

SPEECH OF HON. D. F. ROBISON, Of Pennsylvania.

On the resolution reported by the Committee of Elections in the Contested Election Case from Kansas Territory. Delivered in the House of Representatives, March 17, 1856.

Mr. Robison said:—During the Discussion of this question I had intended to have spoken at some length upon the issues involved; but when I perceive a disposition on both sides of the House to call the previous question, and close the debate, I deem it prudent to abandon all the points raised except the legal ones to which I will now turn my attention; and I promise this House I shall not annoy them with the length of my remarks, if I do not with the character and style of them, in the positions I shall take, and the arguments I shall submit. I know that it is much easier to speak of the blessings of freedom, and the curses of slavery, than to argue a legal proposition, when few facts can be adduced, and fancy and rhetoric are left entirely to the background.

But I shall confine myself to three points alone, and in my opinion there are but three although others have indulged in the license usually granted to congressional orators—a license almost equal to that of the poet in the loftiest and wildest stretch of his imagination.

In the first place, has Congress power to send for persons and papers? In the second, is it expedient to do so? And the chief and third point is the relative legal position of the parties.

Now, in reference to the power to summon and enforce the attendance of witnesses to testify before the Committee of Elections the negative has not been strongly urged; and one or two gentlemen at least on the opposite side have admitted that power to exist in this body. I think, for myself, that there is such a power inherent in Congress—absolutely vested—and that it should be exercised now, even if it never had been done before.

It is said to be a legal maxim, that wherever there is a wrong there is a remedy. If one man enters into a contract with another, and fails to perform its conditions, the law will coerce every stipulation, and require him to stand by his covenants, and perform all his legal promises. If one neighbor defrauds another, either by false oaths or false pretenses, the law will punish him for his guilt, and hold him responsible for his moral delinquencies. Even the felonious of the dark ages, when civil society was unsettled, this fundamental principle was recognized and acted upon by the semi-barbarians of the middle centuries.

Now, who is to remedy this evil, and arrange this difficulty. We cannot send to the Supreme Court for a writ to dispose of the one, and give the other his place. We cannot call upon the President for a file of soldiers to drive from this Hall the one or the other. Nor can we, like Cromwell, use any other force than that which is prescribed by the law and the Constitution.

Again, as to the expediency of sending for persons and papers, it is prudent to give this power to the Committee of Elections.

resist their organic law; and of others in contemplation to maintain it. Has not the North said, there is no vitality in the enactments of that Territorial Legislature, and has not the South just as stoutly claimed for them all the full force and effect of the enactments of a sovereign State! All over the country this excitement prevails; and even Governors of States on both sides have entered the arena, and recommended measures that might produce rebellion, and in the end, overthrow this fair fabric for which our fathers fought and bled, and many of them died. If things go on as they are now, and have been going on for the last six months, we will have a continuation of the excitement, and the storm once completely aroused, it will be hard to allay. It is not right and proper that we should settle it, when it can be done by this very Congress! I believe, that, if we send for persons and papers give both parties a full and fair hearing, and honesty decide between them, all difficulty will be at an end. Our people are a law abiding people; and when they know the right they will pursue it, but will never submit to a wrong, until they are convinced of their error. It is expedient to have peace upon our borders, it is expedient to take the best plan to bring about this result, and I know of none better than that proposed by the majority report of your committee.

Again, Mr. Speaker, we have a presidential campaign just coming on, and it is certainly expedient that this vexed question should never enter that already existing conflict. Let it remain as it is now, and you will hear the rights and wrongs of Kansas spoken from every mountain-top and deep valley of this mighty land. In the cities, and towns, and villages of this Republic, men will endeavor to make political capital out of this dangerous element even at the expense of all that is sacred and dear that pertains to our long cherished and much-valued Democratic institutions.

Another and evident argument in favor of the expediency of the resolution offered by the majority of your committee is the very mention of fraud. The opposition admits that some illegal votes may have been cast, both the first Legislature as well as for the sitting Delegate; while the other side asserts that the whole territorial organization was founded on fraud—fraud in its inception, and fraud in its final consummation; and also quotes, as a matter of law, that whatever fraud touches it vitiates and forever destroys. The amount and number of illegal votes at present I cannot know. The legal conclusions of my friends, and particularly of one of my colleagues, I cannot consent to. It is very true that, whenever fraud touches a contract, it is void in all its parts, and without any legal value or binding force. Such is not the case with frauds at the ballot-box. If one man casts an illegal vote at the same poll where I cast my legal one I cannot be disfranchised by his wrong, because I was not a party to it, and this is the very reason why we should have all the facts.

