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the legislative assembly: Provided, however, that the right of suffrage and of holding office should be exercised only by citizens of the United States, and those who should have declared on oath their intention to become such, and have taken an oath to support the Constitution of the United States, and the provisions of the act. And provided further, that no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service, should be allowed to vote or hold office in either Territory by reason of being on service therein.

[illegible] by the provisions of the act were to be appointed by the General Government, including the governors, were appointed and commissioned in due season, the law having been passed on the 30th of May, 1854, and the commission of the Governor of the Territory of Nebraska being dated on the 2d day of August, 1854, and of the Territory of Kansas on the 29th day of June, 1854.

Among the duties imposed by the act on the governors was that of directing and superintending the political organization of the respective Territories. The Governor of Kansas was required to cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons and in such mode as he might designate and appoint; to appoint and direct the time and places of holding the first elections, and the manner of conducting them, both as to the persons to superintend such elections and the returns thereof, to declare the number of the members of the council and house of representatives for each county or district; to declare what persons might appear to be duly elected; and to appoint the time and place of the first meeting of the legislative assembly. In substance, the same duties were devolved on the Governor of Nebraska.

While, by this act, the principle of the constitution for each of the Territories was in all the same, and the details of the organic legislation regarding both were as nearly as could be identical, and while the Territory of Nebraska was tranquilly and successfully organized in the due course of law, and its first legislative assembly met on 16th of January, 1855, the organization of Kansas was long delayed, and has been attended with serious difficulties and embarrassments, partly the consequence of local maladministration, and partly of the unjustifiable interference of the inhabitants of some of the States foreign by residence, interests, and rights to the Territory.

The Governor of the Territory of Kansas commissioned, as before stated, on the 29th of June, 1854, did not reach the designated seat of his government until the 7th of the ensuing October; and even then failed to make the first step in its legal organization—that of ordering the census or enumeration of its inhabitants—until so late a day that the election of the members of the legislative assembly did not take place until the 30th of March, 1855, nor the returns being until the 2d of July, 1855. So that, for a year, after the Territory was constituted by the act of Congress, and the officers to be appointed by the Federal Executive had been commissioned, it was without a complete government, without any legislative authority, without local law, and of course without the ordinary guarantees of peace and public order.

In other respects, the governor, instead of exercising constant vigilance and putting forth all his energies to prevent or counteract the tendencies to illegality, which are prone to exist in all imperfectly organized and newly associated communities, allowed his attention to be diverted from official obligation by other objects, and himself set an example of the violation of law in the performance of acts which rendered it my duty, in the sequel, to remove him from the office of chief executive magistrate of the Territory.

Before the requisite preparation was accomplished for election of a territorial legislature, an election of delegates to Congress had been held in the Territory on the 29th day of November, 1854, and the delegate took his seat in the House of Representatives without challenge. If arrangements had been perfected by the governor so that the election for members of the legislative assembly might be held in the several precincts at the same time as for delegate to Congress, any question appertaining to the qualification of the persons voting as people of the Territory would have passed necessarily and at once under the supervision of Congress, [illegible] of the validity of the election, and would have been [illegible] conflicting passions [illegible] by time, and before any [illegible] had been afforded for ascertaining [illegible] of the people of individual [illegible]

This inference, in [illegible] its primary causes and its [illegible] mencement, was one of the [illegible] that pernicious agitation [illegible] the condition of the [illegible] to service in some of the States [illegible] as long disturbed the [illegible] directed, and, in the attempt to propagate their social theories by the permission and abuse of the power of Congress. The persons and the parties whose the union of the act to organize the Territories of Nebraska and Kansas thwarted in the endeavor to impose, through the agency of Congress, their particular views of social organization on the people of the future new States, now perceiving that the policy of leaving the inhabitants of each State to judge for themselves in this respect was ineradicably rooted in the convictions of the people of the Union, then had recourse in the pursuit of their general object, to the extraordinary measure of propagandist colonization of the Territory of Kansas, to prevent the natural action of its inhabitants in its internal organization, and thus to participate or to force the determination of that question in this national Senate.

