

Chase
NEBRASKA
STATE HISTORICAL
SOCIETY.

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NEBRASKA STATE
HISTORICAL SOCIETY

THE CONSTITUTION OF THE UNITED STATES

vs.

THE LECOMPTON CONSTITUTION.

SPEECH

OF

HON. CHAMPION S. CHASE, OF RACINE,

Delivered in the Senate of Wisconsin, Feb. 17, 1858.

The Senate Proceeded to the Special Order—the same being the Kansas Resolutions.

MR. PRESIDENT :

Before proceeding to speak upon the resolutions now under consideration, I would like to have them read.

The clerk of the Senate read the resolutions as follows :

Resolved by the Senate the Assembly Concurring, That slavery is a most flagrant violation of the inalienable rights of mankind, and exists only by the power and force of might over right; it cannot therefore be established and maintained in any national territory without violating the spirit and letter of the constitution of the United States.

Resolved, That the extra judicial opinion expressed in the "Dred Scott decision," is in palpable violation of the provisions of the Constitution of the United States, and subversive of the rights of the states, and of civil liberty.

Resolved, That the Lecompton Constitution is a gross and infamous fraud, conceived in the councils of tyranny—recognized only by the spirit of Despotism, advocated only by villainy—pressed upon the people only by the hand of unrelenting power, and designed to subvert the inherent rights of the people of Kansas.

Resolved, That the Governor of this State be, and he is hereby authorized to forward a copy of the foregoing resolutions to the President of the United States, and to each of our Senators and Representatives in Congress.

Mr. President, I had not at first intended to discuss these resolutions, and the important principles which they embody, but only to give them my cordial and hearty vote; but I cannot sit here, night after night, and hear great principles traduced and declaimed against by Senators of the other side, and the position of the Republican party abused

and falsified, without raising my voice in its defense.

The principles contained in the resolutions under debate, are dear to the hearts of all the freemen of the North, and to every true friend of our country. Not many years since it would have been surprising—it would have seemed strange to any candid and thinking observer, to see the people rise up in this country and talk about a Northern and Southern party—to speak of sectional parties and interests—but sir, now it has become necessary, and is frequently done.

It seems to me, sir, eminently proper that at this time, on this occasion and in this manner, resolutions embodying principles like those just read, should be considered and passed by the Legislature of the sovereign State of Wisconsin.

In times like these, when almost every civilized government upon the globe, is exercised upon the great and fundamental principle of HUMAN LIBERTY, a principle which lies at the foundation of Republican governments—that principle which was breathed into man with the breath of life, and which, in his normal condition, continually prompts him to exercise those rights which are so well defined in the Declaration of Independence the *Magna Charta* of this Union—a principle which is at this moment in danger of receiving from the Chief Executive of the United States its death blow, we whom the people of the State have chosen to act for them in matters which relate to their peace, prosperity and political safety, should speak freely and plainly upon the subject embodied in these resolutions.

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An embryo state, peopled with settlers from all parts of our country, has attained to that numerical strength, which in all cases heretofore, has been deemed sufficient to entitle a territory properly applying to admission into the Union, is now denied that admission and kept out of the family of states by the corrupt practices of a factious minority who are knocking at the door of Congress with a constitution "conceived in sin and brought forth in iniquity."

To aid in defeating the will of the free State men there, the late and the present President have each with their coadjutors in crime, waded through the blood of martyrs shed in behalf of liberty, on soil once consecrated to perpetual freedom. Scenes that the veriest despot in the old world would shudder to contemplate as acts of his own, have been produced and carried on in Kansas by the political aid of the leaders and abettors of that political party which would fain make us believe that one of its leading principles is a respect for and quiet submission to the will of the majority.

Senators seem displeased because James Buchanan is called a fallen and used up man, but there are facts and reasons enough to show that this is true. He has bent his knee to the slave power; he has prostituted his high position in subserviency to the supporters of slavery; he allows himself to be used by them to the full extent of their wishes; and they have used him, and will do so through his Presidential term; and then they will cast him aside for another less worn and more efficient instrument. He has sacrificed all claims to the respect of freemen, and is politically lost and condemned, in the opinion of honorable and high minded men.