It may be possible that the fraud was sufficiently great to overthrow the entire policy of that new and beautiful Territory; and it may be that, if the polls were purged of those that were purged of those that were illegal abundance of legal ones might be left to entitle General Whitefield to an undisturbed seat upon this floor. At all events, give us the light and then we can judge; without it we will grope along in darkness without having done justice to ourselves, or taken one step to settle this unhappy difficulty.

The third—and what I have already said the most prominent—question is the legal position of the parties.

The question of estoppel, as raised by the honorable gentleman from Georgia, [Mr. Stephens], has been well argued by him, and other honorable members of this House; and the position taken is this: That Governor Reader, having ex officio signed all the territorial bills during his term, and having consented to the locality of that Legislature, cannot now object to an election that took place under an organic law which had previously received his sanction when in office. At the first blush this seems to be the case; but let us see what an estoppel is, and who the parties are, affected by it. An estoppel is simply the illegal act of a man, of which he cannot afterwards claim any legal advantage for himself. The following is an illustration usually given to exemplify this doctrine of common law: If a man sell a tract of land for which he had no title, makes a deed to the purchaser, and receives a good or valuable consideration for it, and afterwards purchases the same property from the rightful owner, he is estopped from holding and enjoying the same by his first deed, the law not permitting him to take advantage of his own wrong. Now, apply this to the present case before us. What power had the contestant (Governor Reader) to stop the people of Kansas from being represented in this Congress, whatever he may have done ex officio in the gubernatorial chair long before he was elected a Delegate from that Territory? He might estop himself, but never them. Suppose that a stranger, instead of A. H. Roeder, were sent here as the Delegate from Kansas,—he never having participated in any of his legislative proceedings, nor taken any part in the government of that Territory,—would any gentlemen say that he was estopped by the con-

duct of the acting governor, even if that conduct was illegal and void? When, then, comes as the representative of the people, and claims nothing as a personal right, and in this matter, we are only bound to look to the law, (if there is one), and not to the persons who may have executed it whether it be legal or illegal.

It is a well-founded maxim of law that an agent cannot bind his principal outside of the power given to him in his agency; and if the Governor of Kansas did go outside of the power delegated to him how are the people responsible for such an administration over which they had no power or control; and by what mode of special pleading they are to be deprived of a representative of a representative of their legal rights at the ballot-box, I cannot see. I will admit, if the whole case is as illegal as it has been represented here, they might have chosen a better man; but as morality is no test in Washington, we are only required to look at the law; by it the gentleman must either stand or fall. I cannot see the applicability of estoppel when only innocent parties are to be affected by it. But, after all, who is Governor Reader? The mere appointee of this Government. He never was the agent or representative of that people until they sent him to Congress; and by no act of his in the former capacity can the free people of what we hope will be a free Territory be bound in their elective choice in the slightest degree.

Another legal position is taken by the gentleman from Delaware, [Mr. Calien], viz: that the contestant comes before us as a defendant in a legal action, having no other plea except that of null and void. Now, if this were the case, the whole contest would be at an end; for the sitting Delegate can and has proceeded his record, which is a complete answer. But I would ask the honorable gentleman, if in a judicial proceeding, when the contest is about the legality of a record, the defendant has not the right to deny the jurisdiction of the court at the same time that he pleads the illegality or non-existence of the record?—This is the position of Governor Reader. He admits that the sitting Delegate has the certificate of the Governor, but utterly repudiates the authority that it executed it; and upon this he joins issue, and not upon the suppositions raised by the honorable gentleman. I feel myself bound by every legal plea that may be raised in any known issue; but there is no necessity to plead what is admitted; and neither the committee nor Governor Reader has denied the record de facto, but only the authority of the official that made it.

The honorable gentleman from South Carolina, [Mr. Boyce], in speaking of the effect of sending to Kansas for witnesses, says that one hundred willing witnesses, might be glad to make a trip to Washington on expense, when, perhaps, they know little about the case. At first sight there seems to be something in this, but after all it is founded on a supposition. When we look at the distance of that territory, and the kind of people who emigrated there, the probability is, we will have more trouble in procuring attendance than being overstocked with numbers. The majority of the bona fide settlers of that Territory are enterprising men who have gone there with their families for the purpose of getting a home by honest industry; and surely that object would not be promoted by a trip to the capital on the pay of a Government witness. This, we all know, is not a good place to make money. If he had to make both ends meet both ends meet with wages of a Congressman, I cannot see much inducement to tempt the cupidity of a distant witness to come here, upon less than half of that pay. But be all this as it may, I would ask the honorable gentleman if he would make the same argument in his court at home? If a party to a suit were to ask for a subpoena or attachment to bring into open court any given number of witnesses, he would not say, before a judicial tribunal, that it would be better to send to the commissioner to take their depositions, for they might be anxious to come to the country town at the expense of the public, for he knows too well the advantage of having a living witness instead of a written deposition; and for this very reason the Committee of Elections now ask for persons and papers.

