

KANSAS.

[To accompany bill H. R. No. 411.]

MAY 29, 1856.—Ordered to be printed.

Mr. GROW, from the Committee on the Territories, made the following

REPORT.

The Committee on the Territories, to whom were referred the constitution adopted by the people of Kansas, on the 15th of December, 1855, and the memorial of the members of the Legislature elected under its authority, praying Congress to admit Kansas as a State into the confederacy, having had the same under consideration, beg leave to submit the following report:

Since the adoption of the federal constitution eighteen States have been added to the Union, of which five were admitted without ever having passed through a Territorial existence. Of the thirteen that have had Territorial governments, five were admitted with constitutions formed without any previous act of Congress authorizing the same. The power of Congress to admit States is of the most plenary character, and is conferred by the constitution (sec. 3, art. 4) in these words: "New States may be admitted by the Congress into this Union." The time, mode, and manner of admission, therefore, is left entirely to the discretion of Congress. By the constitution it is only requisite that the proposed State should have a republican form of government.

The first question, then, that arises on the application of a State for admission, is, does its constitution secure a republican form of government? If so, would the welfare of its people and the general interests of the whole country be promoted by its admission?

To determine this involves an inquiry as to the number of its population, the condition of its society, and the provisions of its constitution. A Territorial government under our system, being limited in the exercise of political powers, and the people thereof greatly restricted in their action, should be continued only so long as the necessities which give rise to it last. For during its existence the people do not choose their rulers, nor can they legislate without being subjected to the supervisory power of Congress over their acts.

Until the formation of a State government this supervision results not only from the power vested in Congress by the constitution itself, but from the nature of the government and the necessity of the case.

The settlers of a Territory, in the first instance feeble in numbers, and widely separated, have to contest with the savage and the wild beast, the dominion of the wilderness, and, for a time, are not of sufficient numbers, strength, or wealth to protect themselves alone against the uncivilized influences that surround them. Hence the federal government pays all the expenses of their legislation, builds their roads, erects their public buildings, appoints and pays the salaries of their executive and judicial officers, and as a necessary consequence must have a supervisory power over their acts; were it otherwise, Congress might be involved in unlimited expenditures for legalized purposes which it entirely disapproves.

While the capacity of men to govern themselves is the same, whether in a State or a Territory, their relations to the government are not the same, and it is no good cause of complaint that they must submit to all the conditions incident to their new and changed position. In the States they are members of an organized community which makes its own laws, elects its own rulers, and pays all the expenses thereof by levying and collecting its own taxes. The people of a Territory do none of these acts, either one of which is an indispensable requisite of popular sovereignty. So long as they are unable, for want of sufficient numbers and wealth, to support a State government, with all the tribunals necessary to secure life and property, they cannot exercise all the rights of an independent and sovereign people.

But when their numbers and wealth are sufficient to justify it, and the people desire to take upon themselves the responsibility and expense of a State government, there is no longer any occasion for the guardianship of Congress, and no reason why their request should be delayed or refused.

Is the population of Kansas, then, sufficient to support an efficient State government, without imposing excessive burdens of taxation upon its people?

Taking the estimate of the Secretary of the Territory, sent to the President, and by him communicated to Congress, the population of the Territory last October was twenty-five thousand.

If the increase for the last six months has been anything like the ratio of the six months preceding, the population of Kansas would now be about forty-five or fifty thousand. Each month, from the excitement and stimulus given to emigration in all parts of the Union to this Territory, adds largely to its numbers.

The amount of population necessary for the admission of a State, being left by the constitution wholly to the discretion of Congress, and its action in reference to it having varied in almost every instance, affords no uniform precedent.

Tennessee, admitted June 1, 1796, had by the census of 1790 a white population of 32,013.

Louisiana, admitted April 8, 1812, had by the census of 1810 a white population of 34,311.

Indiana, admitted December 11, 1816, had by the census of 1810 a white population of 23,890.

Mississippi, admitted December 10, 1817, had by the census of 1820, three years after her admission, a white population of 42,176.

Missouri, admitted March 2, 1820, had by the census of 1820 a white population of 55,988.

Arkansas, admitted June 15, 1836, had by the census of 1830 a white population of 25,671.

Florida, admitted March 3, 1845, had by the census of 1840 a white population of 27,943.

The population of Kansas, from the most reliable sources of information, is nearly or quite equal to the present fractional ratio for a member of Congress in the States, and greater than the representative population of many of the States at the time of their admission into the Union.* So there can be no valid objection to her admission on account of insufficient population.

Congress being the only power that can establish a Territorial government, it follows that such government must at all times be subject to the control of Congress, and can be changed, modified, or abrogated only by the consent of Congress.

But it is immaterial whether that consent be expressed before or after the action of the people of the Territory in changing their Territorial government to a State. In a majority of cases, prior to the action of the people, Congress has, it is true, passed an act authorizing them to call a convention, although it was not done in the case of Tennessee, Arkansas, Michigan, Florida, or Iowa; nor is it absolutely necessary in any case. An enabling act has never been deemed indispensable for the people to act, and no evil has ever resulted from its omission. The principal can give validity to the action of the agent in all cases, either by prior authority, or by recognition subsequent thereto.

General Jackson, in replying, through B. F. Butler, his Attorney General, to a letter of the governor of Arkansas, asking of the President instructions as to his duty in preventing the people of that Territory from holding a State convention without authority of Congress or of the legislature, says: "They undoubtedly possess the ordinary privileges and immunities of citizens of the United States. Among these is the right of the people peaceably to assemble and to petition the government for the redress of grievances. In the exercise of this right the inhabitants of Arkansas may peaceably meet together in primary assembly, or in convention chosen by such assemblies, for the purpose of petitioning Congress to abrogate the Territorial government, and to admit them into the Union as an independent State. The particular form which they may give to their petition cannot be material so long as they confine themselves to the mere right of petitioning, and conduct all their proceedings in a peaceable manner. And as the power of Congress over the whole subject is plenary and unlimited, they may accept any constitution framed, which in their judgment meets the sense of the people to be affected by it.

