

# The Montrose Democrat

A WEEKLY JOURNAL—DEVOTED TO POLITICS, NEWS, LITERATURE, AGRICULTURE, SCIENCE, AND MORALITY.

George J. Chase, Publisher,

Montrose, Susquehanna County, Penn'a, Thursday Morning, June 28, 1856.

ILLIUM CRASED,  
Jocose Declared!  
That secures the right of every  
to the navigation of the Susquehanna  
to the people of Susquehanna  
the rest of the world, that they will  
have to come to the Temp  
in Main St. 1856.

## Affairs of Kansas.

### REPORT

Of the Committee on Territories, to the Senate of the United States, on the affairs of Kansas.

Your committee deem this an appropriate occasion to state briefly, but distinctly, the principles upon which new States may be admitted and Territories organized under the authority of the constitution of the United States.

The constitution (section 3, article 4) provides that "new States may be admitted by the Congress into this Union."

Sec. 8, Article 1: "Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or office thereof."

10th amendment: "The powers not delegated to the United States by the constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people."

A State of the Federal Union is a sovereign power, limited only by the constitution of the United States.

The limitations which that instrument has imposed are few, specific, and uniform—applicable alike to all the States, old and new. There is no authority for putting a restriction upon the sovereignty of a new State, which the constitution has not placed on the original States. Indeed, if such restriction could be imposed on any State, it would in effect be to create a State within the meaning of the federal constitution, and, in consequence of the inequality, would assimilate to the condition of a province dependency. Hence, equality among all the States of the Union is a fundamental principle in our federal system—a principle embodied in the constitution, as the basis upon which the American Union rests.

African slavery existed in all the colonies, under the sanction of the British government, prior to the Declaration of Independence. When the constitution of the United States was adopted, it became the supreme law and bound all the States, old and new. Each State reserved the right to decide the question of slavery for itself—to continue it as a domestic institution as long as it pleased, and to abolish it when it chose.

In pursuance of this reserved right, six of the original slave-holding States have abolished and prohibited slavery within their limits respectively, without consulting Congress or the Federal government. Each of these States retained and sustained it as a domestic institution, which, in their opinion, had become so firmly engrained on their social systems, that the relation between master and slave could not be dissolved with safety.

In the meantime, eighteen new States have been admitted into the Union, in accordance with the federal constitution, and still retain an equal right, under the constitution, with the original States, to decide all questions of domestic policy for themselves, including that of African slavery, ought not to be very seriously questioned, and certainly cannot be successfully controverted.

They are all subject to the same supreme law, which, by the consent of each, constitutes the only limitation upon their sovereign authority.

Since we find the right to admit new States enumerated among the powers expressly delegated to the constitution, the question arises, whence does Congress derive authority to organize temporary governments for the Territories preparatory to their admission into the Union on an equal footing with the original States? Your committee are not prepared to adopt the reasoning which deduces the power from that other clause of the constitution, which says:

"Congress shall have power to make all needful rules and regulations respecting the Territory or other property belonging to the United States."

The scope of this clause is much more appropriately applied to property than to persons. It would seem to have been employed for the purpose of conferring upon Congress the power of disposing of the public lands and other property belonging to the United States, and to make all needful rules and regulations for that purpose, rather than to govern the people who might purchase those lands of the United States and become residents thereon.

The word "territory" is clearly shown to be the term "territory" was used in its geographical sense to designate the public domain, and not as descriptive of the whole body of the people, constituting a distinct political community, who have no representation in Congress, and consequently no voice in making the laws upon which their rights and liberties would depend, if it were conceded that Congress had the right to make all needful rules and regulations concerning their internal affairs and domestic concerns. It is under this clause of the constitution, had from the above, that Congress derives authority to provide for the survey of the public lands, for securing pre-emption rights to actual settlers, for the establishment of land offices in the several States and Territories, for exposing the lands to private and public sale, for issuing patents confirming titles, and, in short, for making all needful rules and regulations for protecting and disposing of the public domain and other property belonging to the United States.