One other legal point has been raised by the honorable gentleman from Maryland, [Mr. Davis], that you cannot go behind the record or adduce any proof, written or oral to attack its validity; and to sustain his position he read from the decision of the Supreme court of the United States in the celebrated Dorr case; but he overlooked one very important point in that opinion, which I think destroys his argument. The following is the opinion of the court:

"In Dorr's case, 3 Howard's Reports, 105, Judge McLean, in giving the opinion of the Supreme Court, strongly sustains the position just stated. That was an application for a habeas corpus to deliver Dorr from imprisonment in the State of Rhode Island, under sentence of treason committed against the State. Judge McLean says: 'Neither by nor any other court of the United States, nor by any other person, can a State court, under a sentence or execution of a State court, or any other purpose than to be used as a witness; and it is immaterial whether the imprisonment be under civil criminal process.'"

Now, I do not undertake to say that the

saving clause in the foregoing opinion—namely, that the prisoner can always be brought out of confinement to testify in open court—at all converts the position of the learned judge, but I do say, that it is the reaffirmance of another, principal just as valuable to the citizen as any known to the law. Every litigant has a right to have a hearing and to furnish all the requisite machinery to bring his witnesses into open court, and no man is bound to say, when he applies for a habeas corpus, or any other similar legal process, what he intends to prove. A party to a suit in Rhode Island might have brought Governor Dorr upon the stand, to prove that the government of that State was based upon a royal charter, and not upon a republican constitution, but it was the business of the court, when the testimony was offered, to receive or reject it, and if received, to decide upon its legal force or applicability to the issues involved. And this is all that is asked here—an opportunity to prove the allegations contained in the memorial of the contestant. The testimony may be rejected, or if received, found to be worthless, but I know of no law, civil or criminal, human or divine, that condemns a man without a hearing. It is said by other honorable gentlemen, that hearing will be attended with great expense. This may be true; but if principle is involved, we ought not to count the cost; justice is more valuable than money, and the peace of our country more to be desired than an overflowing Treasury.

But perhaps, after all, the most effective and patriotic motive we can give for sustaining the resolution of the majority of the committee is, that it will have a tendency to purify the ballot-box, the great palladium of our country's liberty. If the political engine be, and it is to remain, omnipotent, it must be kept pure. I believe that the intelligent franchise of a free people lies at the very foundation of all our republican institutions;—is interspersed with every layer of their superstructure; and when at last the flag of our Union shall float from the top most height of the temple of freedom,—no one wishing to erase a star, and all willing to live beneath its folds—it will be found that the chief agency in this great work was the uncontrolled suffrages of the great American people. Let us, then have all the facts, that the people of Kansas may be fairly represented on this floor, be the man who may.

A WESTERN COURT SCENE.

Judge ———, of Missouri, was in many respects a remarkable man. He stood six feet two in his boots, and was as fond of a felle as the most rattling lad in the country. He could drink more liquor, "with" a heavier bag of coal, and play a better game of "poker" than any man in his circuit. These admirable qualifications of course rendered him the most popular man in his district. Yet he never lost his dignity while on his bench. There he was stern, haughty and dignified. The least approach to familiarity, while he was sitting in court, was always resented by a frown, and sometimes by imprisonment.

Well, it happened one day while he was holding court, that Mr. Dowzenbury, a rough, looking but independent customer, came into the court room with his hat on his head. This the Judge considered an indignity, ordered to the court and forthwith ordered Mr. Dowzenbury to take off his hat.

To this Mr. Dowzenbury paid no attention, which being observed by "his honor," who again discovered the incorrigible standing with his hat on his head.

"Sherrif," cried the court, "take that man's hat off!"

The Sheriff approached and repeated the command of the court.

POPULAR LIES.