"If, therefore, the citizens of Arkansas think proper to accompany their petition by a written constitution framed and agreed on by them in primary assemblies, or by a convention of delegates chosen by such assemblies, I perceive no legal objection to their power to do so."

*See statement appended.

As to the power of the Territorial legislature to confer any authority, he says:

"It is not in the power of the general assembly of Arkansas to pass any law for the purpose of electing members to a convention to form a constitution and State government, nor to do any other act directly or indirectly to create such new government. Every such law, even though it were approved by the governor of the Territory, would be *null and void*."

In 1835 the people of Michigan, after repeated failures to obtain an act of Congress authorizing a State convention, called one themselves without any such authority, elected delegates, formed and adopted a constitution, and under it elected State officers, United States senators, and a representative to Congress, and at the ensuing session of Congress presented their application for admission as a State into the Union.

Congress on the 15th of June, 1836, admitted her on condition that her people, in a convention to be called for that purpose, should assent to a change of boundary, which assent, when obtained, the President was to announce by proclamation, and thereupon Michigan was to become one of the States of the Union without any further legislation. The State legislature called a convention to consider the terms fixed by Congress for her admission, and provided for the election of delegates; but that convention so called, and represented by delegates from every county in the State, rejected the terms of admission. Their action was not satisfactory to a portion or a "*party*" of the people, and they, without any legislative act whatsoever, called another convention, and accepted the terms of admission proposed by Congress, though the people of large sections of the State refused to take any part in this convention, regarding it as illegal and revolutionary.

The proceedings of both conventions were sent to General Jackson, who communicated them to Congress by message, in which he says the first convention "was elected by the people of Michigan pursuant to an act of the State legislature passed on the 25th of July last, in consequence of the above-mentioned act of Congress, and that it declined giving its assent to the fundamental condition prescribed by Congress, and rejected the same. * * * * * The second convention was not held or elected by virtue of any act of the Territorial or State legislature. It originated from the people themselves, and was chosen by them in pursuance of resolves adopted in primary assemblies held in their respective counties."

Yet in view of all these circumstances, the President declared that, if the proceedings of this last convention had reached him during the recess of Congress, he should have issued his proclamation as required by act of Congress; but as Congress was then in session, he submitted the proceedings of both conventions for its action.

Under these circumstances, Michigan was admitted into the Union by act of Congress, passed January 26, 1837, by a vote of 153 to 45 in the House, and but ten votes against it in the Senate. The people of Kansas, with far greater reasons than ever existed heretofore in any case for departure from the usual forms of proceeding, following the

precedent of Michigan and other States, and acting in accordance with the constitutional exposition of General Jackson and other eminent cotemporaneous statesmen, as to their rights, met in convention, formed a State constitution, and now present their action for the approval of Congress.

Does the constitution presented meet the approval and *sense of the people to be affected by it*? If so, is it expedient, under all the circumstances, to grant their application at this time? A proper solution of these questions requires a brief review of the history of Kansas.

An act of Congress for the organization of the Territorial government of Kansas was passed May 30, 1854.

The passage of this bill inaugurated a new policy in the settlement of our unoccupied territories. For the first time in the history of the government a restriction on the extension of slavery was stricken from the statute-book.

The policy in reference to the Territories introduced by the fathers of the republic, and continued by the uniform action of the government for more than sixty years, was to exclude slavery from all territory where it had not an actual existence, and to regulate and even restrict it where it had.

On the 13th of July, 1787, the Congress of the confederation declared, in the language of the proviso offered by Jefferson in 1784, that in all the territory northwest of the river Ohio, "there shall be neither slavery nor involuntary servitude, otherwise than in punishment of crimes whereof the party shall have been duly convicted." At the first session of Congress after the adoption of the constitution, this ordinance, which covered every foot of territory then owned by the federal government, was, by a unanimous vote, recognised and continued in force by act of Congress approved by Washington. On the 7th of April, 1798, Mississippi was organized into a temporary government out of territory ceded by South Carolina and Georgia, both slaveholding States. Yet the importation of slaves therein, from any place without the limits of the United States, was prohibited under penalty of three hundred dollars, and the freedom of the slave.

This restriction on slavery in a slaveholding territory, ten years before Congress was permitted by the constitution to prevent the importation of slaves into the *States*, passed without a division in either house, and was approved by John Adams.

During his administration Indiana was organized into a Territory, and slavery prohibited therein.

On the 26th of March, 1804, the Territory of Orleans, now the State of Louisiana, was organized out of a part of the Louisiana purchase, over the whole of which the French law of slavery extended. Yet Congress prohibited the introduction of any slaves into the Territory from any place without the limits of the United States, or that had been imported since the first of May, 1798; and provided, in addition, that no slaves should be taken into the Territory from any place except by a *citizen* of the United States removing into said Territory for actual settlement, and being at the time of such removal *bona-fide* owner of such slaves. The penalty for a violation of either one of

these prohibitions was the freedom of the slave and a fine of three hundred dollars. This act was signed by Jefferson.

Michigan and Illinois were both organized during his administration, each with a total prohibition of slavery.

On the 4th of June, 1812, the Territory of Missouri was organized with the three restrictions on the importation of slaves that existed in the Territory of Orleans.

On the 3d of March, 1817, Alabama was organized with the laws in force in the Territory of Mississippi, by which the introduction of slaves imported from any place without the United States was prohibited. Both these acts were signed by Madison.

On the 2d of March, 1819, the Territory of Arkansas was organized out of part of Missouri Territory, and the laws of the latter continued in force.

On the 6th of March, 1820, was passed the Missouri compromise, in an act authorizing the people of Missouri to form a State constitution.

On the 30th of March, 1822, Florida was organized with a prohibition on the introduction of any slave imported from any place without the United States. These three acts were signed by Monroe.

