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Political.

SPEECH.

OF

THE HON. JAMES C GREEN.

ON THE

ADMISSION OF KANSAS.

In the United States Senate, March 1st 1858.

Mr. GREEN—Mr President, the bill before the Senate is in the usual form of bills admit new States, without any peculiarity: and does not require any extended explantion. The object designed to be accomplished is shown by its title to be to admit the State of Kansas into the Union as one of the several States of this Confederacy. The bill is predicated upon a state of facts embodied and presented in the report of the Committee on Territories. These facts justyfying the bill, make out a case themselves, and render any elaborate argument, or any extended explanation, wholly unnecessary. Indeed, so far as I am concerned; I should be perfectly willing to rest this question to the present judgement of the Senate. There are those, however, opposed to it, who would take it personally as rather unkind not to give them some sort of justification for their speeches, by reopening remarks; and I therefore avail myself of the present occasion to do so more by way of defence to those who desire to reply to them than from any wisdom on my part to occupy a single moment of time of the Senate.

I trust I shall never shrink from duty or responsibility; and if duty demands of me to make any explanation of the report further than it explains itself; I am ready to do so. But I do not conceive it to be necessary. The grounds unassailed; the leading controlling facts stated in it cannot be successfully controverted, though some of them have been assailed, in publications, not by authority, but in the shape of minority views I say they have been evaded; but I still think the position assumed by the report of the committee stands unassailed and it would look like a work of supererogation to add anything to what has been said in that report. I may however, be permitted, on the present occasion, to make a personal explanation; and I do this because I do not like to obtrude myself on the Senate, except when I legitimately have the floor for debate

I find in the New York *Tribune* some very severe strictures and some very false statements with regard to the action of the Committee on territories. It is assumed that the majority of the committee made a posative promise to the Senator from Illinois & the Senator from Vermont ont to report until the succeeding Monday after the teport was actually made: but that, in violation of this agreement, the report was was precipitaely hurried through, and these gentlemen were compelled to present their views without having a opportunity, in violation of the agreement. I take this occasion to state what the understanding was, On Monday the committee met, and I was not quite ready with the majority report. We had been at work on it, but had not succeeded in completing it, though I had just added the last words of the draft. I desired to have it copied. I had been urged to be ready, I desired a meet on the succeeding Tuesday. On Tuesday the committee met. My report was ready, the Senator from Vermont had his ready, the Senator from Illinois said he was not ready, and he asked for a postponement. He said that we should have a meeting on Wednesday, and he would, if he possibly could, be ready on Thursday, but he asked no extension of time beyond Monday. even if he could not be ready on Thursday The Senator from Vermont made this remark immediately. "That is like the old preacher giving out a notice of his sermon 'I will preach on Wednesday. the Lord willing, but on Monday, whether or no." [Laughter.] I care that matter here, because it will bring the circumstances to mind,. showing this, the effort will be made on Thursday, if possible and on Monday, whether or no, The majority of the committee assembled together, and debated the matter over There was no desire postponement to Monday; there was positive postponement to Thursday, when it was to be ready if possible. We resolved that we would, if possible, report on Thursday. To stimulate the Senator from Illinois, and to keep him from being taken by surprise we should insist upon aeport on that day. I voluntarily wrote him a note, after he had gone not over fifteen minutes, and had it sent to him by the first mail that went out. I did this, as I thought, out of extreme courtesy. I know I am sometimes censured for the extremes to which I go on that subject, still, I think I did right then.

Having done so, to allow these garbled and false statements to go out that we violated agreements took him by surprise, and perpetrated a fraud, is an injustice under which I am not willing to labor, or to submit to. That Senator was ready on Thursday morning, he was not only ready but he had sent on a copy of this report six hours before the Committee met, and yet when the Committee did meet he voted against making a report on that day. I do not think we perpetrated any very seririous wrong on him, I did not notify the Senator from Vermont. That. too, is commented upon. The reason of it was that he announced that his report was ready.

Mr. Douglass—With the permission of the Senator.from Missouri, I should like to put myself right on this point, if he has said all he intends to say on it.

Mr. Green—Yes, sir.

Mr. Douglass—On the Tuesday to which that Senator refers. the question arose whether we should or should not be able to report on Thursday. I stated that I did not believe it would be possible for me to be ready at that time, and I refered to the circumstances that had prevented my attendance at the Senate, and had kept me up for many preceding nights. I said that I was worn out, and did not believe it was possible to go through the mental labor and be ready at that time, but that by Monday I should be, and that I would guarantee that the Committee might report then, if sickness or any other cause should prevent me from being ready before Monday We agreed that we would meet on Thursday, and read over our reports so far as they might be completed. I stated that I thought that I could have my argument blocked out, but still I should wish to go over and revise it, and be ready by Monday to make a report. My understanding when we separated was that we were not to report until Monday. I so stated to all who asked me, that we should meet on Thursday to read what we had prepared, but not to make a report until Monday. It is true, I received the notice from the Senator, as he states, on the evening of Tuesday.

