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THE ADMISSION OF MINNESOTA AND ALIEN SUFFRAGE.

SPEECH OF ALEXANDER H. STEPHENS, OF GEORGIA.

Delivered in the House of Representatives, May 11, 1858.

The House having under consideration the bill for the admission of the State of Minnesota into the Union—Mr. STEPHENS said: Mr. SPEAKER: My time will not allow me to answer all the objections that have been made to the admission of Minnesota. I do not think it necessary, however, to consume time, or to exhaust my verbal strength, in answering all the objections that have been raised. Many of them are of small import, while some of them are grave, important, and go to the very foundation principles of our government. This latter class of objections are not new; they are not novel; they involve principles which have been discussed for many years. They involve two inquiries. The first question in reference to them is, whether they be well taken in fact? and the second is, whether, if well founded, they amount, in themselves, to a good and valid ground for the rejection of a State.

Mr. STEPHENS said: The gentleman from Virginia (Mr. GANNON) objects because of the State boundaries violating the stipulation between Virginia and the United States in the cession of the Northwest Territory. In point of fact, I do not consider that objection well taken; but if it were good, it ought to have been taken when the enabling act was passed by Congress. The boundaries of Minnesota that portion of the old Northwest Territory now included in the State of Minnesota was included then, and the objection should have been taken then, if at all. There is, however, but a small portion of the old cession of Virginia included in this State. Twenty-eight thousand square miles of that cession, it is true, have been added to the ninety-two thousand square miles constituting the main body of Minnesota. This was for convenience, only a small portion, therefore, of the original Virginia cession has been taken off and added to the large extent of country that makes the State of Minnesota, for the whole cession of that cession, it has been no injury resulting anywhere, and no breach of faith, in my judgment.

It was stated, also, that the number of delegates who formed the State constitution was larger than that ordered in the enabling act. That objection has been well answered by the gentleman's colleague, [Mr. JAYNES]. That the Congress has no authority to alter the constitution to be chosen as there were representatives in the territorial legislature. Well, sir, the people of Minnesota consented that to embrace their senators or councilmen as well as representatives in the lower House. The bill admitted a doubt. I do not conceive that objection to be well taken.

But I must pass on to notice the other objections of a graver character. It was stated by the gentleman from Ohio, (Mr. SIMMONS), who opened this debate, and has been repeated by several other gentlemen, that the constitution of Minnesota is violative of the constitution of the United States, in that it permits aliens to vote, or other than citizens of the United States to vote, in State elections.

Mr. SPEAKER, before arguing the point whether this clause of the constitution of Minnesota does or does not violate the constitution of the United States, let me ask right here this question, suppose it to be true that that feature of their constitution does violate the constitution of the United States, or is inconsistent with it; is that a good ground for their rejection? I put it strongly and broadly in the fore front of the argument—suppose that conceded; is it a legitimate ground of objection to the admission of a State into a union of States? The constitution of the United States is not absolute and binding, I say, sir, not. I say it is a State-rights man advocating the principles of the State-rights school. We can only look into the constitution of a new State applying for admission, to see that it is republican in form, and that it legally and fairly expresses the will of the people. If the constitution of the State is not republican in form, or if it is a question which can be properly decided when it arises, if ever, by the proper judicial tribunal before which it may arise. We on the question of admission, can only look into a constitution to see that it is republican in form.

Mr. STEPHENS said: I desire to ask my colleague whether he would vote for the admission of the State of Kansas, which asserts the right of Congress to inquire into the constitution of any State applying for admission into the Union, in order to see whether it is consistent with the constitution of the United States? Mr. STEPHENS said: My time is short, and I cannot answer other questions. I will say, however, that I believe that there is nothing in the original Government amendment which did not meet my cordial and hearty approval. There was nothing in it which infringed upon a constitution. It was altogether negative in its character.

Mr. STEPHENS said: If my colleague will allow me, I think that right was directly asserted in the Green amendment. The SPEAKER: The Chair desires to suggest that the constitution of Kansas is not before the House.

Mr. STEPHENS said: The same principle involved in the amendment to the Kansas bill, to which I have referred, is contained in this bill.

Mr. STEPHENS said: I cannot discuss that question now. There were words added to the original Green amendment that I considered liable to objection; but, being negative, were not inseparable with me. Now, Mr. SPEAKER, I lay down this proposition, that there is nothing in my judgment, in the constitution of Minnesota, inconsistent with the constitution of the United States.

