

CHAPTER XVII.

WEST VIRGINIA AT THE BAR OF THE SENATE.

SENATOR WILLEY PRESENTS ITS CASE.

May 29, 1862, in the United States Senate, Mr. Willey presented the memorial of the Virginia legislature, with accompanying papers, praying that West Virginia might be admitted as a State into the Union. Mr. Willey proceeded to address the Senate in recital of the events which had led up to this application, and of the grounds in law and equity on which it was founded. Following due reference to the Richmond Convention and its lawless acts, he went over the movements in Northwestern Virginia, from the Convention in May, 1861, to that which had framed this constitution, reading official documents from time to time to show completely the regularity and legality of every step which had led up to this application. He also addressed himself to the causes which had impelled the Northwest to seek this separation. They were not temporary in their nature; had not sprung up as the result of the secession movement, but were deep-seated and of long standing. They had grown out of natural differences, physical and geographical between the

sections, and of social and political differences due to different institutions, policies and ideas operating through more than half a century.

When the Senator had concluded his presentation of the case of West Virginia, he expressed a preference that the papers be referred to a special committee. Mr. Sumner thought they should take the usual direction given to applications of this kind and go to the Committee on Territories. Mr. Willey repeated his preference, but as Mr. Sumner was persistent, did not press it.

SENATOR CARLILE PREPARES A SURPRISE.

June 23d, the Committee on Territories, of which Mr. Carlile was a member and Mr. Wade of Ohio chairman, reported a bill for the admission of West Virginia. It would be an astonishing measure if it could be supposed the purpose of him who drew it was to promote the admission of the State. The fact was afterwards developed that the bill had been drawn by Mr. Carlile, who had put himself forward in the committee, as he had in Western Virginia, as the special champion of the New State; and the amazing thing was that Mr. Carlile should have drawn such a bill. The committee having no reason to doubt his good faith and recognizing his familiarity with and authoritative relation to the subject, allowed him to shape the measure in his own way. But the people of West Virginia, knowing nothing of the change that had come over their Senator, chosen with such special honors and in unbounded confidence, were amazed when they learned the character of the measure which had emanated from the committee.

It provided, in brief, that before the State should be admitted it should include the following counties in addition to those embraced in the constitution submitted: Clark, Frederick, Warren, Page, Shenandoah, Rockingham, Augusta, Highland, Bath, Rockbridge, Botetourt, Craig and Allegheny. The bill required that another convention should be assembled when the Governor of Virginia might direct "and as soon as may be after the people in the several counties may be relieved from the presence of armed insurgents;" and that when a convention of delegates from all these counties—at that time alternately swept by contending armies—should have framed another constitution, it should be submitted and all the formalities gone over again. Incorporated in the bill was this provision for emancipation: "From and after the 4th day of July, 1863, the children of all slaves born within the limits of the proposed State shall be free." As if a convention embracing all these Valley counties, with their large slave population and strong pro-slavery feeling, would ever put such a provision into a constitution! Mr. Carlile himself was strongly pro-slavery in feeling; but evidently this provision was demanded by other members of the committee, and Mr. Carlile knew it made no difference what went into the bill, designed as it was only to block admission.

CARLILE VS. CARLILE.

The passage of such a measure by Congress, friends and enemies alike, recognized as the defeat of a new State. Mr. Carlile himself had declared in the August Convention, when the opponents of division were pushing this

same scheme for taking in the counties of the far Southwest and of the Valley—which Brown of Kanawha pressed again in the Constitutional Convention—that it would be fatal to their hopes for separation. “You never can and never will,” he said, “get with you into a separate State the Valley and the Southwest unless you conquer the people there and force them into your State against their consent and interests.” Again, in a letter to Thomas Elder, of Fairview, Hancock County, Va., written August 27, 1861, and published in the newspapers, Mr. Carlile said: “We could no more connect with us the Southwest and Valley than we can the Piedmont and Tidewater districts. Why? Because our interests are dissimilar and our markets lie in different directions; and by connecting them with us we would defeat the very object of a separation.” Mr. Carlile, in drawing the bill he did, to send back the application and force the inclusion of the Valley and Southern counties, was convicted by his own unanswerable words of a purpose to defeat entirely the proposed division of the State.

