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CONGRESS.

HOUSE of REPRESENTATIVES.

TUESDAY, March 30, 1802.

DEBATE, *on the report of a select committee, respecting the admission of the North Western Territory as a state into the union.*

In committee of the whole—*Mr. L. R. Morris* in the chair.

As the report of the ſelect committee is neceſſary to elucidate the ſeveral points raiſed in the diſcuſſion, we preſent it entire, as follow:

REPORT—

That it appears to your committee, that the ordinance of the 13th of July, 1787, between the original ſtates and the people and ſtates within the territory north-weſt of the river Ohio, contains the following ſtipulation, that, "Whenever any of the ſaid ſtates ſhall have ſixty thouſand free inhabitants therein, ſuch ſtate ſhall be admitted by its delegates into the Congreſs of the United States, on an equal footing with the original ſtates in all reſpects whatever; and ſhall be at liberty to form a permanent conſtitution, and ſtate government: Provided the conſtitution and government, ſo to be formed, ſhall be republican, and in conformity to the principles contained in theſe articles; and ſo far as it can be conſiſtent with the general intereſt of the confederacy, ſuch admiſſion ſhall be allowed at an earlier period, and when there may be a leſs number of free inhabitants in any ſtate than ſixty thouſand." It alſo appears from the cenſus of the inhabitants within the eaſtern diviſion of the ſaid territory, taken more than twelve months ſince, in virtue of a law of the United States for that purpoſe, that there were then in the ſaid eaſtern diviſion, 45,365 inhabitants, from which are to be deducted 3400 inhabitants living north and weſt of the line propoſed for the boundary of the ſaid eaſtern diviſion.

It appears, that ſince the time of taking the cenſus, the United States have ſold 553,995 acres of lands within the eaſtern diviſion of the territory, amounting in value to 1,137,535 dollars. It alſo appears, from the beſt information to be procured, that in the year 1794, the number of inhabitants within the preſent eaſtern diviſion of the territory, did not exceed ſix thouſand. From the progreſſive increaſe of population ſince that period, and the ſale of lands recently made by the United States, it is probable that before all the meaſures neceſſary for the formation of a conſtitution, putting into operation a ſtate government, and its admiſſion into the union, can be effectuated, the number of inhabitants will amount to ſixty thouſand, the number requiſite according to the terms of the ordinance, for giving them an abſolute right of forming a conſtitution and ſtate government for themſelves; as well as the abſolute right of admiſſion into the union, upon the ſame footing with the original ſtates in all reſpects whatever.

It alſo appears to your committee, that great and encreaſing diſquietude exiſt among the inhabitants, within the territory, from various occaſions, and particularly in conſequence of the act lately paſſed for altering the boundary lines of the ſtates in the territory, as eſtabliſhed by the ordinance of the 13th of July, 1787.

Your committee, from a due conſideration of all the foregoing circumſtances, are of opinion that it is at this time expedient to make proviſion for enabling the people within the eaſtern diviſion of the territory north weſt of the river Ohio, to form for themſelves a conſtitution and ſtate government, to be admitted into the union upon the ſame footing with the original ſtates in all reſpects whatever, and that ſuch admiſſion, at this time, is conſiſtent (with the general intereſts of the confederacy) according to the ſaid ordinance, although the number of inhabitants may not amount to ſixty thouſand. The committee therefore recommend the following reſolutions:—

1ſt. *Reſolved*, That proviſion ought, at this time, to be made by law, for enabling the inhabitants of the eaſtern diviſion of the territory north weſt of the river Ohio, to form for themſelves a conſtitution and ſtate government: Provided the ſame be republican, and not repugnant to the ordinance for the government of the territory north weſt of the river Ohio, of the 13th of July, 1787, nor repugnant to the conſtitution of the United States; and alſo for the admiſſion of ſuch ſtate, when the government thereof ſhall be formed into the union, upon the ſame footing with the original ſtates in all reſpects whatever, by the name of the ſtate of