On the 20th of April, 1836, Wisconsin was organized as a Territory, with a prohibition on the existence of slavery, and the act was approved by Jackson.

On the 12th of June, 1838, a similar act was passed for Iowa, and signed by Van Buren. The act organizing the Territory of Oregon prohibited slavery, and was signed by Polk. Five times during the Territorial existence of Indiana did Congress refuse the prayer of her citizens for a temporary suspension of the prohibition of slavery within her limits, for the reason assigned by Mr. Randolph, of Roanoke, chairman of one of the committees to whom the memorial praying for the suspension was referred: "That the committee deem it highly dangerous and inexpedient to impair a provision wisely calculated to promote the happiness and prosperity of the northwestern country, and to give strength and security to that extensive frontier."

The constitutionality of this uniform action of the government in prohibiting or restricting slavery in the Territories, beginning with the first Congress and extending with an uninterrupted current of authority for so long a period, has been sustained by the decisions of the courts of almost all the States, both free and slave, and by the highest judicial tribunal of the land. Well might Mr. Clay, in speaking on this subject in the Senate of the United States, on the 5th of February, 1850, after declaring that in his opinion the power over the subject of slavery in the Territories exists in Congress, say, "that when a point is settled by all the elementary authorities, and by the uniform interpretation and action of every department of our government—legislative, executive, and judicial—and when that point has been settled during a period of fifty years, and was never seriously disturbed until recently, I think that, if we are to regard anything as fixed and settled under the administration of this constitution of ours, it is the question which has been thus invariably and uniformly settled; or are we to come to the conclusion that nothing—nothing

upon earth—is settled under the constitution, but the principle that everything is unsettled?”

The settlement of this question, as left by the compromise of 1820, would have prevented the present strife and civil war in Kansas, and preserved the country in its wonted repose.

Yet instead of leaving this Territory, as it had been for more than a third of a century, consecrated to freedom by all the solemnities that can surround any legislative act; instead of adhering to the policy established by the fathers of the republic, and continued by the uniform action of the government for more than half a century, of settling in Congress the question of the future existence of slavery in a Territory at the time of organizing its temporary government, all restrictions were thrown off, and the existence of slavery was left as a bone of contention for the settlers of the Territory during its Territorial existence, and to be thrown back again into Congress whenever the State should apply for admission. The act itself virtually invited slavery to take possession by removing all barriers to its introduction.

The object of the repeal, sufficiently apparent even if it had not been avowed at the time by many of its advocates, was to extend, strengthen, and perpetuate slavery by making Kansas a slave State.

Under these circumstances, this Territory once secured to freedom, was thrown open to settlement, and to competition between free and slave labor. Emigrants from all sections of the Union, relying on the faith of the government that they were to be left “*perfectly free to form and regulate their domestic institutions in their own way,*” made it their homes; but when, in pursuance of the forms of the organic act, they assembled to elect a legislature which would mould the institutions of the Territory, and in a great measure shape and control the character of those of the infant State, they were driven by violence from the polls, and their ballot-boxes seized by organized bands of armed men from the State of Missouri.

That such was the case is clearly established by the executive minutes of the governor of the Territory, transmitted to this House by the President, which is the authentic and official record of the transactions at the time they occurred, and from which we present the following extracts:

“*Third representative district.*”

“Report of Harrison Benson and Nathaniel Ramsay, under oath, that they entered upon their duties as judges of election, and polled some few votes, when they were driven from the room by a company of armed men from the State of Missouri, who threatened their lives, and commenced to destroy the house and beat in the door, demanding the right to vote without swearing to their place of residence; that having made their escape with the poll-books and certificates, they were followed by said persons, and the said papers taken by force.

“Protest of A. B. Woodward and nineteen other persons, claiming to be citizens of said district, against the election, in said district, of A. McDonald, O. H. Brown, and G. W. Ward, for the reason that several hundred men from the State of Missouri presented themselves

to vote at said election, and, upon being required by the judges to swear to their place of residence, they threatened to take the lives of the judges and tear down the house, and prepared to demolish the house. One of said judges ran out of the house with the ballot-box, and the other two were driven from the ground; that the citizens of the district then left, and the persons from Missouri proceeded to elect other judges and hold an election.

“Tenth representative district.

“Oaths of H. B. Corey, J. B. Ross, and J. Atkinson, judges, according to form prescribed. Return of same judges, stating that having been sworn, they proceeded to open said election and received votes; but that a vast number of citizens from Missouri assembled on the ground for the purpose of illegally voting, who surrounded the window and obstructed the citizens of the Territory from depositing their votes, and caused many of the said legal voters to leave without voting, and that the said judges, in consequence of the determination of citizens of Missouri to vote, and no voters from said district voting, or offering to vote, they left the ground.

“First election district.

“Protest of Samuel F. Tappan and twenty others, claiming to be residents of the first election district, to declare void, to set aside the returns and election in said district, or that certificates be given to Joel K. Goodin and S. N. Wood for council, and to John Hutchinson, E. D. Ladd, and P. P. Fowler, for the reason that six or seven hundred armed men encamped in the vicinity of the polls on the 29th and 30th of March, collected around said polls, and kept them in their possession on the day of the election till late in the afternoon, and who left the district during the afternoon and the ensuing day. Said persons were strangers, believed to come from the State of Missouri. Citizens of the district were threatened with violence and prevented from voting. Affidavit by all the signers, together with affidavits of Harrison Nichols, Edwin Bond, David Congee, N. B. Blanton, and Samuel Jones, tending to prove threats, violence, and non-resident voting.

“Protest of Perry Fuller and E. W. Moore, judges appointed to hold the election, and twenty-nine other persons claiming to be residents, complaining that the said election was opened by unauthorized judges at 8 o'clock a. m., and at a place different from that prescribed in the proclamation, and that non-residents surrounded the polls with fire-arms and voted indiscriminately.”