With such views, associations were organized in some of the States, and their purposes were proclaimed, though the press in language extremely irritating and offensive to those of whom the colonists were to become the neighbors. These designs and acts had the necessary consequence to awaken antipathy in persons in other States near to the Territory of Kansas, and especially in the adjoining State of Missouri, whose domestic peace was, of the most directly endangered, but they were far from justifying the illegal and reprehensible counter movements which ensued.

Under these suspicious circumstances the primary election for members of the legislative assembly were held in most, if not all, of the precincts at the time and places, and by the persons designated and appointed by the Governor according to law.

Angry accusations that illegal votes had been polled, abounded on all sides, and imputations were made both of fraud and violence. But the Governor, in the exercise of the power, and the discharge of the duty conferred and imposed by law on him alone, officially received and considered the returns; declared a large majority of the members of the house of representatives "duly elected," withheld certificates from others because of alleged illegality of votes; appointed a new election to supply the place of the persons not certified; and thus at length, in all the forms of a statute and with his own official authentication, complete legality was given to the first legislative assembly of the Territory.

Those decisions of the returning officers and of the Governor are final, except that, by the parliamentary usages of the country applied to the organic law, it may be conceded that each house of the assembly must have been competent to determine, in the last resort, the qualifications and elections of its members. The subject was, by its nature, one appertaining exclusively to the jurisdiction of the local authorities of the Territory. Whatever irregularities may have occurred in the elections, it seems too late now to raise that question. At all events, it is a question as to which neither now, nor at any previous time, has the least possible legal authority been possessed by the President of the United States. For all present purposes the legislative body thus constituted and elected, was the legitimate assembly of the Territory.

Accordingly, the Governor, by proclamation, convened the assembly thus elected to meet at a place called Pawnee City; the two houses met and duly organized in the ordinary parliamentary form; each sent to, and received from, the Governor the official communications usual on such occasions; any elaborate message opening the session was communicated by the Governor, and the general business of legislation was entered upon by the legislative assembly.

But after a few days, the assembly resolved to adjourn to another place in the Territory. A law was accordingly passed, against the consent of the governor, but in due form otherwise, to remove the seat of government temporarily to the "Shawnee [illegible] Labor School," (or Mission,) and [illegible] the assembly proceeded. After [illegible] receiving a bill for the establishment [illegible] at the town of Kickapoo, the [illegible] refused to sign it, and, by special message, assigned for reason of refusal not [illegible] objectionable in the bill itself, nor [illegible] pretence of the illegality or incompetency of the assembly as such, but only [illegible] fact that the assembly had by its act transferred the seat of government temporarily from Pawnee City to Shawnee Mission. For the same reason he continued [illegible] to sign other bills, until, in the course of a few days, he, by official message communicated to the Assembly the [illegible] received notification of the [illegible] of his functions as governor, and that the duties of the office were legally devolved on the secretary of the Territory; that to the last recognising the body as duly elected and constituted legislative assembly.

It will be perceived that, if any constitutional defect attached to the legislative acts of the assembly, it is not pretended to consist in irregularity of election, or want of qualification of the members, but only in the change of its place of session. However, trivial this objection may seem to be, it requires to be considered, because upon it is founded all that superstructure of acts, plainly against law, which now threatens the peace, not only of the Territory of Kansas, but of the Union.

Such an objection to the proceedings of the legislative assembly was of exceptional origin, for the reason that, by the express terms of the organic law, the seat of government of the Territory was "located temporarily at Fort Leavenworth," and yet the governor himself remained there less than two months, and of his own discretion transferred the seat of government to the Shawnee Mission, where it in fact was at the time the assembly were called to meet at Pawnee City, yet the governor had assented to or sanctioned the exercise of the power of adjournment, still more but the executive temporarily. The objection is of questionable origin for the further reason that the place indicated by the governor, without having any exclusive claim of preference in itself, was a proposed town site only, which he and others were attempting to locate unlawfully upon land within a military reservation, and for participation in which illegal act the commandant of the post, a superior officer of the army, had been dismissed by sentence of court martial.

