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SPEECH OF HON. S. A. DOUGLAS, OF ILLINOIS,

In the Senate, May 18th and 16th, 1860.

[CONCLUDED FROM YESTERDAY.]

WEDNESDAY, MAY 16, 1860.

Mr. Douglas. Mr. President, I feel that it is due to the Senate to express my sincere thanks for the courtesy they extended to me yesterday, in postponing the remainder of my remarks until to-day, when it was evident that I was physically exhausted. I fear that I shall be under the necessity of claiming the indulgence of the body also for the desultory manner in which I shall present my views to-day, and possibly for my inability to say all that I would like to have presented to the Senate on this question. A recent attack of severe disease of the throat, which I contracted several years ago, in discussions in the open air in vindication of the principle of non-intervention against the assaults of the Republican party, has severely affected my voice and impaired my physical strength. However, I will proceed as best I may, to conclude what I have to say on the subject.

In the first place, I will answer some objections that have been made to my course, and some of the evidences that have been adduced to convict me of having given a wrong construction to the Kansas-Nebraska bill. The first one is the action of the Senate, my own vote included, upon what was known as the Chase amendment to the Kansas-Nebraska act, at the time of its passage. It will be recollected that after the Senate had adopted the provision in the fourteenth section of the bill, which declared the true intent and meaning of the act to be "not to legislate slavery into any State or Territory, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States," Mr. Chase, of Ohio, offered the following additional amendment, to insert the words:

"Under which the people of a Territory, through their appropriate representatives, may, if they deem it expedient, prohibit the existence of slavery therein."

It will be observed that that amendment was precisely the same in its legal effect as the one which Mr. Chase submitted to the compromise measures of 1850, by which the people of a Territory should have the power to prohibit slavery, but not the power to introduce and protect it. The amendment which he offered to the Kansas-Nebraska bill was intended to have precisely the same effect, and was the counterpart of the proposition of the Senator from Missouri, offered as an amendment to the compromise measures of 1850, that the territorial legislature should have the power to protect, but not to exclude or prohibit slavery. When that amendment was offered by Mr. Chase it stood in the position of an amendment to an amendment. The record shows that Mr. Pratt, of Maryland, appealed to Governor Pratt to offer an additional amendment, by inserting the words "or introduce" after the word "prohibit," so that it would read that the people of a Territory might prohibit or introduce slavery. Governor Chase's amendment being an amendment to an amendment, the proposition of Mr. Pratt was then in order, and Mr. Seward, of New York, made the point of order, which was sustained by the chair, and consequently Governor Chase having refused to accept the words "or introduce," it was not in order to move the amendment. I will have an extract read from the speech of Governor Pratt, of Maryland, on that occasion, showing that he was the understanding at the time of the object of Mr. Chase's amendment.

Mr. Pugh read as follows:

"Mr. Pratt said: Mr. President, the principle which underlies the amendment offered by the Senator from Ohio is a plain one. It proposes to insert in the amendment, that the question shall be left entirely open to the people of the Territories, whether they will have slavery or not. Now, for the purpose of testing the question of the sense of the Senate, I propose to insert in the principle of this amendment, moved by Governor Pratt, the word 'introduce' so that it will read, 'prohibit or introduce slavery,' and I do not think that any Senator who has votes before him will hesitate to vote for it."

Mr. Douglas. As I remarked, Mr. Seward, of New York, objected to Governor Pratt's amendment to insert the words "or introduce," by which he was deprived of the opportunity of voting against the Chase amendment, and having refused to accept that amendment, it left the Senate to vote simply on the question whether they would or would not insert a clause to give the power to prohibit without the power to introduce and protect slavery. That amendment was rejected because the votes offered by those who had voted against the Chase amendment, in the face of these facts, my vote against this Chase amendment has been cited as evidence that I myself was then voting to leave the people to act either for or against slavery in the Territories. The debate on this amendment shows clearly and conclusively that the understanding of the Senate at the time was that we were to allow the people to act as they pleased, so that they did not violate the Constitution, for or against slavery as they chose. If that was not the understanding, we were inconsistent with the Constitution, the courts were to apply the remedy, but not Congress. I will now read an extract from the speech of my colleague, appealed to Governor Chase to accept of the amendment of Mr. Pratt. Mr. Shields said:

"If my friend from Ohio will permit, I will amend to-morrow, if he wishes to test that proposition, to put the question as suggested by the honorable Senator from Maryland, and move to strike out all the words after the enacting clause of the bill, and insert the following, as a substitute for the bill:

"That the people of the Territories of Kansas and Nebraska, which declares it to be the true intent and meaning of said act not to legislate slavery into any Territory or State, or to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States, we intended to and does confer upon the people of the Territory of Kansas full power at any time, through its territorial legislature, to exclude slavery from said Territory, or to recognize or regulate it therein."

