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I have shown that there is nothing in the mere was published, at the time, throughout the whole

SPEECH OF HON. WM. MONTGOMERY.

VOLUME XVI.

OF PENNSYLVANIA, ON THE ADMISSION OF KANSAS AND

In Defence of his Compromise Bill.

In House of Representatives, March 19.

MB. CHAIRMAN : - I rise to defend the right of government been disputed. Our forefathers, who framed the Constitution of the United States, and carry out. The terms of partnership arranged by the Federal compact must be faith- | its constitution. fully fulfilled by the several copartners. But

vention for the will of the people, we, as Demoorats, indignantly refuse obedience. No such concession is in the bond of Union.

Conceal it under the most specious pretexts: disguise it by legal quirks and technical quibbles; yet you never can deceive the people into the belief that you are not attempting to impose a government on the white men of Kansas against which they have protested, and still protect, in every form in which they can legally When we consult the Lecompton constitution itself, we learn that it has never been portance. The relation of husband and wife, the Delegate on this floor if he approves this the legally elected Legislature, recently in ses-

it cannot be mistaken. The issue between us and those who contend for the admission of Kansas is radical and fun damental. We contend that the constitution must ruled by its edicts. We contend that although

same manner as the domesto interface solution. For day that it was a lar euo-family have reference to the relations which the members of such family bear to each other. It is too narrow. If nations for whom they compact in leagues and members of such family bear to each other. It is too narrow in the family bear to each other. It is too narrow in the people of Kansas when they elected the del-and Cabinet, and approved by them, I accepted the compact in the people of Kansas when they elected the del-and the the people of Kansas when they elected the del-and the the people of Kansas when they elected the del-and the the people of Kansas when they elected the del-

quently, in the past, discussed the question of relations which the citizens of such State bear such doctrines before he was permitted to vote, law to mean that the convention had power to ble. quentity, in the past, discussed the question of relations which the observe to be and that you called that a fair submission of the force the constitution on the people whether But, it would not weaken my position if I people? That no such intention was entertainbefore has the right of the white man to self-before has the right of the white man to self-the domestic institution as the relation of constitution. Yes, go home and tell them that they were willing or unwilling, or you must, with were to admit that the people might delegate ed, is incontestibly shown, by a variety of cirhusband and wife, or parent and child. This is you have forced Kansas into the Union with a the President, contend, that the organic law, away this right; but in such a case, the terms of circumstances. Previous to the election of delthe clear meaning of the terms used in the Kan- constitution which declares slavery above the which he construes into an "enabling act," re- the grant should be made in the clearest lan- egates, pledges were required by the party from made concessions to, and compromises with, the sas-Nebraska act. The term "domestic institutional prohibition, and that, alinstitution of negro slavery as it then existed, tions," as used in that act, had reference to the though the people may change the constitution, is vote of the people. If you take the former, and those concessions and compromises the De- domestic institutions, not of a family, but of a they never can abolish slavery, for the right of then you give mere delegates despotio power. and those concessions and complements are by State; and the domestic institutions of Kansas the master to the "slave and its increase is If the latter, the constitution is in violation of and carry out. The terms of partnership ar-If we were to admit that the term domestic in- up all the Territories to slavery ; that the slave- will.

when any portion of our people demand of us stitutions referred only to the family relations, it owner has the right, according to the Dred Scott to take from the white man the right of self. would include a great many things besides decision, to take his shave property into any of compton convention is derived from the mere government, and to substitute the act of a con. slavery; and if the provisions of the Kansaspeople, then the Lecompton convention most

nothing but the slavery clause-and that only in | and that they must submit to it. part—was submitted. The President admits

"a few other relations" besides those of master Kansas, go home and tell our people that slavery tion of delegates determines only who shall be form, and the power to ratify, as entirely dis- he was elected, who, if we may rely on the testi and servant. We all know that it includes a yet exists in Pennsylvania-that the title to slave delegated to draw up a constitution, and nothing tinct and separate. Nor will it do to say, as mony recently taken in Kansas, is a party to the great many more, and those of the highest im-portance. The relation of husband and wife, legislative ensotments and constitutional provis-lican can be chosen; or, to apply the rule to Kan- [Mr. Keitt] did, in his maply and elequent petrated upon a free people, is hardly a fit persubmitted to the people for their approval or parent and child, guardian and ward, are uni-disapproval. We turn from the constitution to versally admitted to be "domestic institutions," by the patriotic and philanthropic fathers of the menshall believe to the fathers of the state of the fathers of the fathers of the state of the fathers of the state of the fathers of the state of the fathers of the the legal authorities of the Territory; we ask in the most confined sense in which the terms glorious old Keystone is void; and that slavery else and nothing more The constitutional com- been admitted, give certificates of election to are ever used. Yet no submission of the legis- yet exists in full vigor in the land of Penn. My is not in existence is not in lative power in reference to any of these rela- nothern Democratic friends from the old original are not known, and cannot be passed upon. instrument; and, in the name of his constitu-ency, he indignantly answers no. We turn to tions was made. These are the most delicate thirteen States, if this doctrine is true as enunand important relations which we sustain. Why, ciated in the Lecompton constitution-and you power to a convention to "form a constitution," sion, and they point us to our Journal, on which , the , were they not submitted ? The President say by your votes that it is true-then slavery stands the most solemn protest against this high- says the Kansas-Nebraska act required the pro- exists in the northern part of the old thirteen draw up, the instrument, but also to ratify and hauded usurpstion. We turn to the people, and visions relating to the "domestic institutions" to States as completely as it does in Alabama or put it in force. I regard this as a monstrous doc learn that a majority of ten thousand have be submitted. It was not done; and, therefore, South Carolina. If it is true that constitutions trine; one that cannot be sustained on any fair already spoken its condemnation with a voice so on his own showing, the constitution is clearly cannot prohibit, or Legislatures abolish, then loud that it must be heard, and so decided that in violation of the organic act. But it may be slavery is universal, and exists everywhere. argued that I have given a more enlarged sig Nor was this all. Not only was the voter required to take an oath to support the clause I