Mr. Collamer—Please state that notice

Mr. Douglass—I will state it.

Mr. Green—I requested you to get a copy of it.

Mr. Douglas—I know, but I could not lay my hand on it. I believe I recollect the words. It was "It is the unanimous opinion."

Mr. Green—"Desire."

Mr Douglass—"Desire of the majority of the Committee on Territories"—underscoring the word "unanimous"—"to report finally on Thursday morning"—underscoring the word "finally"—"I deem it proper to give you this notice, that you may not be taken by surprise." I think those are about the precise words.

Mr. Green—Very nearly.

Mr. Douglas—I saw at once that a change had taken place since the adjournment of the Committee that day—first, it was the unanimous opinion of the majority; second, they were to report "finally" on Thursday, the word "finally" underscored; third, the notice was given to me that I might not be taken by surprise I think it is very clear that this would not have been necessary, unless it had been the understanding of the Committee that very day that we were not to report until Monday?

Mr. Green—Do you say it was the understanding not to report until Monday?

Mr. Douglas—It was my understanding that we should not be able to report on Thursday, and I so stated when I came out of the committee room, to all persons who enquired of me. That was my understanding; others have their understanding, I do not understand it for anybody but myself. I was asked if I could be ready by that time. I stated that I did not believe it was possible for me to be ready then. I said I would be ready, if possible; but I did not suppose it would be possible. On receiving this notice from the Senator, I went to work and labored night and day. I was at work on Tuesday night, and until about 4 o'clock on Wednesday morning. Again on Wednesday night, and until between three and four o'clock on Thursday morning, when I stopped writing. I was not able to read it over to see if there were incongruities or not; for I had not time to revise it There were two clerks, who followed me with each sheet as I wrote it; and between three and four o'clock in the morning of Thursday, I stopped, There, however, three or four points omitted, that I had intended to discuss; and the report was left unfinished. I had worn myself out by writing a day and two nights constantly, without more than three hours' sleep, till I could not bear the fatigue; and I closed there, and said to those clerks, "I must send this; let it go in its rough state, if I cannot be permitted to revise it." I did want to read it over, and revise it. I did desire also to discuss one or two other points that were not noticed in the report. I stopped aeveral pages short of where I intended to stop in the report, because of the notice from the Senator from Missouri. In regard to the article of which he speaks, I have not seen it. I know not what it contains.

When I came out of the committee room, I stated these facts in regard to the understanding that we should report the next Monday. I was coerced to report sooner, and I performed the duty as well as I could. The report was not exactly what I should wish it to have been. When the committee proposed to report, I voted against it. Being outvoted, I submitted, of course, as I was compelled to do. I saw, too (what I did not know before,) that a new member of the committee had been appointed, so as to be sure to have a majority that could override me if I was not ready. That being the case I brought my report to a conclusion, submitted it imperfect as it was, and allowed a clerk to follow me sheet by sheet, and take a copy for the press at the same time that I wrote it; but I had no time to run it over, and read it over again; and hence it went in the imperfect condition in which it was before the committee.

Mr. Green—Mr. President, there is not much difference in the statement of facts between the Senator from Illinois and myself, except on one point: his understanding was that we should report on Monday; the mere relation of the anecdote repeated by the Senator from Vermont disproves it. It was that we would report, if possible on Thursday, but if not possible, on Monday anyhow That was really the agreement My note to him was extremely guarded. I did not say it was resolved by a majority; I did not say it was the opinion of the majority; but it was "the *desire*." It was to hurry him, if possible and if he could not be ready, we should take no advantage of him. He having got ready, and sent off his report to the *Tribune* six hours before, still voted against presenting it to the Senate, in order to have a chance to read it over and smooth it off. I wonder who could examine the proof-sheet at the *Tribune* office, of the copy which had already been sent, and smooth that off? But enough of this.

I have made a statement sufficient to show that no unfairness was practiced towards the Senator. I know that we were more anxious to report to the Senate, and get the subject up before this body, than he was; but I think he will do me the justice to say that I have extended to him every right that I would ask him to extend me under similar circumstances.

