35TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 123.

OREGON.

[To accompany bill S. 239.]

JANUARY 18, 1859.—Ordered to be printed.

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

VIEWS OF THE MINORITY.

Views of a minority of the Committee on Territories on the application of the people of Oregon for admission into the Union.

By section 3, article 4, of the Constitution, it is provided that "new States may be admitted by the Congress into the Union." The time, mode, and manner of admission are, therefore, left by the Constitution wholly to the discretion of Congress. In the exercise thereof States have been admitted, some with, some without, a previous act of Congress authorizing the people of the Territory to form a constitution and State government. The Territories of the Union have thus been transformed into States without uniformity in the mode and manner of procedure, and without any uniform number of population—the whole subject of the propriety of admission having been left to the discretion of Congress at the time of the application of the proposed State.

The two Houses of Congress, however, at their last session declared in their action on the application for the admission of Kansas as a State, that its then existing population was sufficient for its immediate admission into the Union as a slave State; but if its people were unwilling to come into the Union with such a constitution, then they were authorized to elect delegates to form a constitution and State government preparatory to their application for admission "whenever, and not before, it is ascertained, by a census duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States." That restriction upon the action of the people of Kansas received the approval of the President, and is now a law upon the statute book.

The President, not satisfied with his official approval of the act at the time of its passage, takes occasion, in discussing the Kansas

question in his annual message at the opening of the present session of Congress, to say, relative to the admission of Kansas as a State: "*Surely it is not unreasonable to require the people of Kansas to wait, before making a third attempt, until the number of their inhabitants shall amount to ninety-three thousand four hundred and twenty.*"

Had the reasonableness of this requirement suggested itself to the President in his message transmitting the Lecompton constitution to Congress, much valuable time in the legislation of the country might have been saved, and a "dangerous" sectional agitation avoided.

The President, in the same annual message, also declares that any attempt by the people of Kansas to form a State constitution before the number of their population reaches the required amount, would be "*in express violation of the provisions of an act of Congress,*" and in the judgment of the President therefore could not lawfully be made. Should it be attempted, judging of the future by the past conduct of the Executive towards the people of Kansas, the President would declare it a case of rebellion or treason, and the army of the republic would again be employed, under the plea of preserving "law and order," to suppress constitutional liberty in Kansas.

This is the first instance in the history of the government in which Congress has declared that the same population that is recognized as sufficient for a slave State was not sufficient for a free one. And the Chief Magistrate of the republic not only sanctions such a discrimination, but avows his readiness to insist on it in the execution of the laws, so far as they affect the people of Kansas.

With this law on the statute book, and with these official declarations of the President, it is proposed to admit Oregon into the Union with a population less than the number required by this law, and, from the best sources of information within the reach of your committee, not exceeding, if equal to, that of the Territory of Kansas.

The population of Oregon, by the census taken in 1855, was forty-three thousand four hundred and seventy-two, (43,472.) The largest vote polled at any election in said Territory was ten thousand one hundred and twenty-one, (10,121.) The total vote for State officers, at the election held on the first Monday of June last, was ten thousand and forty-nine, (10,049,) and for a member of Congress, at the same time, ten thousand one hundred and five, (10,105.)

The total vote polled in Kansas two months later, on the proposition submitted by Congress, as certified by the board of commissioners, was thirteen thousand and eighty-nine, (13,089,) which did not include two hundred votes rejected by reason of informality in the returns. So the entire vote of Kansas on the first Monday of August last was thirteen thousand two hundred and eighty-nine, (13,289,) being three thousand one hundred and eighty-four more than were polled in Oregon.

The undersigned minority of your committee are unable to appreciate the fairness or justice of this kind of legislation towards the people of different Territories, and are unwilling to give their sanction in any way to a discrimination as to the number of population required

for a free or slave State, and much less as to the controlling political character of the proposed State.

The applications for both Kansas and Oregon to be admitted into the Union were presented at the last session of Congress. Neither had been authorized by a previous act of Congress to form a constitution, so in that respect they were both alike. So far as could be ascertained there was little or no difference as to the number of their population. Each had elected "*a State legislature and other officers*," and so far they were alike prepared to enter the Union.

The only real difference that existed in the two cases prior to the application for either was that Oregon had a territorial government not unsatisfactory to her people, and a legislature chosen by her own citizens, while the territorial organization of Kansas was a usurpation by fraud and force, and its political power had been wielded by usurpers and despots.

Without expressing any opinion as to the propriety of a restriction on the new States as to population, if general in its character, or as to the necessity for any previous act by Congress authorizing the formation of a State government, and without inquiring whether the constitution presented by the people of Oregon is republican in form and consistent in its provisions with the guaranties of the Constitution of the United States, so long as the restriction on the action of the people of Kansas remains on the statute book the admission of Oregon would be an unjust discrimination between the people of different Territories, if not an endorsement of the odious distinction made in the law of the last session of Congress against free institutions and free States.

The undersigned minority of the committee therefore recommend the following as an additional section to the bill reported by the majority.

Be it further enacted, That so much of an act entitled "An act for the admission of the State of Kansas into the Union," approved the 4th day of May, A. D. 1858, as provides that "whenever, and not before, it is ascertained by a census duly and legally taken, that the population of said Territory equals or exceeds the ratio of representation required for a member of the House of Representatives of the Congress of the United States," be, and the same is hereby, repealed.

GALUSHA A. GROW,
AMOS P. GRANGER,
CHAUNCEY L. KNAPP.