But omitting further extracts from the returns of the judges of the election, there were by the census taken under the direction of the governor, in February, 1855, 2,905 legal voters in the Territory; yet at the election for members of the legislature held twenty-seven days after the completion of the census, 6,331 votes were polled,* of which

*See statement appended.

5,564 were for the pro-slavery candidates ; the excess of votes being so distributed through the different election precincts, that of the thirty-nine members of the legislature, but one free-State man was elected, and he was in the district farthest removed from Missouri.

The election of nine members of the council, and eight members of the legislature, contested at the time before the governor, were, by reason of fraud and violence at the polls, set aside, and new elections ordered ; yet the legislature, without *investigation*, rejected all the members elected at the second election, and admitted to seats those whose election had been set aside, and to whom the governor refused certificates, a transaction unprecedented in the history of legislative bodies, and to be accounted for only on the ground that they were accomplices in the fraud.

The legislature thus constituted then enacted a code of laws denying the right of private judgment and the free expression of opinion, under penalty of fine and imprisonment, and, in certain cases, disfranchisement of political rights.

In order that this code should be executed by its friends, this legislature provided for the appointment of all officers—civil, military, and judicial—not already appointed by the federal government, and then prolonged its own existence, by legislative act, till the 1st of January, 1857.

As the council is elected for two sessions, no change can be made in that branch of the legislature until 1858 ; so that, from the time of the passage of the act organizing Kansas, which provides for annual sessions of the legislature, it will be almost four years before any change can be made by the people in the legislation thus imposed upon them. To sustain a government thus imposed upon an unwilling people, and marked by all the characteristics of deliberate oppression and wrong, armed men have been summoned from a neighboring State, and civil war is impending over the inhabitants of the Territory. As a remedy for these evils and a redress of such wrongs, it is proposed by their apologists to authorize the people, at some future time, to form another constitution, to be again submitted to Congress, with a new application for admission as a State.

Why should their present application be rejected, and they be forced to pass through the mockery of another election, under the authority of this Territorial legislature, and subject to another invasion of non-residents ? Immediate action is necessary in order to put an end to the strife in the Territory, which, the President informs us, threatens the peace not only of Kansas, but of the Union.

The representatives of freedom and of slavery, struggling for supremacy, rally to the plains of Kansas with the implements of war and violence. Is the bitterness engendered in these conflicts to be allayed, and the dangers of bloodshed to be averted, by Congress authorizing the people of the Territory at some future time to do what they already have the right to do without any such authority ? An act of Congress authorizing them to form a State constitution confers no right that they do not already possess, and is no redress of present grievances, or relief against unjust and oppressive laws.

The only political question upon which the people of Kansas are

divided, and the one that has caused all the troubles in the Territory, as well as the excitement over the whole country, is the existence of slavery within its limits, and until that question is settled, there can be neither peace in the Territory, nor tranquillity in the country. Why, then, delay action? Is it to obtain, by another election, a fuller and freer expression of the wishes of the people as to the existence of slavery in the Territory, when every person there, who, by writing or speaking, opposes the introduction or existence of slavery therein, is liable to punishment from two to five years in the penitentiary, and no advocate of free institutions is secure in the exercise of his inalienable rights?

If a majority of the legal voters in the Territory were not free-State men, why was an invasion necessary to carry the election; and why was it necessary, then, for the usurpers to take from the people, by legislative act, the selection of their own election-boards and other local officers? If a majority of the people are in favor of the enactments of the imposed legislature, why was it necessary to summon men from Missouri to enforce them? The Territorial government, unable to prevent a usurpation of the legislative power by non-residents, and having violated in its action the most sacred rights of person, freedom of speech, and of the press, is unworthy the support of freemen.

There being no peaceable mode for changing the government by the people for almost two years, so as to redress any of the wrongs and grievances under which they now suffer, their only mode of redress was to appeal to Congress to allow them to protect themselves by an organized government of their own formation, with courts and officers of their own selection.

To restore, then, to the people of Kansas the rights wrested from them by fraud and violence, to relieve them from an odious oppression in the form of legislative enactments, as well as to remove the causes of civil war, and restore peace to the people of Kansas, and quiet to the whole confederacy, we recommend the admission of Kansas into the Union as a State, and herewith report a bill.

GALUSHA A. GROW.

J. R. GIDDINGS.

A. P. GRANGER.

S. A. PURVIANCE.

JUSTIN S. MORRILL.

JOHN J. PERRY.

Tabular statement showing the inhabitants, legal voters by the census taken in February 1855, and the votes polled at the election held 30th March, 1855.

Districts.	Males.	Females.	Voters.	Votes polled at election of Mar. 30, 1855.	Natives of United States.	Foreign birth.	Negroes.	Slaves.	Total.
First district	623	339	369	1,044	887	75	-----	-----	962
Second district.....	316	203	199	341	506	19	1	7	519
Third district.....	161	91	101	376	215	12	-----	6	252
Fourth district.....	106	71	47	80	169	2	1	1	177
Fifth district.....	824	583	442	855	1,385	22	27	26	1,407
Sixth district.....	492	318	253	350	791	12	11	11	810
Seventh district....	82	36	53	234	117	1	1	1	118
Eighth district.....	56	27	39	37	76	7	13	10	83
Ninth district.....	61	25	36	75	66	12	14	3	86
Tenth district.....	97	54	63	92	108	23	-----	-----	151
Eleventh district....	33	3	24	331	30	6	-----	-----	36
Twelfth district....	104	40	78	42	109	37	1	7	144
Thirteenth district..	168	116	96	242	273	9	14	14	284
Fourteenth district..	655	512	334	727	301	46	1	35	1,167
Fifteenth district..	492	381	308	417	846	16	15	15	873
Sixteenth district..	708	475	385	964	1,042	104	48	33	1,183
Seventeenth district	91	59	50	62	143	5	4	23	150
Eighteenth district	59	40	28	62	97	1	-----	-----	99
Total.....	5,128	3,383	2,905	6,331	7,161	408	151	192	8,601