The bill, however, is before us. I have a substitute to propose for the entire bill. I will now merely give notice of it; for, like the Senator, I desire to read it over, and see what it purports to be; but I shall lay it on the table before the Senator from Vermont, who is to follow me, gets through. I will state now its purport and object. It is for the admission of Kansas, as the bill before us is; and, in conjunction with it, for the admission of the State of Minnesota The two being united together, we shall have the consideration of both at once, and see if we cannot progress and expedite the business that has heretofore retarded the other business of the country.

Now, Mr. President, why need I detain the Senate with any explanation in regard to the position of affairs in Kansas? The Senator from Illinois, even on a motion affecting the priority of business, has to travel so far out of his way to speak of Kansas, and to speak of our actions as an attempt to force a Constitution on her people against their will. It may be his opinion When he undertakes to make a speech in opposition to it, or write a report in opposition to it, let him use such expressions if he chooses; but to travel out of his way, and voluntarily to thrust before our attention expressions like that, I take to be unpardonable. This is a Senate of equals I trust; equal States represented, and equal men to maintain the rights of their respective States; and I do not like to be characterized with a side blow, as attempting to exercise tyrannical power in forcing a Constitution on a people against their will. It is a misapprehension of the power and duty of Congress Congress forces no Constitution on Minnesota: Congress imposes no Constitution upon Minnesota: Congress forces no Constitution upon the people of Kansas; Congress imposes none upon them. Their constitutions are matters with themselves; and when presented here, we are not adopting a constitution for either one of those two States, and nothing but the most egregious error with regard to the political policy and constitutional rights of the Federal Government and the States could lead one into the use of such language. Impose a constitution upon them? Adopt! Accept! These terms, too, have been falsely used in debate by Senators who know they are inapplicable to the subject, and inappropriate to convey the proper idea. Constitutions are presented; States make application for admission. In ceding our sovereignty, giving our assent, will it be a State? If a State, is the Constitution republican? These questions being answered, we neither approve or disapprove the Constitution; we neither condemn, nor accept, nor adopt; we do not impose a Constitution upon that people in any case whatever.

It is important to keep this distinction before our minds in the discussion of this subject, If the constitutions of all the States in the Federal Union should be brought before us to undergo our scrutiny, there would not be one but would have some provisions in it to condemn. But the Constitution of Kansas is republican. That is not controverted. With regard to the sufficiency of her population to entitle her to a State organization, it is a conceded fact that the Constitution of the Federal Government stipulates no particular number. The ordinary practice of the Government is to have a population equal to the ratio of Representatives in the House of Representatives; but I believe it will not be controverted that the population of Kansas is now sufficient to entitle her to a State organization. There are other reasons, strong and powerful and overwhelming, enough why, even if the population should not amount to the number of ninety-three thousand, we sho'd depart and relay from the ordinary rule, for the sake of the harmony and peace of the country.

It is not, as the Senator from Illinois said, all peace and quiet in Kansas now. There are strifes and contentions, there are difficulties that are enough to harrow up the feelings of the human soul. There are perplexities besetting them on every hand; and without some action which will give them an organism of their own and prevent a reliance on external aid, either from Massachusetts, Missouri, the Federal Government, or elsewhere, these difficulties will be perpetuated. Even so late as this morning, I received information of murders and assassinations led on by the party favoring opposition to the Lecompton Convention; and when the Senator from Massachusetts made his inquiry about the absence of officers there, I could hardly restrain myself from giving him a little piece of information which I received this morning. General Whitfield is a Federal officer there This morning I heard the fact, and I state it in the Senate, that he received notice from the Anti-Lecompton men to depart from the Territory or they would assassinate him.—This migbt give some little reason to account for the absence of some of the Federal officers.

It is useless to cry peace, when there is no peace; but there is an easy way to solve this difficulty. As their boundaries are not exceptionable, as the Constitution presented is republican, as the population is sufficient, is it then a legal Constitution? I say, yes. In the first place, it emanated from the people. The people are the source of power in all government; but the people, although they are the source of power, cannot, except thro' the forms of law and equality, exercise their power so as to make a constitution. It does not follow because the people are the source of power, that they can abrogate all the forms of law. They can only exercise their power in and through the forms of law, and hence, in the State of Kansas, the people directed the first vote to be taken. To place this in contrast with what the Senator from Michigan [Mr. Stewart] has said, willl, I think. turn the scale in favor of Kansas. He made use of these remarks.

"The people of a Territory which is about to be formed into a State, have a right, and, so far as my examination has gone, Congress neter violated this right, to say in the first place whether they desire to form a State government now or not."