These needful rules and regulations may be embraced, and usually are found, in general laws applicable alike to States and Territories, wherever the United States may be regarded as disposed of. It can make no difference, under this clause of the constitution, whether the "territory" or other property belonging to the United States" shall be situated

under the forms of the constitution, combinations were immediately entered into in some portions of the Union to control the political destinies, and form and regulate the domestic institutions, of those Territories and future States, through the machinery of emigrant aid societies. In order to give efficiency and consistency to the movement, and surround it with the color of legal authority, an act of incorporation was procured from the legislature of the State of Massachusetts, in which it was provided, in the first section, that twenty persons therein named, and their associates, successors, and assigns, are hereby made a corporation, by the name of the Massachusetts Emigrant Aid Company, for the purpose of assisting emigrants to settle in the West; and for this purpose they shall have all the power and privileges, and be subject to all the duties, restrictions, and liabilities set forth in the 38th and 41st chapters of the revised statutes" of Massachusetts.

The second section limited the capital stock of the company to five millions of dollars, and authorized the whole to be invested in real and personal property, and in the purchase of land, and for this purpose they shall hold real estate in this Commonwealth (Massachusetts) to an amount exceeding twenty thousand dollars.

The third section provided for dividing the capital stock of the corporation into shares of one hundred dollars each, and prescribed the mode, time, and amount, in which assessments might be levied on the shares.

The fourth and last section was in these words: "At a meeting of the stockholders, each stockholder shall be entitled to cast one vote for each share held by him; provided, that no stockholder shall be entitled to cast more than fifty votes on shares held by himself, nor have more than fifty votes in the aggregate."

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 guaranteed 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.

To remove all doubt upon this point, your committee will present a few extracts from a pamphlet prepared by the company soon after its organization, under the following caption: "Trustees—Amos A. Lawrence, Boston; J. M. S. Williams, Cambridge; Ely Thayer, Worcester."

"The purpose of organizing numerous companies of emigrants to settle in the Territory of Kansas, and to purchase the lands of the United States, and to settle upon them, and to establish a State government under the authority of the constitution, preparatory to its admission into the Union? If so, the right of Congress to pass the organic act for the Territory is clearly established in the provision which authorizes the admission of new States into the Union, and which reads: 'Congress shall have power to admit new States into the Union, on an equal footing with the original States, on such terms as they may think proper to stipulate in this regard.'"

"It is recommended that the company's agents locate and take up for the company's benefit, sections of land in which the boarding-houses and mills are located, and no others. And further, whenever the Territory shall be organized as a free State, the trustees shall dispose of all its interests there, and they shall sell the same, and divide the proceeds among the stockholders, and that they shall select a new field, and make similar arrangements for the settlement and organization of another free State of this Union."

"With the advantages attained by such a system of effort, the territory selected as the scene of operations would, it is believed, be filled up with free inhabitants."

"There is reason to suppose several thousand men of New England origin propose to emigrate under the auspices of some such arrangement, this very summer. Of the whole emigration from Europe, amounting to some forty thousand persons, there can be no difficulty in inducing some thirty or forty thousand to take the same course."

"Especially will it prove an advantage to Massachusetts, if she create the new State by her foresight, and supply the necessities to the objects of the corporation, to receive their aid and protection, and under the auspices of the company, to proceed to Kansas, and acquire whatever residence, and whatever assets, might be found necessary to enable them to vote at the elections, and through the ballot box, if possible, to gain control over the legislation of the Territory."

This movement is justified by those who organized and control the plan, upon the ground that the persons who they sent to Kansas were free men, who under the constitution and laws, had a perfect right to settle in Kansas or any other Territory; that the act of emigration was entirely voluntary on their part; and that they arrived in the Territory as actual settlers, they had as good a right as any other citizens to vote at the elections, and participate in the government of the Territory. This would undoubtedly be true in a case of ordinary emigration, such as has filled up our new States and Territories, where each individual has gone on his own account, to improve his

condition and that of his family. But it is a very different thing when a State creates a vast moneyed corporation for the purpose 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 party and political objects. When a powerful corporation, with a capital of five millions of dollars 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 a resident director, and stockholders, who are authorized by their charter to vote by proxy, to the extent of fifty votes each, enters a distant and sparsely settled Territory with the fixed purpose of wielding all its power to control the domestic institutions and political destinies of the Territory, it becomes a question of fearful import how the operations of the company can be controlled by the rights of the people. Whatever may be the extent or limit of congressional authority over the Territories, it is clear that no individual State has the right to pass any law or authorize any act concerning or affecting the Territories, which it might not enact in reference to any other State.