States admitted.	Territorial government organized by act of Congress.	Authorized to form State government.	Date of admission.	POPULATION.				Representative population.	Ratio.	No. of representatives in Congress at the time of admission.	Appropriations, executive, legislative, and judicial, for the Territories.	For erection of public buildings.	For construction of roads.
				By census of—	White.	Free colored.	Slaves.						
Kentucky .....	.....	.....	July 3, 1788	1790	61,133	114	11,830	68,375	33,000	2	.....	.....	.....
Vermont .....	.....	.....	Feb. 18, 1791	1790	85,144	255	17	85,409	33,000	2	.....	.....	.....
Tennessee.....	May 26, 1790	.....	June 1, 1796	1790	32,013	361	3,417	34,424	33,000	1	\$22,000 00	.....	.....
Ohio	July 13, 1787 } Aug. 7, 1789 }	April 30, 1802	Feb. 19, 1803	1800	45,028	337	.....	45,365	33,000	1	66,000 00	.....	.....
Louisiana, (Orleans)	March 26, 1804	Feb. 20, 1811	April 8, 1812	1810	34,311	7,585	34,660	62,692	35,000	1	152,298 00	.....	\$6,400 00
Indiana	May 7, 1800	April 19, 1816	Dec. 11, 1816	1810	23,890	393	237	24,424	35,000	1	117,750 00	.....	6,000 00
Mississippi	April 7, 1798	March 1, 1817	Dec. 10, 1817	1810	23,024	240	17,088	33,515	35,000	1	148,399 83	.....	10,000 00
Alabama	March 3, 1817	March 2, 1819	Dec. 14, 1819	1820	85,451	571	41,879	111,145	40,000	1	14,433 00	.....	10,000 00
Illinois	Feb. 3, 1809	April 18, 1818	Dec. 3, 1818	1810	11,501	613	168	12,219	35,000	1	69,500 00	.....	8,000 00
Maine .....	.....	.....	March 3, 1820	1820	297,340	929	.....	298,269	40,000	7	.....	.....	.....
Missouri, (Louisiana)	March 3, 1805	March 6, 1820	March 2, 1821	1820	55,988	347	10,222	62,468	40,000	1	113,700 00	.....	.....
Arkansas	March 2, 1819	.....	June 15, 1836	1830	25,671	141	4,576	28,557	47,700	1	203,159 46	.....	344,065 00
Michigan	Jan. 11, 1805	.....	June 15, 1836	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	Jan. 26, 1837	1830	31,346	261	32	31,627	47,700	1	352,703 59	.....	235,500 00
Florida	March 3, 1819	.....	March 3, 1845	1840	27,943	817	25,717	44,190	70,680	1	665,436 55	\$20,000 00	172,613 00
Iowa	June 12, 1838	.....	March 3, 1845	1840	42,924	172	16	43,106	70,680	2	284,908 00	15,000 00	60,500 00
Texas .....	.....	.....	Dec. 29, 1845	1850	154,034	397	58,161	154,034	93,420	2	.....	.....	.....
Wisconsin.....	April 20, 1836	Aug. 6, 1846	March 3, 1847	1840	30,749	185	11	30,940	70,680	2	347,473 09	40,000 00	72,000 00
California .....	.....	.....	Sept. 9, 1850	1850	91,635	962	.....	92,597	93,420	2	.....	.....	.....
Oregon	Aug. 14, 1848	.....	.....	.....	.....	.....	.....	.....	.....	.....	249,582 69	112,000 00	90,000 00
Minnesota	March 3, 1849	.....	.....	.....	.....	.....	.....	.....	.....	.....	204,650 00	76,500 00	150,000 00
Utah	Sept. 9, 1850	.....	.....	.....	.....	.....	.....	.....	.....	.....	199,159 16	53,000 00	32,000 00
New Mexico.....	Sept. 9, 1850	.....	.....	.....	.....	.....	.....	.....	.....	.....	203,395 00	40,000 00	25,000 00
Washington	March 2, 1853	.....	.....	.....	.....	.....	.....	.....	.....	.....	76,500 00	5,000 00	55,000 00
Kansas	May 30, 1854	.....	.....	.....	.....	.....	.....	.....	.....	.....	70,200 00	25,000 00	100,000 00
Nebraska	May 30, 1854	.....	.....	.....	.....	.....	.....	.....	.....	.....	72,125 00	50,000 00	80,000 00

MINORITY REPORT.

The undersigned, member of the Committee on the Territories, unable to concur with the majority in the report of the bill for the immediate admission of Kansas as a State into the Union, begs leave to submit the reasons which, in his judgment, are conclusive against such action, and which at the same time demonstrate the propriety of authorizing the people of the Territory of Kansas to form a State constitution, with the privilege of admission into the Union so soon as they have the requisite population.

The undersigned readily comprehends that the true policy and interests of the government of the United States are opposed to the long and unnecessary continuance of any portion of the American people in a condition of Territorial dependence; that such relations, prolonging the rule of the government over a people debarred from participation in its general direction and control, tend to depress that independence of sentiment which a government like ours should ever cultivate in its citizens; and that it would be ill-judged in continuing to impose upon the United States the burdens of a Territorial organization, after the people of the Territory were fully able to defray for themselves all the expenses of a State government.

But the undersigned respectfully submits, that such considerations do not apply to the present condition of Kansas. It has been but two years since the present Territorial government was organized, over a then wilderness country, while, with other Territories of the Union, the average duration of Territorial organization, prior to admission as States into the Union, has been from twelve to thirteen years, and in some instances much more; as, with Mississippi nineteen years, with Florida twenty-six, and with Michigan thirty-two years. Besides, the population of Kansas is entirely too small, too sparsely scattered over the Territory, subject to too much fluctuation and instability, and in almost every way too little prepared to throw off the Territorial and assume all the responsibilities of a State government.