nification to the term "domestic institution" quired to take an oath to support the clause I than the President did, and that therefore my have quoted, but the whole constitution. Now, conclusions are unjust to him. I intend no in- the fourteenth article of the schedule of the Le- I the members of society in legal phrases and set be the work of the people, express their will, justice, and will be guilty of none where I know compton constitution provides as follows: "After the year 1864, whenever the Legislature shall think it necessary to amend, alter, or change and speak with their authority. On the other it, and more especially to our Chief Magistrate, side, it is contended, that a convention, no mat. whom I honor and respect. But I do not intend side, it is contended, that a convention, no mat-ter how constituted, binds the people by its ac-tion. We contend that the people shall rule the convention; our opponents, that the convention the people shall rule the convention th is above the people, and that the people must be the President's interpretation of the organic act. that a majority of all citizens of the State have voted The President contends that it was the duty for a convention, the Legislature shall, at its next the convention can frame a constitution, it can of the convention to submit the slavery question regular session, call a convention, to consist of as to a vote of the people. Was this done? If it people. The advocates for the admission of was not, then the sanction of the convention is Kausas contend that the power of the convention, | in violation of the law of Congress, and is there- manner, at the same places, and by the same eleclike the power of Parliament, is omnipotent, and fore void. Was the slavery clause submitted to tors that choose the Representatives. Said delethat they can frame a constitution and put it in operation, not only without the consent of the it was. The only question submitted to be voted after said election, for the purpose of revising, operation, not only without the consent of the people, but against the solemn protest of every upon was the importation of slaves from places interation shall be made to affect the rights of property man, woman and child in the Territory. This is without the Territory. Slavery, as it existed in the question for consideration; this the issue the Territory, was not only not submitted, but, presented. For the first time in the history of on the contrary, it was fixed and established, so our country has the great principle of self-gov- that all who were slaves at that time, and all ernment been openly attacked; for the first time their descendants, throughout all time to come, we are called upon to stand up in the Halls of were to be and remain slaves. And not only was Congress to defend the right of white men to this true, but the voter was compelled to vote for frame their own institutions and regulate their | this continuance of slavery before he would be allowed to even vote for prohibiting the importation of slaves, for it is to be remembered that the tickets were "For the Constitution," or "For the Constitution without Slavery." The ticket was all the time "For the Constitution" -never against it. "For the Constitution," with all its slavery clauses, was the ticket. Now, The Lecompton convention either had the if the President's construction is correct, the Not admitted with or without slavery, as the people should determine. Notwithstanding this provis-Not only was the slavery question not submit ted, but before the voter was permitted to deposit his ballot on the future importation of slaves, he might be required to take an oath to support the swear to support what he might desire to vote against. The history of the O'd World furnishes instances where oaths of allegiance have been required from a conquered people, but never before in our free land has an American citizen been insulted, when he approached the polls to deposit his ballot, with a demand to swear alle If I had been a citizen of Kansas, I would have regarded such a demand an accusation against my patriotism, and an insult to my manhood. I lute in all respects. If qualified, it was qualified would not have taken it, and would therefore in every respect. I am determined the friends have been disfranchised. But I will waive the implied charge of treason, which lies in the dethe issue ; that they shall be held to the respon- mand to take such an oath, and which was insibility of the measure they advocate. The peo- | tended to drive high-minded men away from the ple of this country shall understand that you polls, and I will take it for granted that the voter was willing to secure his rights by such degredation. The next question is, was the oath one which a man could safely take? Follow me, whilst I examine this question. The first section of the seventh article of the Lecompton constitution reads as follows :

from those outside relations which States have the voter in Kansas is required to swear to sup | I have run this matter out in detail for the the sovereign power of the several nations infrom those outside relations which are institutions of a port in a subsairs required to swear to sup with each other. The domestic institution of a port is a branch authority ' to form a constitutional sance the soveraid benefit of the and It was forwarded it was forwarded State have reference to the internal relations of tion." Think of it, my Democratic friends who, with the President, base of the same family, but higher in authority and therizes the convention to put such constitution in to the President, and filed in the archives of the the citizens of such State to each other, in the vote for the admission of Kansas on the Lecomp- their support of this measure on the submission greater in importance. What satisfactory rea- force, without the submission of the Instrument nation with the S-orestary of State, and remains same manner as the domestic institutions of a ton constitution. You say that it was a fair cub- of the slavery question. Gentlemen, you cannot sons can be urged why delegates caunot blud the to a vote of the people.

members of such family bear to each other. When we use the term "domestic institutions" in reference to a family, we confine and limit the meaning of the term to those relations which ex-meaning of the term to those relations the delt. The repulse the delt that the since the delt that the since term to those relations the delt the delt. The repulse the delt the delt the delt the delt the delt that the since term to those relations the delt the del ist in a family. When, however, we use the can; go home, if you dare," and tell your con-words in reference to a State, the meaning is en-stituents that you supported a constitution which the Lecompton constitution. You have two horns good government, and such a safe-guard to their intention? Did they intend that the conlarged by the connection, and it embraces the required the citizen to take an oath to support of a dilemma. You must either construe the national freedom, that I regard it as inaliena vention should "form" a constitution, and put

the people who elected you that you have given The choice is before you-take which horn you United States. The power was given to the constitution"-should be submitted to a full and