If the people of any State should become so organized with their own peculiar institutions as to conceive the philanthropic scheme of forcing a great blessing upon their unwilling neighbors, and with that view should create a mammoth moneyed corporation, for the avowed purpose of sending a sufficient number of their young men into the neighboring State, to remain long enough to the right of voting, with the fixed and avowed purpose of converting the settled policy and changing the domestic institutions of such State, would it not be deemed an act of aggression, as offensive and as if attempted by direct and open violence? It is a well settled principle of constitutional law, in this country, that while all the States of the Union are united to one for certain purposes, they are not united to one for all purposes. That effect of its domestic policy and internal concerns, stands in relation of a foreign power to every other State.

Hence, no State has a right to pass any law, or do or authorize any act, with the view to influence or change the domestic policy of any other State or Territory of the Union, more than it has with reference to France or England, or any other foreign State with which we are at peace. Indeed, every State of this Union is under higher obligations to observe a friendly forbearance and generous comity towards each other member of the confederacy than the laws of nations can impose on foreign States. While foreign States are restrained from all acts of aggression against the United States, it is equally true that the laws of nations enjoin upon all friendly powers, we have assumed the additional obligation to obey the constitution, which secures every State the right to control its own internal affairs. If, in pursuance of its domestic policy, it should incorporate a mammoth company to influence and control that question in any State or Territory of this Union, the same principle of action would authorize France or England to use the same means to accomplish the same end in Brazil or Cuba, or in fifteen States of this Union; while it would license the United States to interfere with the domestic policy of Turkey, or any other obnoxious institution in any part of the world. The same principle of action, when sanctioned by our example, would authorize all the kingdoms, and empires, and despotisms in the world to engage in a common crusade against republicanism in America, as an institution quite as obnoxious to them as domestic slavery is to any portion of the people of the United States.

If our obligations arising under the laws of nations are so imperative as to make it our duty to enact neutrality laws, and to extend the whole power and authority of the executive branch of the government, including the army and navy, to enforce them, in respect to the internal concerns of foreign States, and Territories? Non-interference with the internal concerns of other States, is recognized by all civilized countries as a fundamental principle of the laws of nations, for the reason that the peace of the world cannot be maintained, unless every State is to abide by the same rule, and to give without it. How, then can we hope to preserve peace and fraternal feelings among the different portions of this republic, unless we yield implicit obedience to a principle which has all the sanction of patriotic duty as well as constitutional obligation?

When the Emigrants sent out by the Massachusetts Emigrant Aid Company, and their associates, passed through the State of Missouri in large numbers on their way to Kansas, the violence of their language, and the unmistakable indications of their determined hostility to the domestic institutions of that State, created apprehensions that the object of the company was to abolishize Kansas as a means of prosecuting a relentless warfare upon the institutions of slavery within the limits of Missouri. These apprehensions increased and spread with the progress of events, until they became the settled convictions of the people of that portion of the State most exposed to the danger by their proximity to the Kansas border. The natural consequence was, that immediate steps were taken by the people of the western counties of Missouri to stimulate, organize, and carry into effect a system of emigration, to the Territory of Kansas, by the aid of the Emigrant Aid Company, for the avowed purpose of countering the effects, and protecting themselves and their domestic institutions from the consequences of that company's operations.

The material difference in the character of the two rival and conflicting movements consists in the fact that the one had its origin in an aggressive, and the other in a defensive policy. The one was organized in pursuance of the provisions 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 movement; while the other was the spontaneous action of the people living in the immediate vicinity of the theatre of operations, excited by a sense of common danger to the necessity of protect-

ing their own firesides from the apprehended horrors of servile insurrection and intestine war. Both parties, conceiving it to be essential to the success of their respective plans that they should be upon the field of operations prior to the first election in the Territory, selected principally young men, persons unencumbered by families, and whose conditions in life enabled them to leave at a moment's warning, and move with great celerity, to go at once, and select and occupy the most eligible sites and favored locations in the Territory, to be held by themselves and their associates who should follow them. For the successful prosecution of such a scheme, the Missourians, who lived in the immediate vicinity, possessed peculiar advantages over their rivals from the more remote portions of the Union. Each family could send one of its members across the line to mark out its claim, erect a cabin, and put in a small crop, sufficient to give him as valid a right to the land as the settler of equal qualifications who as those were better imported by the emigrant aid societies. In an unoccupied territory, where the lands have not been surveyed, and where there were no marks or lines to indicate the boundaries of sections and quarter sections, and where no legal title could be had until after the surveys should be made, disputes, quarrels, violence, and bloodshed, were the inevitable consequences of such extraordinary systems of emigration, which divided and arrayed the settlers in two great hostile parties, each having an inducement to claim more than was his right in order to hold it for some new comer of his own party, and at the same time prevent persons belonging to the opposite party from settling in the neighborhood. As a result of this state of things, the great mass of the emigrants from the Northwest and from other States, who went there on their own account, with no other object and influence, by no other motive than to improve their condition and secure good homes for their families, were compelled to array themselves under the banner of one of those hostile parties, in order to insure protection to themselves and their claims against the aggressions and violence of the other.