The population in October last was twenty-five thousand, or less than one-third the number (93,420 inhabitants) requisite to entitle Kansas to a representative in Congress. Though increasing rapidly, yet there is no data before the committee showing that this condition of things is materially changed. Would the admission of so small a population to all the rights of a State of the Union, with two senators and a representative in Congress, be *just* to the due representative weight of the present States of the Union? It would be a radical departure from the established usage of the government; there being no instance in which a State has ever been admitted with a population so inconsiderable, and no instance, with one solitary exception, in which a State has ever been admitted without a population more than equal to the ratio of representation in Congress. Though the constitution prescribes no definite amount of population as necessary for the admission of a State, yet considerations of the highest and soundest policy have led to the establishment of a general usage, and a long roll of precedents, extending down from the organization of the government, which it would be not only unwise but unsafe to depart from in the manner proposed. Of the eighteen States admitted since the

adoption of the federal constitution, the average population at the date of admission has been a fraction over *one hundred and four thousand*.

But the States in which the population was *smallest* at the time of admission, and which have therefore been relied on by the majority of the committee, really present a state of facts which, when correctly understood, overthrow the conclusions of the majority.

For example, the State of Tennessee was admitted in June, 1796, with a population, ascertained by a Territorial census of July, 1795, and reported by Governor Blount to Congress, of 77,262, when the ratio of representation in Congress was only 33,000.

Louisiana was admitted in April, 1812, with a population, ascertained two years before, (see United States census statistics,) of 76,556, at a time when the ratio of representation was but 35,000.

Indiana was admitted in December, 1816, with a population of 63,000, (see folio State Papers, Mis., vol. 2, p. 277, and House Journal Dec. 28, 1815, and Jan. 5, 1816,) when the ratio of representation was 35,000.

Missouri was admitted in 1821, with a population, ascertained the year before, (see United States census statistics,) of 66,586, when the ratio of representation was 35,000.

Arkansas was admitted in June, 1836, with a population, ascertained the year before, of 52,240, (see House Docs. 1st session 24th Congress, vol. 4, Nos. 133, 144-'5,) when the ratio was 47,000.

Mississippi was admitted in December, 1817, with a population, ascertained the year before, of 75,512, (see folio State Papers, Mis., vol. 2 of that Congress,) when the ratio was 35,000.

Florida was admitted in 1845, with a population, ascertained by Territorial census *seven years before*, of 48,223, (see House Docs. 2d session 27th Congress, vol. 4;) in 1845 the ratio of representation was 70,000. This case, as stated above, is the only exception to the invariable rule. But at the time Florida applied for admission, (in 1839,) her population was *more than the then ratio* of representation, (47,000,) and on this account, taken in connexion with the express terms of the treaty by which that Territory was acquired, it was claimed that they had the equitable right of admission.

A summary of the facts as to the remainder of the eighteen States admitted, appears as follows:

States.	Population when admitted.	Ratio of representation.
Vermont -----	85,000	33,000
Kentucky -----	73,077	33,000
Ohio -----	45,365	33,000
Illinois -----	55,211	35,000
Alabama -----	144,317	35,000
Maine -----	298,335	35,000
Michigan -----	87,273	47,000
Iowa -----	78,819	70,000
Texas -----	162,000	70,000
Wisconsin -----	305,000	70,000
California -----	92,597	70,000

But the insufficiency of the population of Kansas—the impolicy of setting such an example to the other small communities occupying the public territories—the injustice of giving State equality, and full equality in the Senate, with the most populous States in the Union, to such small territorial populations—are of far less flagrant aspect than certain other features in this proposition.

The bill reported, which is designated “a bill for the admission of the *State of Kansas into the Union*,” recites that “*the people of Kansas have presented a constitution, and asked admission into the Union*,” &c.

Now, the most remarkable feature in the question presented, is the fact that this “constitution,” and this pretended “State of Kansas,” have been set up in *open resistance to the lawfully-constituted authorities of the country*—set up on the public domain of the United States, in utter defiance of and resistance to the laws of the United States; set up not by “the people of Kansas,” but by a dissatisfied portion of the people, arrayed in excited antagonism to another portion; with a questionable list of grievances, and with a temper too impatient, or too prone to disorder, to await the redress of grievances which the due processes of law and order are sure to accord to every portion of the American people.

The only paper placed before the committee for its action is a memorial submitting such a constitution, asking (for Kansas) admission as a State, and going so far in argument as to question “*the right of Congress to extend a Territorial government over Territories*” of the United States, while at the same time it embodies the bold declaration of the “convention of the people’s delegates,” that the Territorial government has been a “*failure, and the people were left without any legal government*” whatsoever!

The memorial purports to be signed by the senators and representatives of the so-called State legislature of Kansas; but it has recently appeared that the copy before the committee is not a full transcript of the memorial adopted by the said Kansas legislature, several passages having been suppressed, as it appears, here in Washington. That it may more fully be seen what was the real temper of the said memorialists, the undersigned here inserts one of those suppressed passages, to wit:

“By the provisions of the organic act a government was established over the Territory, and officers were appointed by the President to administer said government. This form of government is *unknown to the constitution*, is extra-constitutional, and is only the creature of necessity awaiting the action of the people, and cannot remain in force contrary to the will of the people living under it. It may be regarded as a benevolent provision on the part of Congress thus to provide a government of their own; but when it becomes oppressive, or when the people become sufficiently strong to establish a government of their own, in accordance with the constitution of the United States, it is their right so to do, and thereby throw off that extended over them.”

Such is the startling assumption of the memorialists! men who, while occupying, by permission of Congress, one of the Territories of the United States, had just set themselves up as a legislature in resist-

ance to the Territorial legislature and government established by Congress.