The extraordinary power claimed for the Lecompton convention is derived from the mere Nebraska act required the provisions of the established it as a fundamental truth, that cov-constitution of Kansas relating to her domestic stitutional conventions and Legislatures have no the peoples ratify the constitution which the del-may be said that the Constitution of the United whom they deluded and betrayed. Imerely menconstitution of Kansas relating to her domestic stitutional conventions and beginatures have no the peoples taily the constitution of the constitu clearly violated this part of the organic law, for horse. Yes, tell them that slavery is universal, of such election no constitution has been formed, submitted to a vote of delegates chosen by the operation without a vote of the poople. But I

that the term "domestic institutions" includes who vote to force the Lecompton constitution on ratify that which is not in existence? The elec-But it is contended that when we delegate the

this isoludes not only the power to "form." or and legitimate construction of the terms To "form a constitution" means to draw up and arof the same nature." range the provisions of such an instrument in methodical shape. The agents employed are mere clerks or attorneys, clothing the contract between terms of art

Constitutions may differ in their provisions We may gain great light on this subject by first but still they are none the less constitutional letermining upon aproper definition for that tech compacts; and being the basis on which the lawi nical word constitution.

We hear the term in courts and Congress-in the pulpit and the press; but it is not any easy matter to find a true and exact definition of its meaning. We have in our country a great many tion. The law-making power must act in strict kinds of writing constitutions; but an exact idea subordination to the limitations of the constitumy members as there may be in the House of Rep | of the import of the word is, perhaps, not very

several States.

other could be properly given.

there now. The Governor says:

it in force without submitting it to a vote of the a power is never to be derived from mere infer- | when formed should be submitted for approval ence. It could not arise from a grant of the or rejection to a vote of the people. Amongst power "to form a constitution." This is clearly others, Calhoun gave a pledge, that "the conshown in the case of the Constitution of the stitution"-not a clause or section of it, but "the

convention "to form a constitution;" yet, the fair vote of the people. I do not refer to these clause, to a vote of the people. The vote must delegates, composed of the greatest men our pledges for the purpose of arraigning these del-country ever produced, decided that after the egates for a violation of their plighted faith, as instrument was drawn up, it should be sub. was claimed by my colleague, [Mr. Phillips; Ind that they must submit to it. My Democratic colleagues from Pennsylvania consideration. How, then, can they be said to action of the convention and of Congress shows who violated his collemn pledge given to his own

the great speech to which I have already re- gates from all parts of the Territory assembled ferred, says: "We do not need to be informed in this country t Lecompton. 'A resolution was offered pledging the support of the party to the constitution what a constitution is. Is it not an idea perfectly, which might be formed, whether it was submitted familiar, definite, and well settled? We are at no to a vote of the poeple or not. But a single delloss to understand what is meant by the constitution egate voted for that proposition in all that large of one of the States; and the Constitution of the convention, and every other delegate voted United States speaks of itself as being an instrument against it. Governor Walker, as is well known, was an open advocate of the submission of the This is the language of the greatest constitu whole constitution. That convention called tional lawyer our country ever produced, and I place his opinion against that of the honorable

upon him to address them, which he did in his that pledge shall be redeemod. usual clear and convincing style, and when he had closed his remarks the convention indorsed his principles and pledged him their zealous sup-

There, now, is the declaration of that party, making power rests, are properly called fundaafter the election of delegates, but before the mental laws. The power of the Legislature to convention assembled at Lecompton, in favor of pass laws must always be in subordination to the submitting the constitution to a vote of the peowarrant of attorney contained in the constituple, and an unequivocal indorsement of the course of Governor Walker. Here, then, we learn,

bling a convention to form a constitution,' and they express the opinion of the President, that 'who such a constitution shall be submitted to the people of the Territory, they must be protected in the exercise of their right of voting for or gainst that in. strument; and the fair expression of the popular will must not be interrupted by fraud or violence." " I repeat, then, as my clear conviction, that unless the convention submit the constitution to the vote of all the actual resident settlers of Kansas, and the lection be fairly and justly conducted, the constitu tion will be, and ought to be, rejected by Congress." The Governor declares his clear conviction that the convention must submit "the constitution." not "the slavery clause," nor any other isolated clause, to a vote of the people. The vote must or, "for the constitution without slavery." The people were to be secured the right to vote against the constitution; and, if this right was not so cured, the Governor declares that "the constitution will he, and ought to be, rejected by Congress." If this was not the intention of the President; if he never meant to oppose the adnission of Kansas if the constitution was not submitted to a full and fair vote of the people, then was the time to speak. Free State and other voters might well stand aloof from the election of delegates, confidently relying on this promise of the Chief Magistrate, made through his official representative, that the constitution should be submitted to a vote of the people; and, if not submitted, that it would be rejected by Congress. It is monstrous injustice to the

people of Kansas that this declaration should now be repudiated, when their rights under it have been denied. The great Democratic party of the North anchored their hopes for the final and eternal settlement of this angry controversy in the faithful fulfillment of that declaration. It was what we had always understood as the true interpretation of the Kansas Nebraska law. We took our stand upon it, and we cannot be driven from it now. Others may abandon the loctrine of popular sovereignty; but I pledged myself to my constituents to adhere to it, and