At the first election held in the Territory, on the 29th day of November, 1854, for a delegate to Congress, J. W. Whitfield, was chosen by an overwhelming majority, having received the votes of all the parties who were in favor of the principles of the Kansas Nebraska act, and opposed to placing the States of the Territory in the keeping of the Abolition party of the northern States, to be managed through the machinery of their emigrant aid companies. No sooner was the result of the election known, than the defeated party proclaimed, throughout the length and breadth of the republic, that it had been produced by the invasion of the Territory by a Missouri mob, which had overawed and outnumbered and outvoted the bona fide settlers of the Territory. By reference to the executive journal of the Territory, which will be found in the paper furnished by the President of the United States in relation to the proceedings of the Senate, it will be found that Governor Reeder, in obedience to what he considered to be a duty enjoined on him by the act of Congress organizing the Territory, on the 10th day of November, 1854, issued a proclamation, prescribing the time, place and mode of holding the election, and appointing by name the judges of the Territory residing in each election district to conduct the election in each district, together with the following oath, which was taken by the judges before entering on their duties, to wit:

"We do solemnly swear that we will perform our duties as judges of the election, to be held this day in the district of the Territory of Kansas, to the best of our judgment and ability; that we will keep a correct and faithful record or list of persons who shall vote at said election; that we will not poll tickets from any person who is not an actual bona fide resident an inhabitant of said Territory on the day of election, and whom we shall not honestly believe to be a voter according to act of Congress organizing said Territory; that we will reject the votes of all and every non-resident whom we shall believe to have come into the Territory for the mere purpose of voting; that in all cases where we are ignorant of the voter's right, we will require legal evidence thereof, by his own oath or otherwise; that we will make a true and faithful return of the votes which shall be polled to the governor of the said Territory."

The same proclamation pointed out in detail the mode in which the election should be conducted; and, among other things, that the polls will be opened for reception of votes between eight and ten o'clock a. m., and kept open continually until six o'clock p. m.; that the judges will keep two corresponding lists of persons who shall vote, numbering each name; that when a dispute arises as to the qualifications of a voter, the judges shall examine the voter, or any other persons, under oath, upon the subject, and the decision of a majority of the board will be conclusive; that when the election shall close, the judges shall open and count the votes, and keep two corresponding tally-lists, and if the tally-lists shall agree, the judges shall then, publicly proclaim the result, and shall make up and sign duplicate certificates in the form prescribed; and shall certify, under their oaths, that the certificate is a true and correct return of the votes polled by lawful resident voters. The proclamation also provides that "in case any person or persons shall dispute the fairness or correctness of the return of any election district, they shall make a written statement, directed to the governor, and setting forth the specific cause of complaint or error in the conducting or returning of the election in said district, signed by not less than ten qualified voters of the Territory, and with an affidavit of one or more qualified voters to the truth of the facts therein stated; and the said complaint and affidavit shall be presented to the governor on or before the fourth day of December next, when the pro-

ceedings will be taken to hear and decide upon such complaint. By reference to the executive journal of the Territory, we find the following entry: "December 1854.—The judges of the several election districts made return of the votes polled at the election held on the 29th day of November last, for a delegate to the House of Representatives of the United States; from which it appeared that the votes in the said several districts were as follows, to wit:—"

Here follows a list of the votes cast for each of the seventeen districts of the Territory, showing that J. W. Whitfield had received 2,253 votes. All other persons received 575. "And on the same page is the following entry: "December 5, 1854.—On examining and collating the returns, J. W. Whitfield is declared by the governor to be duly elected delegate to the House of Representatives of the United States, under the seal of the Territory, issued to said J. W. Whitfield of his election."