This has been uniformly decided. Mark, he says the people have a right to decide it. I make this broad assertion—for I have, in the course of my examination on this subject discovered nothing to the contrary—that in no single instance, except in Kansas, did the people first decide that question for themselves in the process of the change from a Territorial to a State organization. In Ohio, Indiana, Illinois and Minnesota, and all the other States where they had enabling acts. the enabling act said this preliminary question, as to whether they would have a State organization or not, should be decided by the Convention." The Senator from Michigan assumes that to be of vital importance. If so, Kansas, in that respect, has consulted the people more fairly (if it be more fair to consult them in person than through their representatives) than any other Territory ever did before.

This source of power thus deciding in favor of a State organization, the form of law had to be made use of to make it effective, equal, uniform and just The form of law was therefore given by the Territorial Legislature.their agents and representatives A convention act was passed, providing for the registry of the voters, for a census of the people, and for the election of delegates to a convention to form a constitution. The registry was had. Complaints are now made that the registry is not fair. I have shown that nine thousand two hundred and fifty-one votes were registered. I have shown that less than three thousand votes remained unregistered. I have shown that the officers were driven out of some of the counties and prevented from executing the law I have shown that the whole wrong in the failure of a complete registration is with the anti-Lecompton party—the opposition to the admission of Kansas under the Constitution adopted by the Convention at Lecompton.

These are facts: but it is said, and said by the Senator from Illinois, and even by the the Senator from Vermont, [Mr. Collamer,] who is usually so very fair that I seldom have anything to do with him except to differ in judgment, and not about facts, that nineteen counties were represented in the Convention, and nineteen unrepersented. I hold it to be the duty of Senators, in the presentation of any case, not to make an impression to the probate judge; and in case of vacancy of all these officers of the county, in the first instance, for the discharge of this duty the Governor has a right to appoint others. The then Governor of the Territory was not friendly to the party calling this Convention; and surely if the other officers had declined to act, he had power to cause a full registration of his friends by the appointment of his own partisans to perform the duty of registration; but when the forms of law have given them the right, and they stand aloof and refuse to make use of that right, if law is to be respected, if the rule is to be regarded, if system is to be consulted. we must turn a deaf ear to the complaints of those, who, from their own wrongs stood aloof, and afterwards raise the cry of injustice.

When this registration was completed the Governor of the Territory who was then Mr. Stanton, made the apportionment. This apportionment, of course was fair. He would hardly stultify himself, and of course his friends here will hardly take a position that would be dishonorable to Mr Stanton. I take it therefore to have been done honestly and fairly. The whole sixty members of the Convention were parceled out to the registered counties and those attached to them. The election was legally conducted; the members were legally elected; they assembled under legal authority; they met in convention.

Here it is said that from Anderson county three members were elected and sent up, and they were refused admission I answer, first that the registration was not legal; second, if it had been legal, Mr. Stanton had omitted that county in parceling out the representatives, and the law limiting the number to sixty beyond that number it would be impossible to go by the admission of other;s and, thirdly and finally, they were not refused admission. The application of these delegates was presented by Judge Elmore, I believe; it was referred to a committee of five; they reported in favor of admitting them, although the Convention act had limited the number to sixty; they subsequently withdrew their application, and it was never passed upon by the Convention. There was no expulsion, no refusal of seats

One other fact. as I am giving a historical account of this matter, should not be overlooked. The law provided that, after the registry had been made, it should be copied, and put up in a number of public places in each precinct. The whole list, as made out by the officials, was open to public inspection; every man could go and examine it. If he himself was omitted, he had a right to go before a court, prove the fact, and have his name inserted. If any man was improperly listed, who ought not to be listed, who was not entitled to rights under the law, on proof of that fact before the court, his name would be stricken off. For one whole month there was an open court in every county where they desired to avail themselves of the benefits of this law. So far as I have examined, I have never seen a law that made more ample provisions for fairness, for justice, for equality.

As to the manner in which it was executed, of course we have differences of opinion; but the law itself was good and just. The Convention, then when it met, formed the Constitution; they adopted it for themselves; they submitted it not to the vote of the people for ratification It will be remembered that one of the causes of complaint against the Convention is. that they did not submit the Constitution to the popular vote. When the Convention act was passed, Governor Geary vetoed the bill, because it did not require the the Convention to submit the Constitution to a popular vote. Hence the public were notified; the public knew what to expect. It is of no use to tell me that the Convention was under any obligation to submit the Constitution to a popular vote, for the facts and the law are directly to the contrary. Governor Geasy had vetoed it, and yet two thirds of both Houses passed it over his veto.—What had the people a right to expect from this? The Convention was under no obligation; it was a matter for the Convention to consider; and, as I have heretofore said. I repeat, it the legislative authority of the Territory could dictate to the Convention on one point, they might undertake to dictate as to other points; they might undertake to tell them what the Constitution should be; and that would defeat the whole purpose of appealing to the people to electa Constitution, in order to form a Constitution, It must emanate from the people, not the Legislature. They, however, deemed it proper to submit the slave question. It was submitted. I know that the views of the minority represent this submission as being unfair and unjust—saying that each man was compelled to vote for the Constitution, and was not allowed to vote against the Constitution. This is incorrect; and it is a little surprising to me that the Senator from Illinois should so misunderstand the position of his own friends. He quotes largely from this subsequent action of the present dominant party in the Territorial Legislature of Kansas. He even sends up the preamble and resolutions passed by them; one of which resolutions disproves the position taken by that Senator, as well as by the Senator from Vermont. It is this,