SENATOR WILLEY SERENE.

While Carlile was preparing this deadly potion, what was Senator Willey about? His silence and apparent indifference to what was going forward has never been satisfactorily explained. It is true the matter had not been put into his hands. He may have felt he had been treated with scant courtesy when the memorial presented by him was sent to a committee of which he was not a member, and it would be pardonable if his pride had been some-

what piqued. But if there was offence, it was not the people of West Virginia who had given cause for it; and his first duty was to them. It is not to be assumed he did not know what his colleague was doing. As a friend of the applicant, would he not be on the lookout; have ascertained from other members of the committee, if not from Mr. Carlile, what was going forward? Mr. Willey could not have been ignorant of what was being done; yet both the Senate committee and the West Virginia public were wholly ignorant of the mischief Mr. Carlile was working until the bill was brought into the Senate.

Then committees and delegations hurried to Washington in alarm to ask Chairman Wade what he meant by cutting the throat of the New State in this ruthless way? They proceeded to enlighten Mr. Wade as to the true state of the case and to wake up the Western Virginia members of the House. Mr. Wade advised them to see their other Senator—evidently himself surprised at Mr. Willey's attitude of indifference. Granville Parker, in his "Formation," goes into the history of the struggle at Washington, with the treachery of one senator and the cold indifference, at least, of the other, to get the new State into a proper attitude before Congress, and he is severe upon Mr. Willey. Mr. Parker complains first that Mr. Willey in his address presenting the memorial to the Senate ignored the question of emancipation and made no allusion to the informal vote on it which had so plainly indicated the anti-slavery attitude of the people in the Northwest. Mr. Parker with others called on Senator Wade, who advised them to see Mr. Willey. They did so. Mr. Parker says:

His manner was grave and reticent, but he said, I think, he had prepared an amendment he intended to offer when the bill came up again. Mr. Parker adds that they called on the Virginia representatives, Blair, Brown and Whaley who "were more communicative but had faint hopes of success, Whaley having said, as we afterwards learned, that the measure "would not get a vote in the lower house." That day came the convention commissioners—Caldwell, Paxton and Hall. Van Winkle had come with them as far as Washington but went on to New York. Hall left after a day or two. "The rest being in dead earnest for a new State aroused Mr. Willey and the other Virginia representatives to a comprehension of the situation and what our people were expecting of them. * * * The friends had resuscitated and energized the measure, secured the attention of Congress and imparted to the measure something of the importance it merited. Heroic Ben Wade had become thoroughly aroused. Senator Willey had partially emerged from his shell and began to realize that the measure had friends as well as enemies—who it would seem had hitherto monopolized his attention as well as sympathy. At the head of the latter was Mr. Carlile, in disguise but only slightly suspected by his fellows on the territorial committee."

When it came to the debate on Trumbull's motion to postpone the bill, after it had been amended with Brown's substitute, Parker says:

Mr. Willey in his reply (to Carlile) seemed to have at last caught up with the ideas and sentiments the loyal people entertained on the subject of gradual emancipation—ideas and sentiments they had been for nearly a year expressing in all forms and sought to have the convention of which he was a member express in the constitution, but were debarred by himself and confederates.

NO SLAVERY FOR SUMNER.

To go back to the proceedings in the Senate, Mr. Wade, after enlightenment, called up the West Virginia bill June 26th. Mr. Sumner said the provision making free only

children born after July 4, 1863, proposed to recognize slavery during the present generation. "Short as life may be," he said, "it is too long for slavery. If this condition is to be adopted and the bill becomes a law a new slave State will take its place in the Union. It may be but a few slaves only; but nevertheless a new slave State. That is enough. We all know that it takes very little slavery to make a slave State with all the virus of slavery. Now, by my vote no new State shall ever come into this Union and send senators into this body with this virus." He moved to strike out the provision and substitute the Jeffersonian ordinance: "Within the limits of said State there shall be neither slavery nor involuntary servitude otherwise than in punishment of crime, whereof the party shall have been duly convicted." The bill going over, Mr. Sumner's motion was afterwards voted down.

ANXIETY IN WEST VIRGINIA.