Mr. Douglas. Thus it will be seen that the amendment of my colleague was to declare, in the bill for the admission of a State into the Union, that it was the intent of the act of Congress organizing the Territory, that the people of the Territory either to introduce or exclude slavery as they saw proper. This amendment was rejected by the Senate on that ground. One was, that it was irrelevant to append it to a State bill, when it was declaring the intent of a territorial bill. The other ground was, that it was the intent of the act of Congress organizing the United States to attempt to adjudicate the meaning of that territorial bill, and the question was what was its intent and meaning was after it passed, belonged to the courts, and not to the Senate or House of Representatives; and the attempt of Congress thus to expound it was an act of usurpation. To prove that such was the case, I will ask to have read brief extracts from various speeches which I have collected, showing the grounds on which the Trumbull amendment was opposed. I will remark, that to an intimated, pending that debate, that the Trumbull amendment did not contain the true meaning of the bill, but they said, we will not by act of Congress attempt to expound a territorial act.

Mr. Pugh read as follows:

"Mr. Cass said: Now, in regard to myself, I suppose the Senate knows clearly my views. I believe the origin was an error the territorial legislature of Kansas had power to exclude or allow slavery.

"This being my view, I shall vote against the amendment."

"Mr. Douglas said: The reading of the amendment proposed to be inserted shows that its real effect, if it is literally the same with the original bill, and stands in the words of that act. Hence I should have no hesitation in voting it out, except that it is pending on this bill a matter that has been settled in it."

"Mr. Hunter said: Now, sir, I was not prepared to say when the intention of the framers of 1854 was, because I was not a member of that Congress. I will not vote on this amendment. I think it should be left to the courts to ascertain the intent of the framers of the act."

"Mr. Bayard said: I have no objection to the amendment proposed by the honorable Senator from Illinois. (Mr. Douglas) which declares that the people shall be independent of any other; and that the act of congress shall have no other effect. I prefer a direct report from the Committee of Territories of the United States to the Constitutions; and I hold that they have no right to usurp judicial power."

Mr. Douglas. I will ask the reading of the vote on the reasons assigned in debate for giving the veto power.

Mr. Pugh read as follows:

"The question being taken by yeas and nays on the amendment, it was decided in the affirmative, viz:

"YEAS—Messrs. Allen, Bayard, Benjamin, Biggs, Bigler, Brown, Crittenden, Dixon, Dolittle, Doolittle, Douglas, Fitzpatrick, Green, Hunter, Johnson of Arkansas, Kennedy, Kenner, Mason, Pearce, Pugh, Reid, Sebastian, Thibodeaux, Thomson of Kentucky, Toombs, Trumbull, Wigfall, Wilkinson, Wright, and Yulee—24.

"Nays—Messrs. Chase, Dixon of Wisconsin, Fessenden, Foot, Foster, Hamlin, Howard, Seward, Smith, Sumner, and Wilson—12."

Mr. Douglas. Thus it will be seen, from the record, that the Chase amendment was rejected, because it did not leave the people free to act on the subject, either for or against slavery, to introduce, protect, or prohibit, as they saw proper; and that three reasons were assigned for its rejection by southern men—Pratt of Maryland, Badger of North Carolina, and others—for voting against the Chase amendment. If those who cited this amendment, and my action upon it, against me, had read the debate as we have the amendment itself, they would have found that it proved precisely the reverse of that for which it was cited against me.

The amendment offered by my colleague, in 1856 to the Toombs bill, and my vote against it, have been cited as evidence that it was not my intention or understanding of any of us, when the Kansas-Nebraska bill passed, to allow the people to act on this question. I will now read the Toombs amendment in question. The bill to which that amendment was offered was a bill known as the Toombs bill, to authorize the people of Kansas to form a constitution and come into the Union as a State. It was not offered as an amendment to a territorial bill, but to a State bill, and as an amendment to a State bill, was in order to restore to a territorial bill which was to cease to operate by the admission of a State under the bill which we were then passing.

Mr. Pugh read, as follows:

"And be it Further enacted That the provisions of this act to organize the Territories of Kansas and Nebraska, which declares it to be the true intent and meaning of said act not to legislate slavery into any Territory or State, or to exclude it therefrom; but to leave the people thereof perfectly free to form and regulate their own domestic institutions in their own way, subject only to the Constitution of the United States, are intended to and does confer upon the people of the Territory of Kansas full power at any time, through its territorial legislature, to exclude slavery from said Territory, or to recognize or regulate it therein."

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