It nowhere appears that Gen. Whitfield's right to a seat by virtue of that election was ever contested. It does not appear that "ten qualified voters of the Territory" were ever found who were willing to make the "written statement directed to the governor, with an affidavit" of one or more qualified voters, to "dispute the fairness or correctness of the returns," or "to set forth specific cause of complaint or error in the conducting or returning of the election," in any one of the seventeen districts of the Territory. Certain it is, that there would not have been a system of "bad and violence" such as has been charged, by the agents and supporters of the emigrant aid societies, unless the governor and judges of election were parties to it; and your committee are not prepared to assume a fact so disreputable to them, and so improbable upon the state of facts presented, without specific charges and direct proof. In the absence of all proof and probable truth, the charge that the Missourians had invaded the Territory and controlled the congressional election by fraud and violence, was circulated throughout the free States, and made the basis of the most inflammatory appeals to all men opposed to the principles of the Kansas-Nebraska act to emigrate or send emigrants to Kansas for the purpose of repelling the invaders, and assisting their friends who were then in the Territory in putting down the slave power, and prohibiting slavery in Kansas, with the view of making it a free State. Exaggerated accounts of the large number of emigrants on their way under the auspices of the emigrant aid companies with the view of controlling the election for members of the territorial legislature, which was to take place on the 30th of March, 1855, were published and circulated. These accounts were republished and believed in Missouri, where the excitement had already been inflamed to a fearful intensity, indeed, corresponding effort to send at least an equal number, to counteract the supposed invasion of the Territory. Your committee have not been able to obtain definite and satisfactory information in regard to the alleged irregularities in conducting the election, and the number of illegal votes on the 30th of March; but, from the most reliable sources of information accessible to your committee, including the returns, papers, documents, and statements, kindly furnished by Messrs. Whitfield and Reeder, legal claimants of the seats in Congress for Kansas Territory, it would seem that the facts are substantially as follows:

The election was held in obedience to the proclamation of the governor of the Territory, which prescribed the mode of proceeding, the form of the oath and returns, the precaution of appointing by name the judges of the election, the mode of conducting the election, which were, in substance, the same as those already referred to in connection with the congressional election. When the period arrived for the governor to canvass the returns, and issue certificates to the persons elected, it appeared that protests had been filed against the fairness of the proceedings and the correctness of the returns, in seven out of the eighteen election districts into which the Territory had been divided for election purposes, alleging fraudulent and illegal voting by persons who were not actual settlers and qualified voters of the Territory. It also appears that in some of these contested cases the form of the oath administered to the judges, and of the returns made by them, were not in conformity with the proclamation of the governor. After a careful investigation of the facts of each case, as presented by the returns of the judges, and the protests and allegations of all persons who disputed the fairness of the election and the correctness of the returns, the governor came to the conclusion that it was his duty to set aside the election in these seven disputed districts; the effect of which was, to create two vacancies, in the council and nine in the house of representatives of the Territory, to be filled by a new election; and to change the result so far as to cause the certificate for one councilman and one representative to issue to different persons than those returned as elected by the judges. Accordingly the governor issued his writs for special elections, to be held on the 24th of May, to fill those vacancies, and at the same time, granted certificates of election to the councilmen and seventeen representatives, whose election had not been contested, and whom he adjudged to have been fairly elected. At the special election to fill those vacancies, set aside for the reasons already stated, were re-elected, and in the other districts different persons were returned; and the governor having adjudged them to have been duly elected, accordingly granted them certificates of election, thus making the full complement of thirteen councilmen and twenty-six representatives, of whom, by the organic law of the Territory, the legislature was to be composed. On the 17th day of April the governor issued his proclamation, summoning those thirteen councilmen and twenty-six representatives, whom he had commissioned as having been fairly elected, to assemble at Pawnee City on the 24th day of May, and organize as the legislature of the Territory of Kansas.

It appears from the journal that the two houses did assemble, in obedience to the governor's proclamation, at the time and place appointed by him; and, after the oath of office had been duly administered by one of the judges of the supreme court of the Territory to each of the members who held the governor's certificates, proceeded to organize their respective houses by the election of their of-

ficers; and each notified the other, by resolution, that they were thus duly organized. Also, by joint resolution, appointed a committee who waited on the governor and informed him that "the two houses of the Kansas legislature are organized, and are now ready to proceed to business, and to receive" such communication as he may deem necessary. In response to this joint resolution, a message from the governor, by Mr. Higgins, his private secretary, transmitting his message, was received and ordered to be read. The message commences thus: "To the Honorable the Council and House of Representatives of the Territory of Kansas:—"

"Having been duly notified that your respective bodies have organized for the performance of your official functions, herewith submit to you the usual executive communication relative to subjects of legislation, which universal and long-continued usage in analogous cases would seem to demand, although no express requirement of it is to be found in the act of Congress which has brought us into official duties."