Rev. E. H. Chapin, in his lecture before the Mercantile Library Association, upon "Practical Life," hit off one of the very popular vices of society—lying—in a very effective manner, as appears from the report in the Traveller, from which we copy a couple of paragraphs:

"Lies of action are blood relations to lies of speech, and oral lies constitute a small share of the falsehoods in the world. There are lies of custom and lies of fashion lies of padding and lies of wholesome; lies of first water in diamonds of paste, and unblushing blishes of lies to which a shower would give quite a different complexion; the politician's lies, who, like a circus rider, strides two horses at once; the coquette's lies, who, like a professor of legerdemain, keeps six plates dancing at a time; lies sandwiched between bargains, lies in literary between republican coaches, in all the pomp of gold bands and buttons; lies of red tape and sealing wax; lies from the cannon's mouth; lies in the name of glorious principles that might make the bones of dead heroes clatter in the graves; Malakoffs of lies, standing upon sacred dust, and lifting their vindictive pinnacles in the light of the eternal heaven."

"Need we say what an uneasy, slavish vanity was that which would let a man appear as he really is, but makes him afraid of the world and himself, and so keeps him perpetually at work with subterfuges and shams. He is dissatisfied with Nature's charter, and so issues false stock. Oh, how much better for himself and the world for man to be true, what God and unavoidable circumstances have made him—come out and dare say I am poor, of humble birth, of humble occupation, or don't know much! What a cure this ingeniousness would be for social rottenness and financial earthquakes. How much sweeter and purer these actual hills of capacity and possession than this great breakish river of pretension blown with bubbles, and evaporating with gas—how much better than this splendid misery, these racks and thumb-screws that belong to the inquisition of fashion, and thousands of shabby things, the shabbiest of all being those too proud to seem just what they are."

TRAITS IN NATURAL HISTORY.

The power which animals as well as men possess, of conforming themselves to new situations, and forming new habits adapted to new circumstances, is a proof of a capability of improvement. The wild dogs in the plains of La Plata, burrow, because there is no security for them above ground against stronger beasts of prey. In the same country owls make their nests in the ground, because there are neither trees nor buildings to afford concealment. A clergyman in Iceland, by sowing angelica upon a lake island, some miles from the sea, not only attracted gulls and wild ducks to breed there, but brought about an alliance between those birds, who are not upon neighboring terms elsewhere. Both perceived that the new plants afforded better shelter from the wind and rain than anything they had seen before; there was room enough for both, and neighborhood produced so much good will, that the gulls protected the weaker birds not only against the ravens, who are common enemies, but against another species of gull also, which attacks the duck's nest.

A change more remarkable than either of these, is that which the common beach-cricket has undergone in its very constitution as well as in all ways of life, since man built built houses and inhabited cities. The field cricket in North America, which buries itself during the winter in inches deep, and there lies torpid, began about a hundred years ago to avail itself of the works of man to take up its abode in the chimneys. This insect even feels man for a bedfellow, not with any such felonious intentions as we put in execution by smaller and viler vermin, but for the sake of warmth. The Swedish traveller, Kalin, says that when he and his companions were forced to sleep in uninhabited places, the crickets got into the folds of their garments, so that they were obliged to make some stay every morning, and search carefully before they could get rid of them.

Two species of swallows have domesticated themselves with man. We have only that which builds under the eaves in England, but in North America they have built the house swallow and the chimney swallow; the chimney not being made use of in summer, they take possession, and keep it sometimes in spite of the smoke, if the fire is not very great. Each feather in the birds tail ends in a stiff point, like the cud of an awl; they apply the tail to the side of the wall, and it assists in keeping them up, while they hold on with their feet. They make a great thundering noise all day long by flying up and down in the chimneys. Now as the Indians had not so much as a hearth made of masonry, it is an obvious question, says Kalin, where did these swallows build before the Europeans came, and created houses with chimneys? Probably, it is supposed, in hollow trees, but certainly where they could; and it is thus shown that they took the first opportunity of improving their condition.

PUBLIC SALE OF 1700 ACRES of Valuable Broad Top Coal and IRON ORE LAND, AND ONE HUNDRED TOWN LOTS IN THE TOWN OF COALMOUNT.

A PUBLIC AUCTION WILL be held at Coalmount, Huntingdon County, on the Huntingdon and Broad-Top Railroad, on WEDNESDAY 16TH DAY OF APRIL, next, when and where the following lands will be sold:

LANDS IN TOWNSHIP, HUNTINGDON CO. One hundred choice building lots in the town of Coalmount, each 60 by 150 feet. A valuable tract of Coal Land, situated on the Forks of Sharp's Run, adjoining Coalmount, containing about 500 acres, more or less. It is composed of five surveys, part of Benjamin Peas, Nathan Lavering, J. S. Stewart, Evans & Hamilton, Evans, Hamilton and Anderson. It has five coal openings. It is the first coal land reached by the railroad, and is only 27 miles from the Pennsylvania Rail Road at Huntingdon.