July 12th, when the Senate was discussing the question of adjournment, Mr. Wade pressed the need of action on the West Virginia bill. He said:

I never saw any question that excited a whole community with the intensity that this question does that people. Their principal men have been here—and are here now—beseeching us to act on this subject. The Governor and all the principal men of the State whom I have seen—and I have seen many of them—say it is the universal opinion that if left in the hands of their inveterate enemies they will have to abandon their property and homes and seek residence somewhere else.

Mr. Willey, following Mr. Wade, said:

I am in receipt of letters daily from every section of the State which, in addition to the information given by the gentlemen now in this city at their own expense for many days, assure me of the fact that unless relief is extended by giving them a separate State organization they will be compelled to leave all they have of property in the world except what they can take with them and find asylum somewhere else.

Mr. Sumner in the course of some remarks said of this West Virginia question:

Perhaps no question of greater importance has ever been presented to the Senate. It concerns the whole question of slavery; it concerns also the question of States rights; it concerns also the results of this war. Look at it, therefore, in any aspect you please, and it is a great question.

WILLEY OFFERS EMANCIPATION.

July 14th, the bill was called up by Senator Wade, who had meanwhile become well informed as to the precise effect and intent of Mr. Carlile's scheme for sending the constitution back, to be made over by a new convention, to include new territory east of the mountains having a large slave population and at that time ground under the hoof of contending armies.

Mr. Willey offered a substitute conforming to the boundaries defined in the constitution, with this provision in regard to emancipation:

That after the 4th day of July, 1863, the children born of slave mothers within the limits of said State shall be free, and that no law shall be passed by said State by which any citizen of either of the States of this Union shall be excluded from the enjoyment of the privileges and immunities to which such citizen

is entitled under the Constitution of the United States; provided that the convention that ordained the constitution aforesaid, to be reconvened in the manner prescribed in the schedule thereto annexed, shall by a solemn public ordinance declare the assent of the said State to the said fundamental conditions, and shall transmit to the President of the United States on or before the 15th of November, 1862, an authentic copy of said ordinance; upon receipt whereof the President by proclamation shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of said State into the Union shall be considered as complete.

Mr. Wade moved to amend this by inserting in the proper connection: "That all slaves under twenty-one years of age shall be free when they arrive at the age of twenty-one."

THOUGH NOT "PERSONALLY AGREEABLE."

Mr. Willey's reply to this showed how half-hearted he was in proposing this provision for emancipation. He would have "greatly preferred" that the State be admitted with the constitution exactly as presented, without condition or amendment; but he felt some deference was due to the views of other senators and he had made an advance beyond "what was personally agreeable" to himself in the proposition he had already offered. He hoped Mr. Wade would allow the vote to be taken on it. He suggested the effect of the provision offered by Mr. Wade would be that as most of the slave population was in the counties along the borders of Kentucky and Virginia, these young negroes, as they neared the period of their emancipation, would be "silently transferred across the lines and sold

and shipped off South, thus exchanging the mild form of slavery in West Virginia for the more rigorous form in other slave States."

Mr. Carlile moved to amend Mr. Willey's substitute by the insertion of a provision that ratification by the Convention should not be sufficient, but that the conditions imposed by Congress should be ratified by a vote of the people. On this he made an ingenious demagogic argument which had no weight with those familiar with the situation in West Virginia but which so evidently told on the Senate that, on suggestion from friends in the lobby, Mr. Willey accepted the amendment, declaring at the same time that the Convention was thoroughly representative of the sentiment throughout the State. He added that there was not a loyal man in Northwestern Virginia who was not that day "life and soul" for division. The discussion was continued and so prolonged by Mr. Carlile that Mr. Pomeroy said to him sharply that if he was not in favor of the admission of the State he could not expect others to be; and that if the people of Western Virginia "did not send senators here who are in favor of this measure, they certainly cannot expect to get it through."

WITHDRAWS AND OFFERS THE BROWN BILL.

Mr. Willey withdrew the substitute he had presented and offered in lieu of it a bill which had been prepared by Hon. William G. Brown of the House of Representatives. Mr. Brown's bill provided that "the children of slaves born within the limits of the State after the 4th day of July, 1863, shall be free, and no slave shall be permitted to come into the State for permanent residence."