"The position which we occupy, and the solemn trust which is confided to us for organizing the laws and institutions of a new republic in the very geographical centre of our vast and magnificent confederation, cannot but impress us with a deep and solemn sense of the heavy responsibility which we have assumed, and admonish us to lay aside all selfish and equivocal motives, to discard all unworthy ends, and, in the spirit of justice and charity to each other, with pure hearts, tempered feeling, and sober judgments, to address ourselves to our task, and so perform it in the fear and reverence of that God, who oversees all work, that the star that we expect to add to the national banner shall be dimmed by no taint or tarnish from the inevitable fallibility of just and upright men."

"The governor, with the view to the ascertainment of the existing law" in the Territory, proceeds to trace the history of all legislation affecting it since the country was acquired from France, and advises the legislature to pass such laws as the public interest might require upon all appropriate subjects of legislation, and particularly the slavery question, the division of the Territory into counties, the organization of county courts, the creation of judicial and ministerial offices, education, taxes, revenues, the location of the permanent seat of government, and the organization of the militia, as subjects worthy of their immediate attention.

From this message, as well as from all the official acts of the governor preceding it, having reference to the election and return of the members of the territorial legislature, and the houses for legislative business, the conclusion is irresistible, that up to this period of time the governor had never conceived the idea, if, indeed, he has since entertained it, that the two houses were spurious and fraudulent assemblies, having no rightful authority to pass laws which would be binding upon the people of Kansas. On the first day of the session, and immediately after the organization of the houses was effected, the following resolution was adopted:

"Resolved: That all persons who may desire to contest the seats of any persons now holding certificates of election as members of this house, may present their protests to the committee on credentials, and that notice thereof shall be given to the persons holding such certificates."

On the 4th day of July, (being the third day of the session), the majority of the committee, including four of the five members, reported that, "having heard and examined all the evidence touching the matter of complaint by before them," and taking into consideration the facts of the case, the committee on credentials, on the 20th day of May, in the year 1854, organizing the Territories of Kansas and Nebraska, and their guiding star, they have at the conclusion which they proceed to elucidate and enforce in a lengthy report. From this report, it appears, that fifteen out of twenty-two members present were permitted to retain their seats by reason of their having no objection to contest or dispute the fairness of the election, or regularity or truthfulness of the return, in either of their cases. Hence the contest was reduced to the claims of one member who received the certificate under the general election of the 13th of March, and the six members present who received certificates under the special election of the 24th of May. In the first case, the decision of the governor was reversed, and the seat awarded to the candidate who received the highest number of votes at the election on the 30th of March, and from whom the certificate had been withheld by the governor, upon the ground of irregularity in the election and returns from one precinct, the exclusion of which poll gave the majority to the opposing candidate. In the other six cases, the sitting members were deprived of their seats; and the candidates receiving the highest number of votes at the general election on the 30th of March were awarded their places, upon the ground that the special election on the 24th of May was illegal and void, the governor not being authorized, by the organic law of the Territory, to go behind the returns, and set aside the election held on the 30th of March.

The minority report dissents from the reasoning, and protests against the conclusions of the majority, and affirms the right to the sitting members to retain their seats, upon the ground that the governor's certificate was not merely prima-facie evidence, but was conclusive, in respect to the rights of all claimants and contestants; and hence the house could not go behind the certificates of election to inquire whether there had been a private election in those districts on the 30th of March, and who had received the highest number of legal votes at election. The proposition is thus stated in the minority report: "I cannot agree that this body has the right to go behind the decision of the governor, who, by virtue of his office, is the organizing federal arm of the general government, to evade and nullify the organic law of this Territory, for the obvious reason, that Congress makes him the sole judge of the qualifications of membership." It is true, that the minority report alludes to "evidence before the committee of great deficiencies, not in the form of conducting the elections, but in the manner of holding them, both as to the qualifications of the judges who presided, and the returns made out by them," and says that the "no doubt that these illegal proceedings on the one hand induced the governor to withhold certificates from some who, from

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