"And whereas, the members of said Convention have refused, to submit their action for the approval or disapproval of the voters of the Territory, and in thus acting have, defied the known will of nine tenths of the voters thereof.'

The complaint *here* is that they submitted it unfairly. The complaint there is that they refused to submit it. They did not submit it. The Constitution was finally adopted, save and except one clause—that sanctioning African slavery. The article on the subject of slavery was submitted to a direct vote of the people. Here let it be borne in mind; that when the clause on the subject of slavery was submitted to a vote of the people, it was submitted to the whole people, whether they were registered under the registry law or not. There can be no complaint that nineteen counties, having no inhabitants, were disfranchised at this vote; there can be no complaint that any individual in the Territory was disfranchised All had the unrestrained privilege of coming up and giving utterance to their thoughts and their wishes on this subject; and if any one did not choose to avail himself of that privilege it is no reason why we should illegally undertake to correct what they have illegally been the cause of consummating. If the men opposed to slavery have the majority, as they assert, they could have voted out slavery; but it seems to me there object was to let it be voted in by the pro-slavery party, and then, if posible, defeat the whole Constitution, and keep up turmoil and confusion, to answer the ends of wild speculation appealing to the fanaticism of the East. Speculation in Kansas, aided by fanatical societies in the East. the one feeding the other, is the mode of procedure on the part of this party in Kansas.

It is not my purpose and object to put a check to the legitimate speculation. I have no objection to it. What is done fairly, without endangering the peace of the country and without injustice to our fellow-citizen; let it be done; but when town sites and the location of capitals of new States are to be parcelled out, and a wild *furore* is raised to rush in a population on the pretext of excluding slavery and yet they will not exclude it when they have the power, but will keep the question open, this discloses the object with which the whole movement was undertaken, to wit: to fan the flames of excitement for political ends for pecuniary reward, for speculation. To accomplish this, Gov Walker says they could not succeed simply by appealing to the common sense and judgment of the people, but they had hired mercenaries sent out there, When the legal authorities have extended the privilege of voting, of registering, of acting, of deciding, even to mercenaries; when they have had that privilege, and, by the dictation of their superiors, did not exercise it, shall we stay our action and perpetrate a still greater wrong? I trust not.

It has been said, however, that the vote of the 4th of January for State officers remains yet in doubt. Why, Mr. President, I sho'd like to see the Senator who would rise in his place and say before the country that we have a right here, individually or collectively, to inquire what the vote of any State is for its State officers. Where is the man who will give utterance to such a fallacy as that? He cannot be found. Why, then, make a complaint over a subject with which you have nothing to do? The vote on the 4th of January, on the Constitution was an illegal vote. Why? The Constitution was perfect, complete before. Can the Legislatures of New York, Pennsylvania, or Virginia, annul their Constitutions by submitting them to a vote of the people? They cannot. If the prior steps of the Lecompton Constitution be binding, be legal, be such as we can sanction by admitting them into the Union, all the proceedings subsequent to the 21st of December last, when it was completed, are null and void.

It is, however, said that the vote on the 21st of December was an illegal vote. It is said in the statement of the Senator from Illinois; and he says it is illegal for two reasons; one is, because the Territorial Legislature, on the 17th, had passed a law postponing it.—Could the Territorial Legislature on the 17th interfere with the people? A convention of delegates is equal to the people, and it is just the same as if the people themselves were acting. They act not in their own name, they act as mereagents. The people cannot be interfered with by a legislature. The people had delegated special authority to the Convention. No subsequent proceeding can annul it, until it is exhausted in its existence. Then subsequent proceedings may be instituted, growing out of the like authority, conducted in like orderly, legal manner, for changing that Constitution. That is another [illegible]

But his other objection is, that the Lecompton Convention had no right [illegible] Lecompton law. I had supposed [illegible] to pass an election law, and well understood [illegible] it was well settled every Senator here;