And yet, sir, we are told by one of the leaders of the party upon this floor, (Mr. Cook) that to say aught against the President is equivalent to treason. Yes, they cry "peace, peace, when there is no peace."—They tell us to "cease our complaint," to "stop agitation," and all will be well, and slavery, that dark spot upon the escutcheon of the American Union, will soon cease to extend. But, sir, we have become accustomed to their wailings—are we too very slaves, that we should obey them? If it be treason for men living under a so-called Republican Government to exercise faculties with which an all wise Providence has endowed them for the evident purpose of enabling them to protect themselves in the "inalienable rights of life, liberty, and the pursuit of happiness," then let the decree go forth that every man in the Republican party is guilty of treason.

I am astonished to hear the Senator from the 30th (Mr. Tucker) declare that he believed our forefathers did the best they could when they framed the Constitution and

founded the Government, in quietly submitting to compromises on the subject of slavery for the sake of peace and harmony.

Sir, it was not designed by them when they wrote the Constitution, to establish slavery—nor did they expect that it would long exist—but they did expect, that it would be gradually abolished. They did no act, and uttered no sentiment, that did not look to this certain result. If they had expected its continuance as a fixed institution in the country—if they designed or wished to perpetuate slavery—they would have said so boldly and explicitly; they were not cowardly men, that they dared not speak freely and fully what they meant and desired on this important and threatening subject.

The Senator (Mr. Tucker) says: "The Constitution gives the right for the admission of new States into the Union, only with a Republican form of Government." Now, what is meant by a "Republican form of Government?" Sir, it is one which respects and protects the rights of the people, and the whole people; one in which they have full and free right to choose their own laws and constitution—subject only to the constitution of the United States.

In regard to the admission of new states and territorial regulations, the constitution provides in Art. 4, that "New states may be admitted by Congress into this Union," and that "the Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States, and that "the United States shall guarantee to every state in this Union a Republican form of government."

Upon these provisions are based those laws which Congress has, from time to time, passed concerning the territories and the admission of new states. The object of these as well as all other provisions in the constitution, are set forth in the preamble to that instrument in these words.

"We, the people of these United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America."

Here I stand, and here found my landmarks—here is the bulwark of liberty—and it shows, beyond all controversy, the intention of that noble old instrument and its power, to establish liberty throughout the territories for all the people thereof. Such is the aim and platform of the Republican party—this is its glorious mission and its design—and it will never prove false to that mission—it will never shrink from nor prove recreant to the great work and high duty incumbent upon it, as the protector and conservator of freedom in the Territories and new States.

Up to this time States have been admitted only when they have presented constitutions which they were able to show a majority of the legal voters were in favor of. This proviso has become as it were a law from constant usage. How is it then that Kansas is restrained from the same liberty that has been conceded to all the other States in the formation and presentation of their first constitutions? It cannot be said that I am taking this to be a conceded fact without due proof—for on several occasions have the people of Kansas decided by large majorities that they desired a constitution and only a constitution that prohibited forever that slavery or involuntary servitude should exist there except for crime. But, and if the proof is still demanded, we will call to the stand, Reeder, Geary, Walker, Stanton, and even Gen. Denver, the present Governor of that Territory. They all assert that a majority of the people there are in favor of a free State. Do not they tell us that fraudulent voting, false returns, and bogus poll lists are the common means used there to defeat the real will of the people, and is not Calhoun to-day holding in his pocket two sets of returns that he can elect just which he chooses of the men voted for there at the late elections, to depend on the acceptance or rejection of the Lecompton Constitution? Upon such proof, the verdict must be—"guilty."

Again, the Senator asks: "Who commenced this agitation, and opened the way for these threatening disturbances?" I will answer him. It was the grasping slavery interests which commenced it.—This strife and bloodshed was begun by the *Missouri Border Ruffians*, in their cabals and *blue lodges*, on the frontier of Iowa, Kansas and Missouri—by their robberies and outrages upon freemen—and this, too, before the passage of Douglas' Kansas bill. It was not begun by the New Englanders and Eastern emigrants, but by the aggressions and robberies and tyrannies of the slavery ruffians upon industrious freemen who went into that free territory, to establish for themselves and families and friends—free homes. This was what began the war and strife; the violations of right, and the efforts of the minions of slavery to either control these freemen, or to drive them from that territory, that they might curse and subjugate it wholly to the dark destiny of slavery. This, I can tell the Senator without fear of possible contradiction—for clouds of witnesses—ample facts will sustain me in the declaration.