2d. *Reſolved*, That the ſaid ſtate of ought to conſiſt of all the territory included within the following boundaries, *to wit*: Bounded on the eaſt by the Pennſylvania line, running from the territorial line in lake Erie to the Ohio; on the ſouth by the Ohio to the mouth of the great Miami; on the weſt, by a line drawn due north from the mouth of the Great Miami aforeſaid, and on the north by an eaſt and weſt line, drawn through the ſoutherly extreme of lake Michegan, running eaſt, after interſecting the due north line aforeſaid, from the mouth of the Great Miami, until it ſhall interſect lake Erie or the territorial line, and thence with the ſame through lake Erie to the Pennſylvania line aforeſaid, or place of beginning: Provided, that Congreſs ſhall, at any time hereafter, be at liberty either to attach all the territory lying eaſt of the line to be drawn due north from the mouth of the Miami aforeſaid, to the territorial line, and north of an eaſt and weſt line drawn through the ſoutherly extreme of lake Michegan, running eaſt as aforeſaid to lake Erie, to the aforeſaid ſtate, or diſpoſe of it otherwiſe, in conformity to the 5th article of compact between the original ſtates, and the people and ſtates to be formed in the territory north weſt of the Ohio.

3d. *Reſolved*, That proviſion ought to be made by law for calling a convention within the eaſtern diviſion of the territory, to be compoſed of members to be apportioned amongſt the ſeveral counties therein, in a ratio of one repreſentative for every inhabitants of the ſaid counties, according to the enumeration of inhabitants thereof; alſo for fixing the time, place and mode of making elections of members to compoſe ſuch convention, and the time and place for the meeting of the ſame; which convention, when met, ſhall firſt determine by a majority of the members preſent, provided the number preſent ſhall be a majority of the whole number choſen, whether it be or be not expedient at that time, to form a conſtitution and ſtate government for the people within the ſaid territory, and if it be determined to be expedient, then in the next place the convention ſhall be authorized to form a conſtitution and ſtate government: Provided the ſame ſhall be republican, and not repugnant to the ordinance of the 13th of July, 1787, between the original ſtates and the people, and ſtates of the territory north weſt of the river Ohio, nor repugnant to the conſtitution of the United States.

4th. *Reſolved*, That until the next general cenſus ſhall be taken, the ſtate of ſhall be entitled to repreſentatives in the Houſe of Repreſentatives of the United States.

The committee obſerve, that in the ordinance for aſcertaining the mode of diſpoſing of lands in the weſtern territory of the 20th of May, 1785, the following ſection, which, ſo far as reſpects the ſubject of ſchools, remains unaltered.

"There ſhall be reſerved for the United States out of every townſhip, the four lots, being numbered 8, 11, 26, 29; and out of every fractional part of a townſhip, ſo many lots of the ſame numbers as ſhall be found thereon, for future ſale. There ſhall be reſerved lot No. 16, of every townſhip, for the maintenance of public ſchools within the ſaid townſhip; alſo one third part of all gold, ſilver, lead and copper mines, to be ſold, or otherwiſe diſpoſed as Congreſs ſhall hereafter direct."

"The committee alſo obſerve, in the 3d and 4th articles of the ordinance of the 13th of July, 1787, the following ſtipulations, to wit: Article 3d, "Religion, morality and knowledge being neceſſary to good government and the happineſs of mankind, ſchools and the means of education ſhall forever be encouraged, &c.

Art. 4th. "The legiſlatures of thoſe diſtricts, or new ſtates, ſhall never interfere with the primary diſpoſal of the ſoil by the United States in Congreſs aſſembled, nor with any regulations Congreſs may find neceſſary for ſecuring the title in ſuch ſoil to the bona fide purchaſers. No tax ſhall be impoſed on lands the property of the United States; and in no caſe ſhall non-reſident proprietors be taxed higher than reſidents."