The gentleman from Ohio, (Mr. SIMMONS), who led off in this debate, argued that there was no clause in the constitution of Minnesota by which the present elected members of the legislature could be prevented from holding office. Well, sir, suppose the gentleman was correct—but I do not concede the fact—the constitution would not therefore be anti-republican. I would not vote for such a constitution if I were there. But, sir, what constitutes a republican form of government? It is, as I understand it, a division of the three great branches of government—the executive, the judicial, and the law-making power. The division is judicial, in that clause of the constitution of the United States which makes the judiciary elective, or holding office for life. Does that make their constitutions anti-republican? The constitution of the United States does this. If the Judiciary can hold office for life, why not the executive? and why may not repre-

sentatives as well, if the people see fit to make such a constitution? It would not cease to be republican in consequence. It might and would be, in my judgment, a very bad constitution; but I say that we cannot rightfully judge.

I now come to the main question in this debate—the alien suffrage clause. It is called, in this constitution, I have said that it was a new question. It is a grave and important one, but it is consular with the government. Mr. SPEAKER, if there is any subject which was seriously watched and guarded, in the formation of the constitution of the United States, above all others, it is that the federal government should not touch the right of suffrage in the States. Every question of that kind should vote in the several States was left for each State to settle for itself. And, so far as I am concerned, I say for myself that there is nothing in the doctrine of State-rights that I would defend and stand by longer and fight harder than that which denies the right of the federal government to exercise authority to interfere with the right of suffrage in my State. The ballot-box—that is what each State must guard and protect for itself; that is what the people of the several States never delegated to this government, and of course it was expressly under the constitution, reserved to the people of the States.

There is one subject of alien suffrage, about which we have heard so much lately, I wish in this connection to give a brief history. I state to this House that the principle was recognized by the ordinance of 1787, which was before the government was formed. It was recognized by the act of 7th August, 1789, soon after the government was formed, one of the first acts signed by Washington—an act making provisions for carrying out that ordinance. It was recognized in the territory south in the cession by North Carolina, on the 21st April, 1790. It was again recognized in the bill creating a government for the Territory of Tennessee, on the 26th May, 1790. It was recognized in the act of settling the limits of the State of Georgia, and creating the Mississippi Territory, on the 7th April, 1798. It was recognized in a supplemental act to the last, on the 21st May, 1798. It was recognized in the division of Indiana Territory, on the 31st February, 1809. It was recognized in an act for Illinois Territory, on the 20th May, 1812. It was recognized in the act organizing the Michigan territorial government. The date of this I do not recollect. It was recognized in the act admitting Michigan into the Union, on the 30th March, 1837. It was recognized in the act admitting Michigan into the Union, on the 30th March, 1837; and Mr. Calhoun does not appear to have made any objection to her admission on that ground. I find speeches made by him upon that bill, but none objecting to this clause. I find he offered a substitute for the bill admitting Michigan without objection to the alien-suffrage clause in her constitution. Still, it is stated that this speech of his was made the year before, on the occasion referred to, and I do not wish to be understood as questioning it. That was my objection to the right. He did not raise any objection to the right in the year stated. It can be found, because of alien suffrage being allowed in her constitution.

Again, on the 26th of July, 1848, the Clayton compromise bill for the organization of certain territorial governments passed the Senate. The fifth section of that bill provided: "That every free white male inhabitant, above the age of twenty years, who shall have been a resident of said territory at the time of the passage of this act, shall be entitled to vote at the first election of representatives in the territorial legislature, subject to the qualification of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the legislative assembly of the territory. The right of suffrage shall be exercised only by citizens of the United States, and those who shall have declared on oath their intention to become such, and shall have no vote in the election of the United States and Territories of this act."

"LIBERTY, THE UNION, AND THE CONSTITUTION"