The Slaveocracy, among other outrages, attempted to wrest from residents in Kansas their freedom of speech—one of the most cherished and sacred of the rights of freemen—and one of the noblest—one which

they never will surrender—a right for which they will always, everywhere, and in all places, contend to the last breath; they will struggle for it as our forefathers fought for their sacred rights in the war of the revolution.

The Senator (Mr. Tucker) asks what we will do, if the Lecompton Constitution should be adopted? In my opinion, sir, if the people's rights are longer disregarded and trampled upon, and their voices unheeded, those democrats who are their oppressors will find they have got an elephant upon their hands, which they will not know any better what to do with, than John Doe did, with the one which was sent as a present to him, by an Eastern Nabob, and like him they will soon be lustily crying to their neighbors to relieve them of an unwieldy calamity.

Again, the Senator from the 1st, (Mr. Cook,) says, while he virtually admits that the Lecompton Constitution is a fraud—at least that it is but the will of a minority of the people who must, if it be accepted, live under it, that the President is right in his herculean efforts to sustain it and pass it through Congress, and, sir, the Senator further said, that it must and would pass.—In regard to this last statement, I propose to say but little. Still I hope, sir, and how earnestly do a great majority of the American people hope that it may prove untrue. I have come to the conclusion that the power of the President is but little less than that of an absolute monarch—backed as he is by a horde of hungry office seekers and office holders, who, in the language of one of their former most distinguished leaders, are "bound together by the cohesive power of public plunder." I am not ready to say that he could not to-day, if he chose, find thousands among this class who would shout "God save King Buchanan!" if he would but retain them in, or give them office.

But, in regard to the question whether he is right in sustaining the Lecompton swindle by virtue of the Dred Scott decision, I have somewhat to say: In his last message he uses the following language:

"It has been solemnly adjudged by the highest judicial tribunal that slavery exists in Kansas by virtue of the Constitution of the United States. Kansas is therefore at this moment, as much a slave State as Georgia or South Carolina. Without this, the equality of the sovereign States composing the Union would be violated, and the use and enjoyment of territory acquired by the common treasure of all the States would be closed against the people and property of nearly half of the members of the confederacy. Slavery can therefore never be prohibited in Kansas, except by means of a constitutional provision, and in no other manner can this be obtained so promptly, if the majority of the people desire it, as by admitting it into the Union, under her present Constitution."

Sir, with feelings of painful regret, I have to admit this to be the law of the land now,

so far as the opinion of a majority of the members of the Supreme Court can make it the law. But is there an honest man of sound sense north of Mason & Dixon's line, that will not admit that decision to have been tinctured with the prejudice that arises from the location of the members of that august tribunal. If there is such a man, I must ask him to read again the very able, dissenting opinion of Judge Curtiss in that case—an opinion which I have faith to believe, will, at some future time, be held by a majority of that Court. I believe it will,—because I am confident that time will sufficiently eradicate prejudice, to permit the true deductions of law in that Court to follow the facts as set forth in that case. I know that hope deferred maketh the heart sick, still, most fortunately for the people of the northern states, hope is one of their most prominent faculties.

Will Senators forbear with me while I present a short review of one the leading principles involved in the Dred Scott case, as it is the one to which the President so confidently refers as his authority. The question arising under it is simply this—*Does slavery exist in Kansas by virtue of the Constitution of the United States?* And if so, in what clause of that instrument is that virtue found? I answer sir, that there is no provision in that instrument containing any power establishing or upholding slavery, or conferring upon it any rights or privileges. The existence of slavery at the time the Constitution was framed cannot be told from its reading only by inference, and even that inference is denied by many of the ablest statesmen in our land.