The committee, taking into conſideration theſe ſtipulations, viewing the lands of the United States within the ſaid territory as an important ſource of revenue; deeming it alſo of the higheſt importance to the ſtability and permanence of the union of the eaſtern and weſtern parts of the United States, that the intercourſe ſhould, as far as poſſible be facilitated; and their intereſts be liberally and mutually conſulted and promoted; are of opinion, that the proviſions of the aforeſaid articles may be varied for the reciprocal advantage of the United States, and the ſtate of when formed, and the people thereof; they have therefore deemed it proper, in lieu of the ſaid proviſions, to offer the following propoſitions to the convention of the eaſtern ſtate of the ſaid territory, when formed, for their free acceptance or rejection, without any condition or reſtraint whatever; which, if accepted by the convention, ſhall be obligatory upon the United States.

1ſt. That the ſection No. 16, in every townſhip ſold, or directed to be ſold by the United States, ſhall be granted to the inhabitants of ſuch townſhips for the uſe of ſchools.

2d. That the ſix miles reſervation, including the ſalt ſprings, commonly called Scioto ſalt ſprings, ſhall be granted to the ſtate of when formed, for the uſe of the people thereof, the ſame to be uſed under ſuch terms, conditions and regulations as the legiſlature of the ſaid ſtate ſhall direct; provided the ſaid legiſlature ſhall never ſell, nor leaſe the ſame for a longer term than years.

3d. That one tenth part of the nett proceeds of the lands, lying in the ſaid ſtate, hereafter ſold by congreſs, after deducting all expences incident to the ſame, ſhall be applied to the laying out and making turn-pike or other roads leading from the navigable waters emptying into the Atlantic to the Ohio, and continued afterwards through the ſtate of ſuch roads to be laid out under the authority of congreſs, with the conſent of the ſeveral ſtates through which the road ſhall paſs: provided that the convention of the ſtate of ſhall on its part aſſent, that every and each tract of land ſold by congreſs, ſhall be and remain exempt from any tax laid by order or under authority of the ſtate, whether for ſtate, county, townſhip, or any other purpoſe whatever, for the term of ten years, from and after the completion of the payment of the purchaſe money on ſuch tract to the United States.

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CITY OF WASHINGTON,
February 13th, 1802.

SIR,

I have examined, in conſequence of our converſation, the articles of compact which make part of the territorial ordinance. The more I have reflected on the ſubject, the more forcibly have I been impreſſed with the importance of making ſome effectual proviſions, which may ſecure to the United States the proceeds of the ſales of the weſtern lands, ſo far at leaſt as the ſame may be neceſſary to diſcharge the public debt for which they are ſolemnly pledged.

That part of the ſyſtem of taxation, adopted in the North Weſtern Territory, which relates to non-reſident owners, undoubtedly affects the value of the public lands, and will eventually diminiſh the amount of ſales. Yet, upon due conſideration, there is but one proviſion, which, in my opinion, would be inconſiſtent with the rights of the United States, as ſecured by the articles of compact. An attempt, on the part of the legiſlature of the territory or new ſtate, to render lands, ſold under the laws of congreſs, but for which no patent has yet iſſued, liable to be ſold for non-payment of taxes, would interfere with the regulations adopted by congreſs for the "primary diſpoſal of the ſoil," ſince, by theſe, the lands remain mortgaged to the United States, until after complete payment of the purchaſe money, and, in caſe of failure thereof, are directed to be ſold.

But it does not appear to me, that the United States have a right to annex new conditions, not implied in the articles of compact, limiting the legiſlative right of taxation of the territory or new ſtate. The limitations, which they may rightfully impoſe, are deſignated by the articles themſelves, and theſe being unalterable unleſs by common conſent, all legiſlative powers, which of right pertain to an independent ſtate, muſt be exerciſed at the diſcretion of the legiſlature of the new ſtate, unleſs limited either by the articles, or by the conſtitution of the United States or of the State. Indeed, the United States have no greater right to annex new limitations, than the individual ſtate may have to infringe thoſe of the original compact: and, I cannot ſee that this poſition be, in any degree, altered by the circumſtance of admitting into the union, in purſuance of an expreſs proviſion of the articles, a ſtate, at an earlier period than that, at which it muſt neceſſarily be admitted.