Gov. Walker adhered to this doctrine of submis sion, and resigned his office rather than desert the principles which he had been instructed to support, and which he had pledged his party to carry out. Secretary Stanton clung to this inalienable right of the white man, and was dismissed from office for his devotion to the people. The author of the Kansas-Nebraska bill insista that its provisions shall be fairly interpreted and honestly carried out, and Douglas is proscribed. that neither party in Kansas ever intended that overnor Wise, Governor Packer, the constitution should be put in force without it historian, Bancroft, refuse to strike the flug of was first approved by a full and fair vote of the popular sovereignty, and they are denounced asenegades. The Democracy of New Jersey, New Let us now go outside of the Ferritory and see | York, all New England, Onio, Indiana, Illinois, ples of self-government, nor strike the Demo-I have thus shown that the Lecompton constitution can be supported on neither principle nor precedent. I have shown that it should have been submitted to a full, fair vote of the people, and that such submission was not had. I have shown that we, as a party, were pledged to this submission by the Cincinnati platform ; and that this pledge was recognized by the present national Administration in every act and declaration concerning Kansas, until after the Lecompton convention had refused to submit the Constitution to a vote of the people. I have shown all this from the record and from the constitution itself. I have not goue behind the consticution itself, but I speak from the record, and by the record The constitution shows on its ace that it never was submitted for adoption by the people. I hope, therefore, I may hear no more about going back of the record. But even if I were to admit that the election of delegates to a convention conferred on such delegates the power not only to form a constitution, but to forcent upon an unwilling people, still the Lecompton constitution would not a legal instrument. Now, I freely admit that, where the people have an opportunity to vote, and a part of them refrain from voting, that they are will of the people was expressed should not only bound by the action of those who do vote. Nor is it material whether those who refuse to vote are a majority of the people or not. This doctrine is disputed by nobody on this floor, or elsewhere. Yet it has been repeated, by every speaker on the other side of this question, with a triumphant confidence in its power to overthrow the whole opposition to the Lecompton constitution. Permit me to say, once far all, that no man predicates his opposition to the Lecompton constitution on the refusal of the free-State party to vote-nothing of the kind. Our opposition stands on higher and broader grounds that if all other reasons should be abandoned, and were we to admit your premises, still you cannot sustain that instrument, because the whole people of Kansas were not represented nor permitted to vote. Ninetcen of the thirty-eight counties were not registered-had no delegates apportioned to them, and were not permitted to vote. Some weeks ago we were told by gentlemen on this floor, that a part of these counties were annexed to other counties for election purposes, and it is true that they were so annexed for some election purposes, but not for the fleetion of delegates. No man could vote unless he was registered. No registry was made in nineteen counties, and therefore no votes could be given in those counties; they were all disfranchised. Four of these counties were comparatively old and thickly peopled, and gave at the election in October over nineteen hundred votes, nearly as many as were cast at the June election. for the Lecompton delegates, in all the rest of the Territory. The people of Kansas were not permitted to vote for delegates. The sixty delegates were apportioned amongst nineteen counties; the other nineteen counties had no delegates and no right to vote. It is idle mockery to say that the people of those counties did not desire to be registered. It was the duty of the Legislature to have them registered. All the officers of the Ferritory, it muss be remembered, were appointed by the Legislature; they were not elected by by tas direction of the President, gave him the the people, and were not responsible to the peo They were the creatures of the Legislature "The regular Legislature of the Territory having and it should have seen that they discharged The question presented is not whether the people voted or did not vote, but whether they had he privilege of voting; and the record shows that they had not. We are asked .o decide that one half the counties of the Territory of Kansas can a right to similar, protection in the opportunity for tranquil and undisturbed deliberation. When such a disfranchise the other half, and can elect delegatos constitution shall be submitted to the people of the and force a constitution, not upon themselves, Territory, they must be protected in the exercise of but upon the people of the whole Territory. We are told that the constituent is bound by the act of the representative; but nineteen counties had no representatives. Were they bound? If a portion of the counties of the Territory an bind the rest, where will your principle stop? If one half of the counties of a Territory can act for themselves and the other half, why cannot five or tional; it is not if the convention submit the ten counties and for the whole? Such a princiconstitution, but it is undoubling, unhesitating, the once recognized then faravell to all a

own government.

It is vain to seek to disguise the issue. cannot and shall not be done. The question presented for consideration is a plain one. It admits of no equivocation. No ingenuity of argument, no combination of high sounding words will couceal it.

power to frame and put in operation a constitu- question of slavery should have been submitted tion, without the consent, nay, even against the to a vote of the people. Not a part of the queswish of the whole people of Kansas, or it had tion, but the whole question of slavery. not. If that convention could impose a consti- simply whether any more slaves should be imtution on an unwilling people, then Kansas ported, but whether slavery should continue to should be admitted. If, on the contrary, that exist. The law provides that the State is to be convention was not clo hed with this almost omnipotent power over the freedom of the people, | then that constitution should be rejected. If the ion of the organic law, slavery was fastened up n convention had not the power to force the whole | them by the Lecompton constitution without their constitution upon the people, they had no power consent, and no opportunity was afforded them to force a part of it upon them. If it is admitted to vote on that question. Is this what you dethat it was necessary to submit any part of the | fine "leaving the people perfectly free to form constitution to the approval of the people, it was and regulate their domestic institutions in their necessary to submit all parts of it. The parts own way ?" Is this your interpretation of the of a constitution are all equally important, and meaning of that boasted las extending popular if any part is invalid until it has been approved sovereignty? Let us examine this question still by the people, it is clear that all parts are equally further. invalid until they have been approved in the same manner. If the power given by the Legis lature of Kansas authorized the convention to frame a constitution and put it in operation, suthorized them to put it all in operation; not to constitution if adopted. He was required to put a part in force and leave another part dependent on the will of the people. Either the grant made by the Legislature to the convention to form a constitution,' included and carried with it the power to ratify and put it in force without the consent, or even against the consent of the people, or it did not. The grant of power was as ample in reference to the slavery clause giance to a constitution which was not adopted as it was in reference to any other subject. The