Nor is it easy to see why the legislative assembly might not with propriety pass the territorial act transferring its sittings to the Shawnee Mission. If it could not, that must be on account of some prohibitory or incompatible provision of act of Congress. But no such provision exists. The organic act, as already quoted, says "the seat of Government is hereby located temporarily at Fort Leavenworth," and it then provides that certain of the public buildings "may be occupied and used under the direction of the Governor and legislative assembly." These expressions might possibly be constituted to imply that when in a previous section of the act it was enacted that "the first legislative assembly shall meet at such place and on such day as the Governor shall appoint," the word "place" means place at Fort Leavenworth, not place anywhere in the territory. If so, the Governor would have been the first to err in this matter, not only in himself having removed the seat of Government to the Shawnee Mission, but in again removing it to Pawnee City. If there was any departure from the letter of the law, therefore, it was his in both instances.

But, however this may be, it is most unreasonable to suppose that by the terms of the organic act Congress intended to do impliedly what it has not done expressly—that is, to forbid to the legislative assembly the power to choose any place it might see fit as the temporary seat of its deliberations. That is proved by the significant language of one of the subsequent acts of Congress on the subject, that of March 3, 1855, which, in making appropriation for public buildings of the Territory, enacts that the same shall not be expended until the legislature of said Territory shall have fixed by law the permanent seat of government." Congress, in these expressions, does not profess to be granting the power to fix the permanent seat of government, but recognises the power as one already granted. But how? Undoubtedly by the comprehensive provision of the organic act itself, which declares that "the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act." If, in view of this act, the legislative assembly had the large power to fix the permanent seat of government at any place in its discretion, of course by the same enactment it had the less and the included power to fix it temporarily.

Nevertheless, the allegation that the acts of the legislative assembly were illegal by reason of this removal of its place of session was brought forward to justify the first movement in disregard of law within the Territory. One of the acts of the legislative assembly provided for the election of a delegate to the present Congress, and a delegate was elected under the law. Subsequently to this, a portion of the people of the Territory proceeded without authority of law, to elect another delegate.

Following upon this movement was another and more important one of the same general character. Persons assuming not constituting the body politic, or all the inhabitants, but merely a party of the inhabitants, and without law, have undertaken to summon a convention for the purpose of transforming the Territory into a State, and have framed a Constitution, adopted it, and under it elected a Governor and other officers, and a representative to Congress.

In extenuation of these illegal acts, it is alleged that the States of California, Michigan and others, were self-organized, and as such, were admitted into the Union without a previous enabling act of Congress. It is true that, while, in a majority of cases, a previous act of Congress has been passed to authorize the Territory to present itself as a State, and that this is deemed the most regular course, yet such an act has not been held to be indispensable, and in some cases the Territory has proceeded without it, and has nevertheless been admitted into the Union as a State. It has with Congress to authorize beforehand, or to confirm afterwards, in its discretion. But in no instance have States been admitted upon the application of persons acting in authorities duly constituted by act of Congress. In every case it is the people of the Territory, not a party among them, who have the power to form a Constitution, and ask for admission as a State. No principle of public law, no practice or precedent under the Constitution of the United States, no rule of reason, right, or common sense, confers any such power as that now claimed by a mere party in the Territory. In fact, what has been done is of revolutionary character. It is avowedly so in motive and in aim as respects the local law of the Territory. It will become treasonable insurrection if it reach the length of organized resistance by force to the fundamental or any other federal law, and to the authority of the General Government.

In such an event, the path of duty for the Executive is plain. The Constitution requiring him to take care that the laws of the United States be faithfully executed, if they be opposed in the Territory of Kansas he may and should place at the disposal of the Marshal any public force of the United States which happens to be within the jurisdiction, to be used as a portion of the *posse comitatus*; and, if that do not suffice to maintain order, then he may call forth the militia of one or more States for that object, or employ for the same object any part of the land or naval force of the U. States. So, also, if the obstruction be to the laws of the Territory, and if it be duly presented to him as a case of insurrection, he may employ for its suppression the militia of any State, or the land or naval force of the United States. And if the Territory be invaded by the citizens of other States, whether for the purpose of deciding elections, or for any other, and the local authorities find themselves unable to repel or withstand it, they will be entitled to, and upon the fact being fully ascertained, they shall most certainly receive the aid of the General Government.