But the "convention of the people's delegates" who gave start to the movement for a State government, and whose proceedings are quoted in the memorial before the committee, have gone still further. That body adopted, "with but one dissenting voice," the following resolutions, to wit:

"Resolved, That we owe no allegiance or obedience to the tyrannical acts of this spurious [regularly-constituted Territorial] legislature; that their laws have no validity or binding force upon the people of Kansas; and that every freeman amongst us is at full liberty, consistently with all his obligations as a citizen and a man, to defy and resist them, if he chooses so to do.

"Resolved, That we will endure and submit to these laws no longer than the best interests of the Territory require, as the least of two evils, and will resist them to the bloody issue, as soon as we ascertain that peaceable remedies shall fail, and forcible resistance shall furnish any reasonable prospect of success; and that, in the mean time, we recommend to our friends throughout the Territory the organization and discipline of volunteer companies and preparation of arms!"

Such was the disorderly, insurrectionary, and war-menacing spirit with which this "State of Kansas" was set on foot! With such antecedents and under such circumstances, the memorialists ask for, and the majority of the committee recommend, the immediate admission of Kansas into the Union. To admit a State thus formed, in open defiance of the lawful authorities both of the Territory and of the United States, would be without a parallel in the history of our government, utterly repugnant to its approved policy and rights of jurisdiction, and imminently hazardous to its future order, peace, and safety. What are the facts of our past history as to the admission of new States? Nine have been admitted with constitutions framed *under express permission of Congress*—that is, Ohio, Louisiana, Indiana, Illinois, Alabama, Michigan, Mississippi, Missouri, and Wisconsin; four (to wit: Tennessee, Arkansas, Florida, and Iowa) have been admitted with constitutions *having the free sanction of the preceding Territorial governments regularly established by Congress*; three (Vermont, Kentucky, and Maine) have been carved from the older States, (and there being no preceding Territorial governments,) *with the express assent of the States from which they were taken*; one (California having no Territorial government) admitted with a constitution *adopted at the instance of the military government existing at the time*, it being the only recognised local government in the Territory; and one republic (Texas) annexed and admitted as a State, *by amicable compact between that republic and the United States*. So, of the whole list, there is not a solitary instance of the admission of a State formed by persons in open hostility to the Territorial government which preceded it, or who had disclaimed allegiance or obedience to the laws, either of the Territory or of the United States; much less a State, the leaders and framers of which have actively and artfully incited the people—pretending to extend to them "full liberty"—to *resist the only true and lawful government established by authority of the*

United States, "to the bloody issue," and urging them for that purpose to "organization and discipline of volunteer companies and preparation of arms!"

Though one or two somewhat similar attempts have been made in our history, none have had so bad an aspect as this; yet they were promptly discountenanced and put down. Before the adoption of the constitution of the United States, the "State of Frankland" was projected, without lawful authority, on the territory of North Carolina, within the precise limits of what is now the State of Tennessee; and, though there was no local Territorial government over that then remote wilderness country, and though Indian hostilities were raging throughout its settlements, making it absolutely necessary, in the apprehension of the settlers, to establish some sort of local government for themselves, yet the movement was not tolerated for a moment by the lawful authorities, and was soon swept from existence. In Rhode Island, in 1841, the Dorr insurrection, as it was familiarly called, sought to set up, without the sanction of law, a State government in defiance of the existing State government of Rhode Island. But that movement was also promptly put down, and was from the beginning firmly discountenanced by the general government. On the present, as on those occasions, the violators of law and order have had various pretexts for their irregularities, and some plausible accounts of alleged grievances, which are in the main *ex parte*, and of very questionable accuracy.

It has been said that Kansas finds an example in the history of the admission of Michigan. But this is a misapprehension. The ordinance of 1787, enforced by acts of Congress, in pursuance of which Michigan was erected into a Territory, provided that a population of sixty thousand should entitle the State to admission. Having attained more than that population, Michigan formed a State constitution, and was admitted into the Union in June, 1836, with the single condition that the United States should fix its southern boundary, and that the assent of the State to this boundary should be given through "a convention of delegates elected by the people of the State for the sole purpose of giving the assent herein required." Congress had power to fix this boundary without such assent. There were two conventions held, one assenting to and the other opposing this boundary; but on the 18th of January, 1837, Congress declared that "a convention of delegates, elected by the people of the State of Michigan," "did assent" to the boundary. This is all there is in it. There is no parallel between this case and that of Kansas.

An impartial review of the facts, in the opinion of the undersigned, discloses that the authors of this Kansas movement have committed a series of grave errors, and have placed themselves in the wrong from the very beginning of the controversy.

So soon as the Kansas-Nebraska bill was passed, active and noisy movements were set on foot to *throw into Kansas a mass of voters from distant States for the avowed purpose of controlling its elections, and making it a free State*. For this purpose Emigrant Aid Societies were organized in the New England States; millions of money were subscribed; and with a vociferous agitation against slavery, large num-

bers of persons were procured to enter the Territory, with exaggerated boasts of their popular prowess, preparatory to the first election. The people of Missouri, excited and aroused by the menacing throngs of these emigrants as they passed through that State on their way to Kansas, lying upon its western border, were stimulated to active counter-exertions, and threw bodies of emigrants into the new Territory to counteract the movements of the Emigrant Aid Societies. The first election occurred in November, 1854, for a Territorial delegate to Congress, and the free-State party were defeated. Those who had set in motion this unusual and unjustifiable interference from abroad with the local affairs of Kansas, then raised an outcry against the Missourians for apparently fairly beating them at their own game. They immediately renewed the struggle for the ensuing legislative elections, which occurred in March, 1855. They charge that they were beaten by frauds, and by the votes of non-residents. But it is worthy of note, that no attempts were made to prove the truth of these general charges. Notwithstanding Governor Reeder's proclamation, prescribing the time, place, and mode of election, had required an oath by the judges of election to permit no person to vote who was not a qualified voter and an actual resident of the Territory, and to make a true and faithful return of the votes to the governor; and notwithstanding it also expressly provided that if there should occur any fraudulent voting, or voting by non-residents, the persons so charging should make a sworn statement of the facts to the governor, and that the irregularities should be corrected; yet the public records show that neither the judges of election, nor any other person or persons in the Territory, ever did make such allegations or returns, and that there was never any proof shown, or attempted to be shown, that any such irregularities had an existence. Governor Reeder himself, it will be remembered, *certified the legality of the election.*