The conditions, inſerted in the 4th article of compact, in relation to that object, and which conſtitute all that congreſs thought, at the time, neceſſary to reſerve, in order to ſecure to the union their right to the ſoil, are: 1ſt, that the legiſlatures of the diſtricts or new ſtates ſhall never interfere with the primary diſpoſal of the ſoil by congreſs, nor with regulations which congreſs may find neceſſary for ſecuring the title in ſuch ſoil to the bona fide purchaſers; 2d, that no tax ſhall be impoſed on lands the property of the United States; and 3d, that, in no caſe, ſhall non-reſident proprietors be taxed higher than reſidents. Farther than that congreſs cannot demand; and it is on account of the ſecond proviſion, that the diſtrict or ſtate legiſlature has not a right to tax, or, at leaſt to ſell, for non-payment of taxes, the lands on which, although conditionally ſold, the United States ſtill retain a lien.

It follows, that if it be in a high degree, as I believe it is, the intereſt of the United States, to obtain ſome further ſecurity againſt an injurious ſale, under the territorial or ſtate laws, of lands ſold by them to individuals; juſtice not leſs than policy requires, that it ſhould be obtained by common conſent. And, as it is not to be expected that the new ſtate legiſlature ſhould aſſent to any alterations in their ſyſtem of taxation, which may affect the revenue of the ſtate, unleſs an equivalent is offered which it may be their intereſt to accept, I would ſubmit the propriety of inſerting in the act of admiſſion a clauſe or clauſes to that effect; leaving it altogether optional in the ſtate convention or legiſlature, to accept or reject the ſame.

The equivalent to be offered muſt be ſuch, as ſhall not affect the value of the pledge which the public creditors now have by the appropriation of the lands, and as ſhall be fully acceptable to the ſtate, and, at the ſame time prove generally beneficial either in a political or commercial view to the union at large. From the beſt view I have been able to take of the ſubject, the following proviſions appear to me fully adequate to anſwer theſe ſeveral objects, namely:

That, provided that the convention or legiſlature of the ſtate ſhall aſſent, that every and each tract of land ſold by congreſs ſhall be and remain exempt from any tax, raiſed by or under the authority of the ſtate, whether for ſtate, county, townſhip, or any other purpoſe, for the term of ten years; from and after the completion of the payment of the purchaſe money on ſuch tract to the United States, the United States ſhall, on their part, agree,

1ſt. That the ſection No. 16, in every townſhip ſold or directed to be ſold by the United States, ſhall be granted to the inhabitants of ſuch townſhip for the uſe of ſchools.

2d. That the ſix miles reſervation, including the ſalt ſprings, commonly called "the Scioto ſalt ſprings," ſhall be granted to the new ſtate for the uſe of the people thereof; the ſame to be uſed under ſuch terms, conditions and regulations, as the legiſlature of the ſaid ſtate ſhall direct, provided that the ſaid legiſlature ſhall never ſell, nor leaſe the ſame for a longer time than years.

3d. That one tenth part of the nett proceeds of the lands, lying in ſaid ſtate, hereafter ſold by congreſs, after deducting all expences incident to the ſame, ſhall be applied towards laying out and making turn-pike or other roads, leading from the navigable waters emptying into the Atlantic to the Ohio, and continued afterwards through the new ſtate; ſuch roads to be laid out under the authority of congreſs, with the conſent of the ſeveral ſtates through which the ſame ſhall paſs.

That ſuch conditions, inſtead of diminiſhing, would greatly increaſe the value of the lands and therefore of the pledge to the public creditors, and that they would be highly beneficial and acceptable to the people of the new ſtate, cannot be doubted. And they are particularly recommended, as amongſt the moſt eligible which may be ſuggeſted, from the following conſiderations.

The proviſion for ſchools, excluſively of its intrinſic uſefulneſs, made a part of the former ordinance of congreſs for the ſale of lands; the grant has actually been made in the ſale to the Ohio company, and to I. C. Symmes; and altho' the ordinance be no longer in force, and ſuch a grant be no part of the articles of compact, yet it has always been at leaſt hoped by the inhabitants of the territory that it would be generally extended.