convention was clothed either with absolute or with qualified power. If absolute, it was absoof this Lecompton constitution shall not evade admit Kansas on the principle that the Lecomp ton convention had power to force a constitution on the people of Kansas, even if every voter in the Territory had opposed it. It will not do for gentlemen to contend that a part of the constitution was submitted to a vote of the people. If the power to put the constitution in operation

people, and such submission was an idle ceremony. If, on the contrary, it was necessary to give validity to the constitution that any part of it should be submitted for the approval of the people, it is an indisputable sequence that it was in a slave rests on the same foundation as that of equally necessary to submit the whole constitu- a horse or a cow? We are told in that great tion to the people The argument is, that the good Book, that when God had deluged the earth power to "form a constitution" carries with it the power to ratify and put such constitution in operation without the consent of the people. The power is not to put one clause, but every clause which the convention may think proper to morpgrate, in operation : so that the man who predicates his advocacy of the Lecompton constitution on the submission of a part of the slavery clause to a vote of the people, is acting inconsistently with his own doctrine, for if it was necessary to submit the slavery clause, it was ecessary to submit the whole instrument; for the power over the slavery clause was as ample great Creator of the universe, we predicate our as it was over any other part of it, and no necessiry could exist in the one case which did not exist in the other. If the vote of the people

receive the approval of the people. The President of the United States, in his very

session, felt the full force of this argument, and attempted to show that there was a distinction made in the Kansas Nebraska act which rendered it necessary that the slavery clause should be submitted to a vote of the people, whilst the prepare to part." other provisions could be put in force without

such submission. The President says: "In the Kansas Nebraska act, however, this re-

"The right of property is before and higher than Belonged to the convention, then it gained no ad-ditional force by being submitted to a vote of the the same, and as inviolable as the right of the owner of any property whatever.'

Is this the declaration of a legal and constitutional truth ? Is it true that the right of property and destroyed the antidiluvian race, except Noan and his family, he made a solemn covenant with Nosh, as the representative and father of the tribes and nations of men that were to live in the countless ages of future time; a part of which covenant is in this beautiful and impressive language: "And the fear of you, and the dread of you, shall be upon every beast of the earth and upon every fowl of the air; upon all that moveth upon the earth, and upon all the fishes in the sea; into your hand are they delivered.' Upon this grand and glorious covenant with the title to property in animals-but man is not in- laws-its power of legislation was gone. The as the expression of that will " luded. The right to the "beasts of the field, only way the laws in force on the 7th of Novem- It can matter nothing whether we agree with the birds of the air, and the fishes of the sea," gave validity to the slavery clause, the balance is derived from the covenant of the rainbow; by a Legislature elected under the provisions of of the nature of our Federal Constitution; all I of the instrument was invalid, because it did not and wherever its triumphial arch spans the the Lecompton constitution The October elec- desire to show is, that, after it was drawn, it had heavens with its web of brilliant beams, the tion was treated as though it had never taken to be ratified by the contracting parties. It right of man to such property is acknowledged place; and the existence of the officers then cho- matters not whether it is considered as a com-

generally had. he chosen in the same Some years since, in the Senate Chamber of the

United States, two of the intellectual giants of in the ownership of slaves."

The Legislature may provide for any amendment they may deem proper, except the right to amend the constitution so that slavery could be abolished and Kansas be made a free State. Slavery is to be fastened upon them forever. Not only was the voter to take such an oath, but every officer of every class and kind who might be elected through all time to come, is required to swear to support this and every other clause of this extraordinary constitution Will my Democratic friends still contend that the slavery clause was fairly submitted ? Let me ask whether there is a northern man on this floor or elsewhere, who would swear to support a constitution which fastened slavery upon the people of Kansas forever, and which prohibits its abolition through

all time to come? But I have not done with this branch of the e the other contracting party? case. We have been told that the Lecompton constitution is a legal instrument; that it is made in conformity to law, and in obedience to the provisions of the Kansas-Nebraska act? What will my Democratic friends say, when I

assure them that not only is this not so, but that the Lecompton constitution not only violates, but actually repeals, the Kansas Nebraska act? I desire the attention of the committee to this matter; for, of all the infamous devices ever contrived by cunning and unprincipled men to deprive the people of their right of self-government, I consider this the most adroitly arranged and deeply laid. And, here, I must call the attention of members to the dates of these transactions. I will raise the curtain and give them a peep at the actors behind the scenes. The del egates to the Lecompton convention were elected in June-the Legislature had repealed the test

the associ oaths-and the intention of the free-State party to vote in October had been openly proclaimed, and was well understood throughout the Territory. The convention assembled in September, and although their labors could have been completed in a week, they appointed committees. and adjourned until the 19th of October. The object of this long adjournment is obvious

o every mind-the convention desired to know the result of that election, as it would demonstrate which party was in the majority in the Territory; they could then see whether it would do to submit the constitution with its s'avery provisions to a fair vote of the people. They could also take proper precautions to deprive the Free State Legislature, if that party succeeded, at the election of all power. The October election was held, and the Free State men swept the State, and elected all the officers. Since the organization of the Territory they had been deprived of all political power; they had been driven from the polls at the first election by armed bands; they were afterwards disfranchised

