaust, if not to abuse, the authority with which it had been clothed.—The incessant menaces of the violent leaders of the Republican party, who, in my judgment, never desired to have the controversy settled, was calculated to do this. The declaration that they would not judge of the merits of any form of government it might make; but would reject it, if possible, at the polls, for reasons mischievous and rebellious, was also calculated to produce such action. Nor is it candid to contend that this class of politicians in the Territory, and others out of it, when they dwelt on the importance of submitting the constitution to the test of popular favor, had reference to disputes about railroads, banks, corporations, courts, or legislative functions. The question—the all absorbing, and the only question—was, shall Kansas be a free or slave State? I believe Governor Walker went much further; and yet the very men who threatened to rebel on his hands at Topeka, and who put him through the shorter catechism of Kansas politics, never would have met him there, nor mentioned the name of constitution, had it not been for the question of slavery. They said "constitution," it is true; for the idea of a separate subission had not then been raised; but even they had no other question on their minds than that of whether Kansas should be a free or a slave State. Throughout this broad land, this has been treated as *the* question, and the only one.

That question the people of Kansas had an opportunity to settle in June last, by electing delegates to carry out their will. They are to have another to day, by voting on so much of the constitution as relates to that subject. After all that has been said about fraud and trickery, touching this issue, the great overshadowing fact cannot be denied that the people of Kansas have had two opportunities to make her a free State. I am aware, sir, that the registry of voters at the election in June was very defective; but that was no reason why those who were registered should not vote. That complaint, however, cannot be made as to the vote on the slavery article, for no registry is required, and every white citizen above twenty-one years of age can vote. I regard the registry as very imperfect, but I cannot understand the picture presented by Governor Walker, in a recent letter, addressed to the President. He undertakes to show that less than one half of the voters were registered when the delegates were elected, and yet the records show that over nine thousand names were registered in June, and that the whole vote for the congressional delegate in October last, after an exciting contest, and a large increase of population, was only a little over twelve thousand. How this mystery is to be solved, I cannot tell, but the statements are singularly contradictory.

What my action may be on the question of admission, should the new Constitution be presented, I cannot precisely foresee. The case is not fully developed No man can tell what a day may bring forth in Kansas. Those who are to conduct the election upon the slavery article, have been vested with large and dangerous powers, the use of which they may, if they choose abuse to such an extent, as to forbid the recognition of the result whatever it may be. But if that election be fairly conducted, I shall feel required to vote for the admission of the State either with or without slavery. I should do this under the firm belief that it is the best mode possible of putting an end to the existing strife; for, after all, when we look at this question practically, it does not involve half so much as some would make us believe. When the State shall have been admitted, not only slavery, but all other institutions, will be subject to be changed and remodeled by the people. They can if they please, do this within six months after Kansas becomes a State, and enjoy the same opportunity, whenever they desire it, forever thereafter. Why then contest the question as though the institutions under which the State may be admitted, were to be, like the laws of the Medes and Persians, unchangeable? I know it is alleged that the Constitution cannot be changed prior to 1864; but that view cannot be maintained. Without discussing the terms of the schedule, which simply prescribes the mode in which the Constitution shall be amended after 1864, the bill of rights is conclusive on this point. It declares that:

"All political power is inherent in the people, [of Kansas,] and all free governments are founded on their authority, and instituted for their benefit, and therefore they have at all times an inalienable and indefeasible right to alter, reform, or abolish their form of government in such manner as they may think proper."

The mode of voting has also been a subject of criticism. The honorable Senator maintains that the elector must give his sanction to all the other provisions of the constitution before he can enjoy the opportunity of voting for or against slavery. This is clearly a mistake. The ballot, "constitution with slavery," or "constitution without slavery," involves only the slavery clause. It is simply the question of whether Kansas shall be a free or slave State, under the general forms agreed upon by the constitution. That this was intended by the convention, is made clear by its proceedings, if they have been given to me accurately by a gentleman from Lecompton. His information is, that before the adoption of the form of voting, the sense of the convention was taken on the proposition to submit the whole constitution to a vote of the people, which was decided in the negative and never reconsidered. Subsequently, a motion to submit the slavery artitle was agreed to by a majority of two votes. This view is clearly sustained by the proclamation of the president of the convention, in which he says the vote shall be for or against the introduction of slavery into the State of Kansas.

The voting shall be by ballot, and those voting for Kansas as a *slave State* shall vote a ballot with the words "constitution with slavery," and those voting for Kansas to be a *free State* shall vote a ballot with the words "constitution with no slavery." It must be evident that if it had been intended to take the sanction of the elector on the whole constitution, the ballot would have been "*for*" the constitution. The honorable Senator, and others who take his view, will be the first to deny, when the constitution is presented to Congress, that it has the sanction of the people.

