SPEECH OF SENATOR TOUCEY,

OF CONNECTICUT;

Delivered in the Senate on Monday, February 18, 1856, *upon the motion to print the message of the President and accompanying documents in regard to affairs in Kansas.*

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Mr. TOUCEY said:

Mr. PRESIDENT: I desire to say a few words before this subject passes from the Senate. I do not see how it was possible for the President of the United States to take any other course than that which he has adopted, as stated in the papers now on the table, without an utter abandonment of his constitutional duty. There is but one government in the Territory of Kansas—a government organized in pursuance of an act of Congress. There is a legislative department to prescribe the laws; there is a judicial department to adjudicate them; there is an executive department, with ministerial officers at its command, to execute those laws. There is no other government in Kansas. There is no question between a government *de facto* and a government *de jure*.

There must necessarily be in every community a government. No large number of men can exist together in society without a government. There is always either a government *de jure* or a government *de facto*, or a government answering to both descriptions. There is in this case but one government. There is no pretence in Kansas Territory of the exercise of legislative power, hitherto, by any other government. There has been no pretence of the exercise of judicial power by any other judicial department than that of the territorial government instituted under the act of Congress; nor has there been an instance of the execution of any process from anything purporting to be a court, save only the process issued under the territorial government that exists. That being so, the proposition is indisputable, that in that Territory there is but a single government, and that is the government *de jure* and the government *de facto* in the Territory. This being so, it is impossible that any Chief Magistrate, unless he proves false to the obligation which he has taken upon him in the oath of office, can do otherwise than uphold the Constitution of the country, and the laws which have been passed in pursuance of it.

Sir, the first difficulties which arose in Kansas were at the election of the first delegate, in November, 1854, when the present delegate (Mr. WHITFIELD) was elected and returned to the House of Representatives. At that time, if I recollect the dates, in November, 1854, the governor issued a proclamation, in which he embraced a list of the places where elections should take place, a list of the election judges, and a list of the election districts; and, at an election held in pur-