by test oaths, so odious, and so clearly in violation of the Constitution of the United States, that every Democrat on the floor, and every Democrat in the Senate, voted for Toombs' bill which declared them void. Now, that party had succeeded in electing their officers at a fair election, and the power to repeal the unjust and oppressive laws of which they complained, was in their own hands. We, as Democrats, rather regretted the result of this election, as it was looked upon as a Republican triumph; but the election was a fair one, and we were perfectly willing to submit. Not so the Lecompton con vention. Let me turn the attention of members to the second article of the schedule to the Lecompton constitution. It provides as follows: All laws now in force in the Territory of Kansas, which are not repugnant to this constitution, shall continue and be of force until altered, amended, or

repealed by a Legislature assembled under the pro visions of this constitution." The free State Legislature elected in October s thus blotted out of existence. It might assemble and adjourn-but it could not change the tion of the popular will, and was to be received ber, 1857, could be "altered or repealed," was Mr. Calhoun or Mr. Webster in their definition

able message, delivered at the beginning of this and respected. The right of property does not seen was completely ignored. Now, permit me to pact between the several States, or as a compact indeed stand above human laws and constitutions ask, what right did the Kansas-Nebraska act se between the people of the whole. Union, still it -- it comes from Deity ; and it will remain above cure to the people ? We must answer, the right | was invalid until it had the sanction of the peohuman constitutions as long as the bright bow in of electing their own law-makers, and making ple, whose compact or contract it was. the clouds shall gild the heavens "when storms their own laws. And this right was guaranteed

to them so long as they remained a Territory. | a compact, unless it be sanctioned and approved Now, I will not dispute the right of our south-ern brethern to their slaves, but that right comes assembled since the 7th of November last; that refuse to give it their sanction?

from the local enactment of the State; it is not Legislature has passed many important laws; Mr. Montgomery- It is a fundamental princi-

he says:

tion: and, like all other agents, when they ex ceed the powers granted, their acts are not ind ing on the people; hence it is called a frandamental law.

the last generation struggled for the mastery But, beyond this there is no resemblance be They were endeavoring to give a definition to that word constitution Webster and Calhoun tween a constitution and a law, and the arguments founded on such a resemblance have no have passed away; but, thanks to the art of print solid foundation. The consent of the people to ing, their thoughts, still live. Mr. Calhoun, in the laws passed by their Legislature is express. his in reply to Mr. Webster, on the 29th of February, 1838, defined the Constitution of the and not implied, and is found in the warrant of attorney contained in the constitution, which au United States to be a "compact" between the thorizes the Legislature to pass laws. A law 1-

gentleman from South Carolina.

from its very nature an act of sovereignty A Mr. Webster admitted that the "Constitution law is defined to be a rule of human conduct was founded on a compact" between the whole prescribed by the supreme power of a State.' people of the United States, and not between the If the Legislature was not supreme their legislaseveral States as States I refer to these definition would not be binding, and would want the tions, not to renew the controversy as to whether esential requisite of a law If the Legislature our Constitution is a confederation of the peopl were to pass a law which was made dependant or a compact between the States, but only on the approval of the people for its validity. show what these enlightened statesmen defined such law, althought afterwards approved by the to be. I have always concurred with Mr. Cal people, would be void, because the power of the houn in his definition of the term. I think none egislation must rest with, and be exercised by the Legislature. Will any one contend, howev Mr. Singleton-I would like to know who it is

er, that if a constitutional convention were to that the people make the compact with ? Who make the legal validity of the constitution de pend on the approval of the people, that in Mr. Montgomery-I will tell you. According would therefore be void ? No man will say so o the definition of Mr. Calhoun, the Constitution And therein consists the difference. Legislation of the United States was a compact between the is the act of a supreme power, their act is a States; according to Mr. Webster's definition, it finality; but a constitutional convention has only was a compact between the people of the whole the power to draw up the provisions of a com country. The gentleman ask whom the people pact: but its ratification belongs to the contract

of a State compacts with? Why, each man compacts with all the rest. A constitution may be ing parties-the people The distinction is clear and obvious, and no unprejudiced inquirer can lefined to be the compact or contract made by be misled by reasoning founded on analogies be citizens of a State, each one with all the rest, drawn from the acts of a Legislature. iefuing the principles on which the association I will conclude my remarks on this branch o

is to be conducted. The citizens of a district of the case with the following quotation from the country agree to form themselves into a body Federalist, No. 43. Speaking of the old Artipolitic; the individual members compact or agree cles of Confederation, the writer says: o give up certain portions of their individual

rights, to take upon themselves certain burden-"Resting on no better foundation than the consent of the State Legislatures, it has been exposed to fre n consideration of the mutual advantages of sequent and intricate questions concerning the vali fity

curity, protection, and power, which flow from f its powers; and has, in some instances, given birth to the enormous doctrine of a right of legisla-This is the highest and most important comtive repeal. Owing its ratification to a law of a State, it has been contended that the same authority pact that ever has or ever can be made by the State, it has been contended that the same authority race of man. None other is exactly like it or might represent the law by which it was ratified. How can compare with it in the importance of its ob-jects or the greatness of its results. In every party to a compact has a right to revoke that comother compact, after the agreement is drawn up, nant the destrine itself has had respectable advocates it must be ratified and confirmed by the contract. The possibility of a question of this nature proves the ing parties. It matters not how learned the atnecessity of laying the foundations of our national Government deeper than in the mere sanction of del torney, agent, clerk, or delegate employed to put the contract inform, nor how greatly he may egated authority. The fabric of American emrire ought to rest on the solid basis of the consent of the be celebrated for his wisdom and integrity, after people. The streams of national power ought to flow he has completed his part of the work the instru immediately from that pure, original fountain of allement is of no validity, it remains a mere blank itimate authority." until is receives the approbation of the parties. I have thus shown, both by reason and au-

It is possible that we will be told the agree hority, that the constitution framed at Lecompment, contract or compact of a sovereign State on should have been submitted to a fair and does not require as great solemnities as the most full vote of the people of Kansas. trival agreement between man and man? No.