But the defeated party renewed their efforts, still relying chiefly upon the operations of the organized Emigrant Aid Societies of New England; and they again made loud boasts of the large numbers of emigrants they were pouring into the Territory, preparatory to the spring elections. This, in turn, naturally excited renewed counter-exertions on the part of Missouri and the southern States. The result was, that in the legislative elections in March, the free-State party were again defeated. The returns having been made to Gov. Reeder, that officer certified the legality of election of an overwhelming majority of the members of both houses of the legislature; and subsequently, both before and after that body met and organized, he again and again recognised it as a properly-constituted legislature. There were a few districts in which he did object to the returns, on the score of illegal voting, and in these instances he ordered new elections. But they were so few, that had all those members been excluded from seats, it would not have prevented the legal and efficient organization of the legislature. The records show that there was no pretence set up of illegal voting in the election of eleven councilmen out of thirteen, and of seventeen representatives out of twenty-six. At the special elections, ordered by the governor, to fill vacancies where illegal voting was alleged, the same persons were again

chosen by the people, except in the case of one councilman and one representative. The legislature then stood confessedly legally organized.

But that body, soon after organization, adjourned its sittings from Pawnee Mission to Shawnee Manual-Labor School, *and on that account, and that only*, the governor subsequently refused to sign the bills passed by the legislature; and thereupon a general movement was made by the free-State party to resist the laws which were passed, whether by a two-thirds majority over the governor's veto, or by an ordinary majority and the signature of his successor, after Governor Reeder's removal by the President of the United States. Baffled, chagrined, and glowing with impassioned resentment, Governor Reeder and his friends then loudly charged that the elections had been controlled by armed citizens of Missouri, and that on *that* account the legislature was a spurious body, and its acts not entitled to obedience or observance by the people of the Territory. This was some months after the elections. Simultaneously, the series of movements, in defiance of law and order, was set on foot which led to the organization of military companies; the arming with Sharpe's rifles; the setting up pretended laws, and holding elections, in defiance of the laws and elections of the Territorial government; the irregular election of this same Governor Reeder as a delegate to Congress; the framing a State constitution, and the election under it of members of a legislature and of senators in Congress; the counselling the people to resist the Territorial government, and the application which is now made to admit the rebellious new State thus formed into the Union.

Surely a calm review of the facts here briefly hinted at ought to carry with it the conviction that those misguided men, by continued acts of an unusual, exciting, and aggressive character, have brought upon Kansas all the turmoil, collision, and agitation which have unfortunately distinguished it from the other Territories; and that to countenance the admission into the Union of "the State of Kansas," unprepared with population as it is, and attended with all the anomalous and forbidding circumstances which have been cited, would be one of the gravest and most dangerous errors ever committed by the American Congress.

In conclusion, the undersigned begs leave to suggest, that at the proper time he desires to offer, in lieu of the bill reported by the majority, the following substitute.

F. K. ZOLLICOFFER.

A BILL to authorize the people of the Territory of Kansas to form a constitution and State government, preparatory to their admission into the Union, when they have the requisite population.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall appear, by a census to be taken under the direction of the governor, by the authority of the legislature, that there shall be ninety-three thousand four hundred and twenty inhabitants (that being the

number required by the present ratio of representation for a member of Congress) within the limits hereinafter described in the Territory of Kansas, the legislature of said Territory shall be, and is hereby, authorized to provide by law for the election of delegates by the people of said Territory, to assemble in convention and form a constitution and State government, preparatory to their admission into the Union on an equal footing with the original States in all respects whatsoever, by the name of the STATE OF KANSAS, with the following boundaries, to wit: beginning on the western boundary of the State of Missouri where the thirty-seventh parallel of north latitude crosses the same, thence west on said parallel to the one hundred and third meridian of longitude, thence north on said meridian to the fortieth parallel of latitude, thence east on said parallel of latitude to the western boundary of the State of Missouri, thence southward with said boundary to the place of beginning.

SEC. 2. *And be it further enacted*, That the said convention shall be composed of delegates from each representative district within the limits of the proposed State, and that each district shall elect double the number of delegates to which it may be entitled to representatives in the Territorial legislature; and that at the said election of delegates, all white male citizens of the United States who shall have arrived at the age of twenty-one years, and shall have been actual residents in said Territory for the period of six months, and in the district for the period of three months next preceding the day of election, and who shall possess the other qualifications required by the organic act of the Territory, shall be entitled to vote, and that none others shall be permitted to vote at said election.

SEC. 3. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said convention of the people of Kansas, when formed, for their free acceptance or rejection, which, if accepted by the convention and ratified by the people at the election for the adoption of the constitution, shall be obligatory on the United States and upon the said State of Kansas, to wit:

First. That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections or any part thereof has been sold or otherwise been disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted in said State for the use of schools.

Second. That seventy-two sections of land shall be set apart and reserved for the use and support of a State university, to be selected by the governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the legislature of said State may prescribe for the purpose aforesaid, but for no other purpose.

Third. That ten entire sections of land, to be selected by the governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the legislature thereof.

Fourth. That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as

may be to each, shall be granted to said State for its use ; the same to be selected by the governor thereof within one year after the admission of said State, and, when so selected, to be used or disposed of on such terms, conditions and regulations as the legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said State.

Fifth. That five per cent. of the net proceeds of sales of all public lands lying within said State, which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State, for the purpose of making public roads and internal improvements, as the legislature shall direct: *Provided*, The foregoing propositions herein offered are on the condition, that the said convention which shall form the constitution of said State shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to *bona fide* purchasers thereof, and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors, citizens of the United States, be taxed higher than residents.