Mr. Lane of Kansas moved to amend this emancipation provision by adding "that children under ten years of age shall be free at twenty-one, and slaves over ten and under twenty-one shall be free at twenty-five." This amendment was adopted. Mr. Carlile then moved to strike out of the substitute the body of the bill—a test motion. The Senate refused by a vote of 25 to 11, which showed that the friends of admission had won.

TRUMBULL JOINS CARLILE.

Mr. Trumbull declared himself opposed to the admission of the State. He moved to postpone the further consideration of the bill till the first Monday in December. Mr. Carlile said he would vote for that motion. He would never consent to have the organic law of a State framed by the Congress of the United States—meaning he would not consent that Congress should impose conditions. Yet that was just what his own bill proposed; and it went beyond the Brown bill in not only requiring emancipation but compelling the inclusion of a large territory so notoriously at variance with that in the original boundary as to destroy the homogeneity of the State; and it even undertook to prescribe the number and qualifications of delegates.

Carlile's closest friend in the Senate was Senator Waldo P. Johnson of Missouri, nephew of Ex-Gov. Jo. Johnson, of Virginia, who was closely connected by marriage with the Clarksburg Goffs. He and Carlile had long been intimate personal friends. Johnson was on the Southern side of the national issue and left the Senate

about 1864 and went South, returning to Missouri at the close of the war. I have always believed it was his influence which drew Carlile away from the straight path which had led him into the Senate. From this bosom friend Mr. Carlile might have learned that Missouri afforded a most striking instance of the exercise of "Congressional dictation" to a State seeking admission.

There was no lack of precedents to justify Congress in making conditions, if precedents had been needed. But the very discretion vested in Congress by the Constitution to consent to the admission of a State or refuse it includes the right to make any conditions they may deem necessary to make the application acceptable. Perhaps the closest parallel to the West Virginia case was Missouri, which went up to Congress with a constitution that forbade free negroes entering the State—just as West Virginia now proposed. Congress refused to admit Missouri until this prohibition had been taken out. The Missouri Convention took it out, and after a year's delay President Monroe, by proclamation, declared the admission complete, precisely as President Lincoln did in the case of West Virginia.

WILLEY GROWS EMPHATIC.

Mr. Willey, following Mr. Carlile, said his colleague in the position he had taken misrepresented three-fourths of the loyal people of the State, and the objection interposed by him was both calculated and "designed to thwart" the whole movement.

WADE UNMASKS CARLILE.

Chairman Wade explained how the committee had been imposed upon by Mr. Carlile in his character of pretended friend of the New State, and how zealous he had been in the earlier stages in its behalf. Said Senator Wade:

That there is to be a separation is a foregone conclusion, and no man has urged it upon the committee more strongly than the Senator who now opposes immediate action. He, of all men in the committee, is the man who penned all these bills and drew them up. He is the man who has investigated all the precedents to see how far you could go in this direction. It was to his lucid mind we were indebted for the fact that there were no legal or constitutional barriers in the way of this proposition. He submitted to the labor; he did it cheerfully; he did it backed by the best men of his State and section—and what did they say? They said “We cannot live any longer with Eastern Virginia. Independent of the great controversy that has sprung up in the Nation, we have a controversy of old standing that renders our connection with old Virginia absolutely impossible.” He is the gentleman who impressed their opinions upon the committee as strongly as anybody else; and what change has come over the spirit of his dream I know not. His conversion is greater than that of St. Paul. He has persuaded us that the measure is right; he has appeared side by side with his able Governor who urged this upon us as a measure vital to the interests of the State he represents. All at once, after persuading us to bring the question before Congress, and when we expected his powerful aid to help push it through, we are brought up standing by his powerful opposition.

PASSED BY THE SENATE.

The Senate voted down Mr. Trumbull's motion to postpone, and passed the bill by a vote of 23 to 17.

POSTPONED IN THE HOUSE.

In the House of Representatives two days later the Senate bill for the admission of West Virginia came up and was read the first and second time, when Mr. Segar, a Virginia member from the Fortress Monroe district, objected to its third reading. He moved to lay on the table, but the House refused by 70 to 42. Roscoe Conkling moved the postponement of the bill to the second Tuesday in December, and it was agreed to by a vote of 63 to 52.