It is, however, contended that there are pre the mere power to draw up a constitution comcedents where constitutions have been formed pact gives no greater validity to the instrument and put in operation without submission to the drawn than is given by contracting parties to a people. It might be a sufficient answer to say mere clerk who embodies the terms of their agreethat I have established the rule for which 1 conment in legal form. They are but agreemente, tend from principle, and precedents can never change principles Precedents are changed and unexecuted, until they have received the approbation of the high contracting parties-the one moulded by circumstances; but principles are at the ballot-box, the only way in which the peoeternal and unchangeable. But I will admit, ple signify their consent; and the other by the that instances of this kind may be found, but signature of the parties. Here permit me to they prove nothing. In those cases, the people embody the language of "the god-like Webster." waived their rights, and are estopped by their Speaking of the Constitution of the United States, acquiescence; but the people of Kaneas have ever waived theirs. The Lecompton constitu-"It is to be remembered that the Constitution tion has never been ratified by the people, and began to speak only after its adoption. Until they protest against it going into operation until it has been approved. Constitutions have then it was but a proposal, a mere draft of an instrument. It was like a deed drawn up, but een put in operation-in several States without a

not executed. The convention had framed it submission to a vote of the people, but those sent it to Congress, then sitting under the Con vere cases where the constitution met with the federation. Congress had it transmitted to the spproval of the large body of the people whose State Legislatures, and by the latter it was laid contract it was. But I here defy the production before the conventions of the people of the f a precedent of a constitution being forced several States. All this while it was inoperaapon an unwilling people, who have repu listed tive. It had received no stamp of authority; by every means in their power. When such it spoke no language. But when ratified by the precedent can be found, then I look into it; people, then it had a voice, and spoke authentiintil then, I desire to hear no more of prece cally. Every word in it had received the sancdents. But even if we were to consider it as question to be ruled by precedent, the force of authority is greatly in favor of submission I hink there is not a single State now in this Union whose constitution, either as an original r amended instrument, had not been submitted to a vote of the people. I here give a table. showing the dates at which the constitutions of the several States have been voted upon I have seen it frequently published in the n+ wspapers, and have never seen it contradicted; and so far

as I have any personal knowledge it is correct: California.....November 13, 1849 Connecticut.....October 5, 1818 Georgia.....lst Monday October, 1839 Tilinois March 7, 1848 Indiana August 4, 1851 Iowa..... .August 3, 1846

he opinion entertained on this question by the | Michigan, Wisconsin, lows, and Calfornia, de-Democratio party. The Kansas-Nebraska bill, votedly and persistently adhere to the principles passed by that party, declared as a legal and of the Ciucinnati platform, and demand that the undamental truth. "that the people"-not a con Lecompton constitution shall be rejected, and vention of delegates-but "the people should be | they are read out of the party as deserters from eft perfectly free to form and regulate their do- the Democratic army Thank God, the people mestic institutions in their own way." The Cin of the North are true on this question, and alannati convention, representing all parts of our | though they may be betrayed and deceived, they mighty Confederacy, declared in most emphatic | will never abandon their devotion to the princierms, "that we recognize the right of the people of all the Territories, including Kansas and cratic flag.

Nebraska, soting through the legally and fairly expressed will of a majority of actual residents, an't whenever the number of inhabitants justi fies it, to form a constitution, with or without iomestic slavery, and be admitted into the Union upon terms of perfect equality with the other States.'

This is a recognition, not of the rights of a convention, but of the people, to form a constiution; and, as if in prophetic anticipation of he events which have subsequently occurred,

the resolution declares the manner in which this recognized right of the people shall be excised. It was not only to be the "legally." ut "fairly, expressed will of a majority of acual residents."

If we were to believe the statements of gen emen on this floor, the question is not whether ne constitution reflects the will of the "majority if the actual residents," nor whether that will has not only been "legally" and "fairly" exressed in its favor, but simply whether the Le mpton constitution was the work of the conention. The Cincinnati convention thought that the will of the majority of actual residents hould be consulted. I think so too. That coneution thought that the election at which this

be a legal but a fair election. I think so too; and in the name of that convention, and by its authority. I demand an investigation into the frauds attending the formation of the Lecomp ton constitution.

Upon this platform, with this interpretation we went into the great contest of 1856. The people relied on these solemn pledges and we riumphed. I gave a part of those pledges to the people of my home amongst the hills, hundreds of miles away; that part shall never be forfeited nor violated. I told the companions of my childhood and the friends of my maturer years, that those were the principles of my party and they confided in me; and although they cannot hear me now, I confidently repeat the decluration in the face of American Congress. I stand now, as I then stood, on the Cincinnati platform, and contend now, as I contended then, for the inalienable right of the people to govern themselves

The President of our choice was triumph autly elected on this platform : and deeply impressed with these truths, he said in his inaugural message:

"It is the imperative and indispensable duty of the Government of the United States to secure to every resident inhabitant [of Kansas] the free and independent expression of his opinion by his vote. This sacred right of each individual must be preserved l"