But the honorable Senator has labored to maintain his position by confounding the slavery question with the ordinary institutions of a civilized community. Notice the extraordinary character of the following extract from his late speech:

"Sir, what would this boasted principle of popular sovereignty have been worth, if it applied only to the negro, and did not extend to the white man? Do you think we could have aroused the sympathies and the patriotism of this broad Republic, and have carried the Presidential election last year in the face of a tremendous opposition, on the principle of extending the right of self government to the negro question, but denying it as to all the relations affecting white men? * *

"Sir, I have spent too much strength and breath and money, too, to establish this great principle in the popular heart, now to see it frittered away by bring it down to an exception that applies to the negro, and does not extend to the benefit of the white man."

Now, Mr. President, can it be possible that the Senator from Illinois expected to make the Senate and the country believe that the people of Kansas are indebted to the famous organic act for their right to the enjoyment of life, liberty and property, and the ordinary institutions of a civilized community? He scouts the idea that the great principle of popular sovereignty should be "frittered away by bringing it down to an exception that applies to the negro and not to the white man."—Whatever he may mean, his language is certainly calculated to make the impression that the Kansas Nebraska bill settled some dispute about the ordinary institutions of government in the Territories. I cannot agree, sir, that the view is either candid or allowable. Who ever denied the right of the people to make their ordinary institutions? When was that a question which divided parties, or shook the Union to its foundation? The simple truth is, that the question of slavery, and that only was involved and considered in passing the Kansas-Nebraska bill. It was to settle that dangerous sectional feud that the doctrine of non intervention was adopted.

The repeal of the Missouri line has in no way affected the right of the people to have all other domestic institutions either north or south of that line; and when the Senator asks what the boasted principle of popular sovereignty would have been worth if applied only to the negro, and "not to the white man," he utters a sentiment which is unworthy the subject. What part are negroes to have in the government of Kansas, or who is proposing to restrict any of the rights of the white man, unless it be himself, when he denies them the right to make a government without the consent of Congress? I know how presumptuous it is in me to differ with that Senator; but I cannot forbear to deny that the question of railroads, courts, banks, legislative function, &c., were in any way involved in the repeal of the Missouri line, and the inauguration of the doctrine of non-intervention; and yet, sir, the Senator has confounded the question of slavery, and that of the natural, inalienable, and undisputed rights of the people, in such a way as to make the impression, if possible, that all these had been granted, guaranteed, and protected by a new bill of rights, adopted in 1854, in the shape of the Kansas Nebraska law.

Then, again, as to the vote on the slavery clause, he says:

"Let me ask, sir, is the slavery clause fairly submitted, so that the people can vote for or against it? Suppose I were a citizen of Kansas, and should go up to the polls and say, 'I desire to vote to make Kansas a slave State; here is my ballot.' They reply to me, 'Mr. Douglas, just vote for that constitution first, if you please.' 'Oh, no!' I answer, 'I cannot, conscientiously.'"

This, Mr. President, is hardly plausible; for I have already shown the fallacy of the Senator's assumption, that the elector is to be required to approve the constitution entire before he can vote for or against slavery. I now propose to show that the Senator's plan would be liable to nearly the same objections.

He insists that the constitution, as a whole, should be submitted. Now suppose this had been done with the slavery article in it, and he had made his appearance at the polls as a pro-slavery man. Looking at the constitution, he finds that he cannot approve of the other provisions. He says, "I wish to vote for slavery, but it is not possible that I can swallow the bank and railroad scheme, and the plan for courts and corporations in this constitution. I cannot conscientiously do this; and I must be deprived of the right to establish slavery in the Territory." Then suppose he appeared again as a free State man; the constitution in the main is very acceptable to him, and he is exceedingly anxious to approve it, but it contains the provisions recognizing slavery, which he cannot approve; and again he is driven from the polls. It will thus be seen how easy it is to complain; but how will the Senator guard against the repetition of similar hardships, under any law Congress may pass? Certainly, he will not propose to prescribe all the action of the people in convention. This has never been done, and never can be done. The truth is, that the Senator, in his ardor to maintain what he conceives to be a just position, has been driven into the use of abstruse technicalities, and, in more instances than one in this discussion, has dwelt upon alleged wrongs in the proceedings of the Lecompton Convention, against the repetition of which he can in no way protect the people.

In another part of his speech, the Honorable Senator remarks:

"But I am beseeched to wait until I hear from the election on the 21st of December. I am told that perhaps that will put it all right, and will save the whole difficulty. How can it? Perhaps there may be a large vote. There may be a large vote returned." [Laughter.]

Here, again, it is difficult to determine what he means to allege. He says "there may be a large vote returned." His language would seem to imply an imputation upon somebody or power connected with the election. Upon whom is it to fall? Not upon his friend, John Calhoun, whom he has indorsed to one of the Departments in this city as a worthy and competent man for Surveyor General.—From whence, then, is the fraud to come? No department of the Government here will have an opportunity to do this, and none would embrace it. Then, where is it to be practised? By those who conduct the election in the Territory? How they may act, I

(CONCLUDED ON FOURTH PAGE.)