There, coupled with that the gentleman read, is the right which I say that the people insisted upon beyond all others—the reserved right that the general government should never interfere with suffrage in the States; that the general government should not touch the right of suffrage in the States, without its consent. It is the express declaration that the States shall fix the qualification of electors or voters. Who shall say to each State in this particular, thus far mayest thou go, and no further? Who shall say to the sovereigns under his authority, "Whose part of the constitution of Minnesota, then, is in violation of the constitution of the United States? Why, then, should she not be admitted?" Let me say, in conclusion, that the constitution of Illinois has such a clause. It is not the equal in this Union. Why not, pull her out of the Union, and such a clause? Why not rule her out? Wisconsin has such a clause. I leave the journal here. When Wisconsin was admitted, in 1848, Mr. Calhoun was in his seat and he did not even call the year and days on it. And yet we are told that this is a good and dangerous example we are all to follow. If we admit Minnesota, we shall be footing with Illinois, Indiana, Michigan, Wisconsin, and all the States. Deprive her of this great right, would she be their equal? Are Illinois and South Carolina now equal? Are Indiana and Massachusetts now equal? If you, then, deny Minnesota the power that Illinois and Indiana have, will she be equal to them? Things equal to one another are equal to each other. If those in the Union now are equal, will Minnesota be unequal if you deprive her of this right? If you put upon her a condition you have never put upon these others, will not you make her unequal to them? If you do not put upon her a condition you have never put upon her sister States? If she confers suffrage upon those born abroad, who purg themselves of their foreign allegiance and swear to support the constitution of the United States, she has the right to do so. Any State in the Union now has the same right, if any see fit to exercise it. The worst case cannot confer citizenship of the United States upon any body or class of persons; but every State, in her sovereign capacity, has a right to say who shall vote at elections in that State. Let us, then, drop this objection; let us admit Minnesota, and let her come in clothed with all the sovereignty that the constitution confers upon her. My time has expired. One word before the amendment I have offered. I thought that by this time Minnesota would be entitled to three members. The enabling act entitled her to one, with additional representatives, according to her population under the last apportionment. The information I have received from her population at this time would entitle her to three members, but will to two; and therefore I withdraw my amendment, and hope the House will pass the bill as it came from the Senate. I call for the previous question.

Great confusion seems to exist in the minds of gentlemen from the association of the words citizen and suffrage. Some seem to think that the right of suffrage and rights of suffrage necessarily go together; that one is dependent upon the other. There never was a greater mistake. Suffrage, or the right to vote, is the creature of law. There are citizens in every State of this Union, I do not doubt, who are not entitled to vote. So, in several of the States, the provision is made that no citizen who cannot vote, though they be not citizens. If there be citizens who cannot vote, why may there not be individuals, who are not citizens, who may nevertheless be allowed to vote, if the sovereign will of the State shall so determine? In all the States nearly there are other qualifications for voting, besides the native-born, besides citizenship. Residence for a certain length of time, Virginia, for instance, requires of all citizens of other States, native-born citizens of Maryland or North Carolina, a certain term of residence. They shall not vote in Virginia unless they have been there twelve months. In Alabama, I think, the law is similar. Why, sir, in my own State, where we have universal suffrage, as it is called, no man can vote unless he has paid his taxes, and resided in the county six months. There are thousands of citizens in Georgia, and I suppose in every other State, who are not entitled to the right of suffrage under our constitution and laws. Citizenship and suffrage by no means necessarily go together. The right will not allow me to enlarge on that idea. I will only refer briefly again to what was said in the federal convention on the subject of the States retaining the control over the subject of suffrage, showing how vigilantly this was watched and guarded by the State-rights men. Government has no right to touch the right of suffrage to freeholders. This gave rise to a long debate. Mr. Ellsworth said: "The qualification of electors stood on the most proper footing. The right of suffrage was a tender point, and strongly guarded by the State-rights men. The people will not readily surrender to the national government the right of suffrage to freeholders. The States are the best judges of the circumstances and temper of their own people."

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I barely refer to this to show that I am sustained in my view by the highest authority. This subject of the qualification of electors, and who should determine it, was well stated at the convention of the States, under State constitutions, and was left to the States legislatures, under State constitutions. Now, sir, a few moments on the decision of the Supreme Court of the United States. Judge Taney, in my opinion, fully confirms everything I have said. He says: "The words 'people of the United States,' and 'citizens,' are synonymous terms, and may both describe the political body who, according to our republican institutions, form the sovereignty, and who hold the power and conduct the government through their representatives. They are what we fairly call the sovereign people; and every citizen is one of this people, and a constituent member of this sovereignty. The question before us is, whether the class of persons described in the plea in abatement (free soil) was a negro composed of a portion of this people, and are constituent members of this sovereignty. The answer is, that they were not; and it is not necessary to say that they were not, and can therefore claim some of the rights and privileges which the Constitution confers, and secures to citizens of the United States."

Here is the distinction. By naturalization, Congress can confer citizenship throughout the Union. What are the rights created by that? Three in all. The right to hold land is one; the right to sue in the federal courts is another; and the right to claim the protection of this government, or the right of passport abroad, is the other. No State can confer those rights throughout the Union; but each State may confer them within her limits. No man can confer upon an alien the right to hold land. No man can question that; but if Indiana or Georgia confers this right upon an alien, he cannot go into South Carolina and hold land there by virtue of that. If he were naturalized in Georgia, he could give the right to an alien to sue in its own courts; but, therefore, he does not acquire a right to sue in any other State court or the federal courts. Each State may grant her protection within her limits, but not throughout the Union. She cannot pledge the protection of the common government.