This language is too clear to need comment. · It is the imperative duty of the Government to cure to every resident inhabitant "-not to a convention of delegates-"the free and inde pendent expression of his opinion by his vote" Not a right to speak through delegates, but "by Bis vote," directly, freely, and independently. But I must pass on. A Governor was to be ppointed to rule the Territory. A souther gentleman, with a national reputation, eminently distinguished for his ability as a statesman, had bren selected for this place. General Cass, commanicating to Bobert J. Waiker his appointment.

bilowing instructions: athorized the assembling of a convention to form a their duty faithfully. constitution, to be accepted or rejected by Congress ander the provisions of the Federal Constitution, the people of Kan-as have the right to be protected in the peacetul election of delegates for such a purpose, under such authority ; and the convention itself has

their right of voting for or against that instrument and the fair expression of the p pular will must not be interrupted by fraud or violence." H re, then, we have the interpretation given by the President and his Cabinet to the Kansas Nebraska law and the Cincinnati platform. The language is not equivocal, doubtful or condi-

2	had not been inserted, and the convention were not bound by its terms to submit any other portion of the instrument to an election, except that which relates to the 'domestic institution' of slavory. This,will be rendered clear by a simple reference to its language. It was 'not to legislate slavory into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions' have a direct, as they have an appropriate reference to slavery. 'Domestic institutions' are liwited to the family. The relations be ween master and slavo and a few others are 'do- mestic institutions,' and are entirely distinct from institutions o. a political character.'' I think there is not a man on this floor bold enough to follow this interpretation. The "do- mestic institutions of a State—what are they ' The domestic institutions of a house refer to the institutions of arcin bouts. The domestic in-	of human legislation. The right to hold a shave is a matter of positive enactment, and, being but a human law, can be repealed by the legislative authority of any country where it exists. I am as willing to carry out the compromises of the Constitution on this subject, in good faith, as any other man I respect the right possessed by Virginia and all the southern States over sla- very, within their limits, and I would not inter- fere with it. The jurisdiction over the subject is in their hands. But when I am asked to support it as a fundamental truth, that the right to hold a "slave and its increase" is a right above the reach of law and constitutions, I cannot do it. It is not so. There is no statesman who will dare contend for such a doctrine. If it he true, then slavery never can be abolished; and if we admit Kansas into the Union on the Lecompton constitution, slavery must continue to exist there	If you admit Kansas with thi, Lecompton con stitution, those laws are thereby repealed. And the right of legislation secured by the Kansas- Nebraska act is negatived and nullified. This, gentleman, is the constitution which we have been so often and triumphantly told was a legal instrument, made in obedience to that "enabling act," the Kansas-Nebraska bill. This provision, too, the voter was required to swear he would support. My Democratic friends, will you dare to tell me this was a fair submission of the slavery clause, hedged around, as it was, by the most monstrous enunciation of startling princi- ples, which voters were required to swear they would support as an equivalent for the privilege of voting? The slavery question has never been submitted to a vote of the people. The President says the	 that majority is limited and restricted in every society that has existed since the foundation of the world. That is the fundamental principle on which society rests. The Constitution of the United States was a compact between the several States, and the State ratified it. A State constitution is a compact between the people of the State, and the people must ratify it. I trust the honorable gentleman from Virginia [Mr. Bocock] will notice how easy it is to answer his ingenious argument, that the Constitution of the United States was not ratified by the people. There are several kinds of compacts, but I know of none which does not require the consent of the high contracting parties after it is drawn. Leagues and treaties are both inter-instrument have been agreed upon and signed 	Maine	constitution shall be submitted to the people of the Territory, they must be protected in the ex- ercise of voting for or against that instrument." It was not the right of the people to vote on the slavery clause, nor on the "domestic institu- tion," but "for or against the constitution." Governor Walker accepted the appointment in the following bold, clear, and explicit avowal of his understanding of the requirements of the law and of its interpretation by the President and his Cabinet: "I understand that you and all your Cabinet cor dially concur in the opinion expressed by me, that the actual bona fide residents of the Territory of Kansas, by a fair and regular vote, unaffected by fraud or violequee, must be permitted, in adopting their State constitution, to decide for themselves what shall be their social institutions." Nor is this all. In his inaugural message, Governor Walker put the matter beyond all con-	ed in the convention, and yet we are told that they are bound without representation, or even the right of representation If this is not despo- tism I do not understand the meaning of the term You tell me that the Lecompton Consti- tution is a legal instrument. What legislative power exists un our Government to deprive the people of representation, and bind them by the act of the representaties of others? If that is legal, then we do not live in a Republic, and our revolutionary fathers braved the dangers of bat- tle in vain. Nor is it an answer to say that the number disfranchised was not large. The prin- siple is the same, whether the number was small or large If we can concede the right to dis- franchise two thousand voters in four counties, we concede the principle on which our Govern- ment rests. If we can deny two thousand men their rights, we can deny the same to ten thou-	
°	The domestic institutions of a house refer to the informal affairs of anch house. The domestic in- rotions of a State mean its whole internal pol-	constitution, slavery must continue to exist there through all time to come. The Legislature cau-	to a vote of the people. The President says the organic law required such a submission, and, therefore, the Lecompton constitution is not, on	d national compacts yes after the terms of the instrument have been agreed upon, and signed d, by the commissioners or delegates of the con- n tracting powers, the league or treaty has no validity, until it is approved and sanctioned by	MissouriJuly 19, 1820 New HampshireSeptember, 1792 Pennsylvania	Nor is this all. In his inaugural message, Governor Walker put the matter beyond all con- troversy. No man can mistake it. There is no	ment rests. If we can deny two thousand men their rights, we can deny the same to ten thou- eand, and free government is at an end. Then,	
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Mr. Singleton-Then i wish to know if it be