The grant of the Scioto ſalt ſprings will at preſent be conſidered as the moſt valuable, and alone would, moſt probably, induce a compliance on the part of the new ſtate, with the condition propoſed by congreſs. And if it is conſidered that at leaſt one half of the future population of that diſtrict will draw their ſalt from that ſource, the propriety of preventing the monopoly of that article, falling into the hands of any private individual, can hardly be diſputed.

The tenth part of the proceeds of the lands, as it will be co-extenſive with the ſales, will continue to be conſidered as an equivalent until the ſales are completed, and after the preſent grant might have ceaſed to operate on the minds of the people of the new ſtate. The roads will be as beneficial to the parts of the Atlantic ſtates, through which they are to paſs, and nearly as much to a conſiderable portion of the union, as to the North Weſt territory itſelf. But a due attention to the particular geographical ſituation of that territory and of the adjacent weſtern diſtricts of the Atlantic ſtates, will not fail to impreſs you ſtrongly with the importance of that proviſion, in a political point of view, ſo far as it will contribute towards cementing the bonds of union, between thoſe parts of the United States, whoſe local intereſts have been conſidered as moſt diſſimilar.

I have the honor to be,
with ſincere reſpect,
your obedient ſervant,
ALBERT GALLATIN.

Hon. Mr. Giles, Chairman,
of the committee on the
admiſſion of the N. W.
Territory into the Union.

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First Reſolution under conſideration.

Mr. Fearing ſaid he ſhould oppoſe this reſolution, but not on the ground of expediency. As the buſineſs had been urged forward haſtily, he had not had an opportunity of conſulting his conſtituents, to many of whom he had forwarded the report of the ſelect committee ſince its being preſented. He would therefore wave any remarks on the expediency of it until a bill was brought in, in the event of the reſolution being agreed to, in the mean time expecting to hear from his conſtituents.

But he was oppoſed to the reſolution on conſtitutional principles. He conceived congreſs had nothing to do with the arrangements for calling a convention. It was neither neceſſary, on general principles, or under the compact, that the territory, in order to be admitted into the union, ſhould form a conſtitution. By the compact congreſs can give their aſſent to admit the territory into the union before the population amounts to 60,000. Their power extends no further. The compact is the ſupreme law of the land, and is in the nature of a treaty. What it preſcribes muſt be executed; but as to arrangements not made in it, they may or may not be made, and they may be made either by law, or by a conſtitution, as the territory may ſee fit: Can Congreſs exerciſe powers given excluſively to the people? He conceived it would be as great an encroachment upon their rights to ſay they ſhall meet together in convention, and form a conſtitution, as it would be to ſay ſo to any ſtate in the union.

Gentlemen may ſay that this power is given to congreſs by the conſent of the people. The printed documents accompanying the report, if they mean any thing, mean to expreſs the opinion of the people. Among theſe is the letter of Samuel Findley to T. Worthington, [Mr. F. here quoted the concluding part of the letter.] Now if this committee at Chillicothe ſpeaks the voice of the Weſtern Territory, the congreſs have the right contended for; but this the citizens of other towns and counties will not admit. What example will the adoption of this meaſure hold out to the people of the Territory? If congreſs violate the compact, will not the people of that territory have an equal right to violate it? He hoped, for theſe reaſons, that congreſs would on their part preſerve it inviolate.

Mr. Davis ſaid he was as unwilling as any member on that floor, or as the delegate from the territory, to violate the compact; nor did he believe congreſs would violate it by adopting the reſolutions before them. Surely to allow to the people of the territory the liberty to become a ſtate could not be conſidered as a violation of it. The honorable gentleman ſays, the territory may come into the union with or without a conſtitution, and yet the ordinance reads that *they ſhall be at liberty to form a conſtitution, provided it be republican.* It ſays, therefore they ſhall form a conſtitution, on no other ground but its being republican.

When the population of the territory amounts to 60,000, it *ſhall be admitted* into the union. This obligation is as binding upon congreſs to admit, as upon

(Continued on last page.)