LANDS IN BROADTOP TP., BEDFORD CO. A tract of Coal Land, situated on Trough Creek and Sharp's Run, near Broad Top city, adjoining lands of Jesse Cook, John M. Tanks, and Broadtop Improvement Company, known as the "Roads Tract," containing about 104 acres, more or less. A tract of Coal Land, situated on Trough Creek, adjoining lands of Broadtop Improvement Company, E. L. Anderson, Isaac's heirs and others, known as the Shootmaker Tract, containing 471 acres, with allowance. This tract can be mined on the eastern slope of Broadtop.

LANDS IN WELLS TP., FULTON CO. A tract of Coal and Ore Land, situated on 6 mile Run, near railroad, adjoining lands of William Gray, on Rays Hill, adjoining lands of the Broadtop Improvement Company, and James Fenton, containing 55 acres. A tract of Ore and Timber Land, in the name of Abraham Wright, adjoining the above tract, partly on Rays Hill, and partly in Ground Hog Valley, about 5 miles from Hopewell, containing 246 acres.

All the above tracts of coal land are supposed to contain the famous "Cork Vein." They will be sold according to net measurement. For more particular information apply to Levi Evans, Esq., Coalmount, Wm. Foster, Broadtop, and Thomas W. Horton, Esq., Hopewell.

The subscriber will be at Coalmount for two days previous to the day of sale, and will exhibit a connected draft of the whole road, and separate drafts of the tracts offered for sale.

W. P. SCHELL, Auctioneer. Office, C. V. M. P. Co., Feb. 28, 1856.

Clothing and Dry Goods Store. THE subscribers are just receiving a new and extensive assortment of NEW DRY MADE CLOTHING and DRY GOODS, consisting in part of Coats, Pants, Vests, Shirts, Suits, Stocks, Handkerchiefs, Boots and Shoes, Hats and Caps, and all other articles usually kept in Ready Made Clothing Stores.

Notice to Trespassers! HEREBY warn any persons from hunting, fishing or otherwise trespassing on my premises, as I am determined to enforce the law against all without respect to persons, so offending.

Notice to Collectors! It is absolutely necessary that the treasury of Bedford should have money. The collectors are determined that they will not increase the taxes as long as they can avoid it; they are equally determined that the Collectors shall pay up. Writs of execution will be issued against all delinquent collectors of 1854 and previous years, for balances remaining after the 15th of March next, and on the collectors of 1855 just as soon as their 15 months have expired. By order of the commissioners, D. OVER, Treasurer.

SETTLE UP. THE subscriber, having disposed of his Store in Bedford, desires of closing up his books. All persons indebted to him are requested to settle up immediately. His books will be in the hands of Mr. Job M. Shoemaker, till his July next.

Notice to Collectors! Collectors of the Poor Taxes are notified that Excise will issue at once against all delinquent collectors of '54 and previous years, for balances remaining after the 15th of March next, and on the collectors of 1855 just as soon as their 15 months have expired. By order of the Directors, GEO. W. BLYMIRE, Treasurer.

LOOK OUT AND SAVE COSTS. THE Books and Notes of Peter Radabaugh, are ready for sale at back collection. Persons would do well to call and settle at once, or costs will be added to them.

ADMINISTRATORS NOTICE. ETTERS of Administration have been granted to the subscriber on the estate of Daniel W. Blackburn, late of St. Clair Township, dec'd. All persons indebted to said estate are to make immediate payment and those having claims or demands against it are requested to make known the same without delay to the subscriber living at Pleasantville in St. Clair Township.

PUBLIC SALE. A School House in Napier Township near Andrew Hornes and others. To be sold at Public Sale on Saturday the 23rd day of March inst. One third of the proceeds of money in hand at the confirmation of the Sale, one third in six months, and the remaining one third in one year.

ADMINISTRATORS NOTICE. ETTERS of Administration have been granted to the subscriber, living in South Woodbury Township, on the Estate of Henry Hetrick late of said Township, dec'd. All persons indebted to said Estate are hereby notified to make payment immediately, and those having claims against the same will present them properly authenticated for settlement.

EXECUTOR'S NOTICE. ETTERS testamentary having been granted to the subscriber, on the Estate of John Smith, late of Union Township, dec'd, all persons indebted to said Estate are hereby notified to make payment immediately, and those having claims against the same, will present them properly authenticated for settlement.