But the court goes right on with this language: "It does not by any means follow, because he has the rights and privileges of a citizen of a State, that he must be a citizen of the United States. He may have all the rights and privileges of a citizen of a State, and yet not be entitled to the rights and privileges of a citizen in any other State; for, previous to the adoption of the constitution of the United States, every State had the undoubted right to confer on whomsoever it pleased, the character of citizen, and to confer him with all its rights; but the character, of course, was confined to the boundaries of the State, and gave him no rights or privileges in other States beyond those conferred by the laws of his own State. Now, after the several States surrendered the power of conferring these rights and privileges by adopting the constitution of the United States, they may still confer them upon an alien, or any one it thinks proper, or upon any class or description of persons; yet it will not follow, because he has the rights which that word is used in the constitution of the United States, nor entitled to such as one of its citizens, nor to the privileges and immunities

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I ask, then, if the constitution of Minnesota, according to this, does not confer citizenship, has an iota, or a single clause in it, so far as alien suffrage is concerned, which Chief Justice Taney has not said she has a right under the constitution of the United States to put in? This is a right none of the States have ever surrendered. Every State in the Union has the right of fixing the status of all its constituent elements absolutely, as each State may determine for itself, and also the right of determining who may and who may not vote at elections for public officers under his authority. What part of the constitution of Minnesota, then, is in violation of the constitution of the United States? Why, then, should she not be admitted?" Let me say, in conclusion, that the constitution of Illinois has such a clause. It is not the equal in this Union. Why not, pull her out of the Union, and such a clause? Why not rule her out? Wisconsin has such a clause. I leave the journal here. When Wisconsin was admitted, in 1848, Mr. Calhoun was in his seat and he did not even call the year and days on it. And yet we are told that this is a good and dangerous example we are all to follow. If we admit Minnesota, we shall be footing with Illinois, Indiana, Michigan, Wisconsin, and all the States. Deprive her of this great right, would she be their equal? Are Illinois and South Carolina now equal? Are Indiana and Massachusetts now equal? If you, then, deny Minnesota the power that Illinois and Indiana have, will she be equal to them? Things equal to one another are equal to each other. If those in the Union now are equal, will Minnesota be unequal if you deprive her of this right? If you put upon her a condition you have never put upon these others, will not you make her unequal to them? If you do not put upon her a condition you have never put upon her sister States? If she confers suffrage upon those born abroad, who purg themselves of their foreign allegiance and swear to support the constitution of the United States, she has the right to do so. Any State in the Union now has the same right, if any see fit to exercise it. The worst case cannot confer citizenship of the United States upon any body or class of persons; but every State, in her sovereign capacity, has a right to say who shall vote at elections in that State. Let us, then, drop this objection; let us admit Minnesota, and let her come in clothed with all the sovereignty that the constitution confers upon her. My time has expired. One word before the amendment I have offered. I thought that by this time Minnesota would be entitled to three members. The enabling act entitled her to one, with additional representatives, according to her population under the last apportionment. The information I have received from her population at this time would entitle her to three members, but will to two; and therefore I withdraw my amendment, and hope the House will pass the bill as it came from the Senate. I call for the previous question.

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Here is the distinction. By naturalization, Congress can confer citizenship throughout the Union. What are the rights created by that? Three in all. The right to hold land is one; the right to sue in the federal courts is another; and the right to claim the protection of this government, or the right of passport abroad, is the other. No State can confer those rights throughout the Union; but each State may confer them within her limits. No man can confer upon an alien the right to hold land. No man can question that; but if Indiana or Georgia confers this right upon an alien, he cannot go into South Carolina and hold land there by virtue of that. If he were naturalized in Georgia, he could give the right to an alien to sue in its own courts; but, therefore, he does not acquire a right to sue in any other State court or the federal courts. Each State may grant her protection within her limits, but not throughout the Union. She cannot pledge the protection of the common government.