But it is not the duty of the President of the United States to volunteer interposition by force to preserve the purity of elections either in a State or Territory. To do so would be subversive of public freedom.—And whether a law be wise or unwise, just or unjust, is not a question for him to judge. If it be constitutional—that is, if it be the law of the land—it is his duty to cause it to be executed, or to sustain the authorities of any State or Territory in executing it in opposition to all insurrectionary movements.

Our system affords no justification of revolutionary acts; for the constitutional means of relieving the people of unjust administration and laws, by a change of public [illegible] the ensuing [illegible] and by [illegible] sence. These [illegible] be scrupulously [illegible] rogative of popular sovereignty [illegible] respected.

It is the undoubted right of the peaceable and orderly people of the Territory of Kansas to elect their own legislature, make their own laws, and regulate their own social institutions, without foreign domestic molestation. Interference with the one hand to prevent the establishment or tolleration of slavery in the Territory, and countenance, encouragement, or aid on the other, for its establishment, are equally wrong. One wrong begets another. The peaceable, entirely unprovoked, and generally commended course of the people of the Northern States towards the Territory, has been actuatedly disturbed through agencies foreign to, and the shame of, southern society there, and the agitators there themselves have energetically in return invoked and stimulated strife within the Territory.

The inflammatory agitation, of which the present is but a part, has for twenty years [illegible] evil, North and South. But for a [illegible] acter of the domestic institutions of the future new State would have been a matter of too little interest to the inhabitants of the contiguous States, personally or collectively, to produce among them any political emotion. Climate, soil, production, hopes of rapid advancement and the pursuit of happiness on the part of themselves, with good wishes, but with no interference from without, would have [illegible] ly determined the questions which, at the time of each, disturbing elsewhere [illegible]

But we are constrained to view the question in the circumstances of [illegible] ment as they now exist. It is the [illegible] of Kansas to disconnect every [illegible] purpose of resistance to its laws [illegible] all the emergency appeals to the [illegible] of the States, and especially of [illegible] tiguous to the Territory [illegible] vention of non-residents [illegible] by unauthorized [illegible] to control [illegible] the inhabitants [illegible]

The attempt of our [illegible] mit himself [illegible] government [illegible] determination [illegible] and that [illegible] dent of [illegible] quiet [illegible] as an [illegible] ty of the [illegible]

Entertaining these views [illegible] of the Federal Executive to [illegible] order in the Territory, to vindicate [illegible] whether Federal or Local, against all attempts of organized resistance, and to protect its people in establishment of their own institutions, undisturbed by outrage from without and for the full enjoyment of the rights of self government pledged to them by the Constitution and the organic act of Congress.

Although serious and threatening disturbances in the Territory of Kansas occurred to me by the Governor in December last, were speedily quieted without the effusion of blood, and in a satisfactory manner, there is, I regret to say, reason to apprehend that disorders will continue to arise there, with increasing tendency to violence, until some decisive measures be taken to dispose of the question itself, which constitutes the inducement or occasion of internal agitation and of external interference.

This, it seems to me, can best be accomplished by providing that, when the inhabitants of Kansas may desire it, and shall be of sufficient numbers to constitute a State, a Convention of delegates, duly elected by the qualified voters, shall assemble to frame a constitution; and thus to prepare regular and lawful means, for its admission into the Union as a State.

I respectfully recommend the enactment of a law to that effect.

I recommend, also, that a special appropriation be made to defray any expense which may become requisite to the execution of the laws or the maintenance of public order in the Territory of Kansas.

FRANKLIN PIERCE.

WASHINGTON, Jan. 24, 1856.

THE FRUITS OF WAR.—The Albany Evening Journal publishes a list of the battles fought during the year 1855, with the number of people killed at each, beginning with the bombardment of Shanghai by the French, at which one hundred fell, and ending with the fall of Kars, at which 2,600 fell; by which list it appears that seventy-three battles have occurred during the year, or more than one for each week, with an average loss of over a thousand men killed in each. This list does not include those who have fallen by disease, or in skirmishes, nor the wounded, disabled, those who died in the hospital or the ambulance, or were irreparable maimed, or missing, or prisoners. The number left dead upon the field usually comprises only about one-fourth of the entire loss in a battle. By this rule, the entire number swept out of useful existence by the wars of 1855 must have reached over 300,000 men. No year has presented so bloody a record since Waterloo.