But the court goes right on with this language: "It does not by any means follow, because he has the rights and privileges of a citizen of a State, that he must be a citizen of the United States. He may have all the rights and privileges of a citizen of a State, and yet not be entitled to the rights and privileges of a citizen in any other State; for, previous to the adoption of the constitution of the United States, every State had the undoubted right to confer on whomsoever it pleased, the character of citizen, and to confer him with all its rights; but the character, of course, was confined to the boundaries of the State, and gave him no rights or privileges in other States beyond those conferred by the laws of his own State. Now, after the several States surrendered the power of conferring these rights and privileges by adopting the constitution of the United States, they may still confer them upon an alien, or any one it thinks proper, or upon any class or description of persons; yet it will not follow, because he has the rights which that word is used in the constitution of the United States, nor entitled to such as one of its citizens, nor to the privileges and immunities

of a citizen in the other States. The rights which he would acquire would be restricted to the State which gave them."

I ask, then, if the constitution of Minnesota, according to this, does not confer citizenship, has an iota, or a single clause in it, so far as alien suffrage is concerned, which Chief Justice Taney has not said she has a right under the constitution of the United States to put in? This is a right none of the States have ever surrendered. Every State in the Union has the right of fixing the status of all its constituent elements absolutely, as each State may determine for itself, and also the right of determining who may and who may not vote at elections for public officers under his authority. What part of the constitution of Minnesota, then, is in violation of the constitution of the United States? Why, then, should she not be admitted?" Let me say, in conclusion, that the constitution of Illinois has such a clause. It is not the equal in this Union. Why not, pull her out of the Union, and such a clause? Why not rule her out? Wisconsin has such a clause. I leave the journal here. When Wisconsin was admitted, in 1848, Mr. Calhoun was in his seat and he did not even call the year and days on it. And yet we are told that this is a good and dangerous example we are all to follow. If we admit Minnesota, we shall be footing with Illinois, Indiana, Michigan, Wisconsin, and all the States. Deprive her of this great right, would she be their equal? Are Illinois and South Carolina now equal? Are Indiana and Massachusetts now equal? If you, then, deny Minnesota the power that Illinois and Indiana have, will she be equal to them? Things equal to one another are equal to each other. If those in the Union now are equal, will Minnesota be unequal if you deprive her of this right? If you put upon her a condition you have never put upon these others, will not you make her unequal to them? If you do not put upon her a condition you have never put upon her sister States? If she confers suffrage upon those born abroad, who purg themselves of their foreign allegiance and swear to support the constitution of the United States, she has the right to do so. Any State in the Union now has the same right, if any see fit to exercise it. The worst case cannot confer citizenship of the United States upon any body or class of persons; but every State, in her sovereign capacity, has a right to say who shall vote at elections in that State. Let us, then, drop this objection; let us admit Minnesota, and let her come in clothed with all the sovereignty that the constitution confers upon her. My time has expired. One word before the amendment I have offered. I thought that by this time Minnesota would be entitled to three members. The enabling act entitled her to one, with additional representatives, according to her population under the last apportionment. The information I have received from her population at this time would entitle her to three members, but will to two; and therefore I withdraw my amendment, and hope the House will pass the bill as it came from the Senate. I call for the previous question.

Great confusion seems to exist in the minds of gentlemen from the association of the words citizen and suffrage. Some seem to think that the right of suffrage and rights of suffrage necessarily go together; that one is dependent upon the other. There never was a greater mistake. Suffrage, or the right to vote, is the creature of law. There are citizens in every State of this Union, I do not doubt, who are not entitled to vote. So, in several of the States, the provision is made that no citizen who cannot vote, though they be not citizens. If there be citizens who cannot vote, why may there not be individuals, who are not citizens, who may nevertheless be allowed to vote, if the sovereign will of the State shall so determine? In all the States nearly there are other qualifications for voting, besides the native-born, besides citizenship. Residence for a certain length of time, Virginia, for instance, requires of all citizens of other States, native-born citizens of Maryland or North Carolina, a certain term of residence. They shall not vote in Virginia unless they have been there twelve months. In Alabama, I think, the law is similar. Why, sir, in my own State, where we have universal suffrage, as it is called, no man can vote unless he has paid his taxes, and resided in the county six months. There are thousands of citizens in Georgia, and I suppose in every other State, who are not entitled to the right of suffrage under our constitution and laws. Citizenship and suffrage by no means necessarily go together. The right will not allow me to enlarge on that idea. I will only refer briefly again to what was said in the federal convention on the subject of the States retaining the control over the subject of suffrage, showing how vigilantly this was watched and guarded by the State-rights men. Government has no right to touch the right of suffrage to freeholders. This gave rise to a long debate. Mr. Ellsworth said: "The qualification of electors stood on the most proper footing. The right of suffrage was a tender point, and strongly guarded by the State-rights men. The people will not readily surrender to the national government the right of suffrage to freeholders. The States are the best judges of the circumstances and temper of their own people."

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