The powers conferred upon the General Government by virtue of the Constitution, are set forth in art. 10 of the amendments, which reads as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it, to the States, are reserved to the States respectively, or to the people."

I propose to apply to this clause the doctrine of State Rights, a doctrine that had its birth in this same provision, was nourished by the sunny South, and has long been indulged as a favorite child by its proud stepmother, South Carolina. Until the adoption of the constitution there was no settled principle of central power, no definite rule of action that the several States had agreed to recognize in common or independently.—When the constitution had been formed—passed—the signatures of the members of the Convention that framed it, placed upon it, and its ratification by the several States, perfected, it became at once the constitutional law of the United States. All the life it possessed had been breathed into it, and all the force it contained was conferred upon it by the several States through the action of

their respective delegates to the Convention that created it; and all the virtue it now contains, was derived from the same source. Hence, the doctrine of State Rights—a doctrine which claims that the several States still retain intact all those powers which, through the action of their delegates, they have not yielded up to and conferred upon the General Government, by the express provisions of the National Constitution.

The State of Wisconsin has recognized this to be sound doctrine by the decision of her highest judicial tribunal, and by this law shall the slave power be judged so far as it applies to the present condition of that so-called "domestic institution."

If then that instrument does not contain any provisions protecting slavery as a national institution, or permitting its extension by terms expressed whence arises that monstrous doctrine held by the Supreme Court and advocated by the President in his last message; viz: that slavery already exists in Kansas by virtue of the constitution?

Again, sir, reasoning *a priori* what was the object and aim of the States, in causing the constitution to be framed and adopted? Was it not for the purpose of mutual protection upon the principle that "union is strength." Let the preamble to that instrument answer. If from that preamble can be inferred any disposition to extend, or protect even, an institution which at the time it was written, was almost universally conceded to be a great political as well as moral evil, then I yield the argument, and if not, then whence this Dred Scott decision?

Again, sir, have not the northern States privileges in the nature of vested rights under the Constitution? Did they consent when it was accepted by them, that by virtue of any provision it contains, slavery should be extended into all the territory of the Union? Then where did this anti-Republican doctrine of a supreme central power emanate from, if not from the avarice of the black Democracy of the southern States.

This Dred Scott decision then, never will become the virtual law of all the States.—The northern States never can be made to believe that slavery is a *free institution*, at liberty to go wherever it may elect—to plant its cloven foot upon the virgin soil of our western domain, and demand a surrender of all that is precious, in youth and beauty to its licentious embrace. Better, far better, that Columbus had never discovered America—a land at this day with its government, and institutions—excepting slavery—the pride and boast of every American, and the admiration of the world—than that this self-same land should be doomed to perpetual servitude under an oligarchy which recognize no law that does not minister to its vile and insatiate maw.

Mr. President, if the existence of slavery in the territories is established by virtue of the U. S. constitution then did it at once, upon the adoption of that instrument, at a single flight, spread its dark wings over all the then territorial domain of the Union. If this be so, then has Wisconsin been slave soil, yes, and is so to-day, and liable to be subjected at any time the South may choose to the blighting influence of slavery, without let or hindrance on her part. And, sir, if slavery has once existed here by virtue of the constitution, then by what authority, I ask, have the people of this State made it free? From whence the higher law to abolish it, if it be abolished? Has a State the right to change the functions, or interfere with the virtual provisions of the national constitution—can it change the design of that instrument? In short, why then and by what law has Wisconsin become a free State? If the Dred Scott decision be sound law then have the people of this State violated one at least of the provisions of the Constitution of the United States.

Sir, this step in the onward march of the pro-slavery army—the step taken in the Dred Scott case if not the last, is the last but one that it will ever take toward the accomplishment of its long cherished purpose—the complete subjugation of the free States of the north. The times on this point are ominous. No man can longer claim to be a "national democrat," who does not bow down and worship this dark and hideous Moloch. To-day the great chief of the young Democracy of the north is no longer permitted to enter the inner temple of the national party. Stephen A. Douglas and his comrades are formally read out of, and prohibited from participating in the affairs of the administration. And for what? Sir, for daring to oppose it in its nefarious design of fastening upon Kansas a sectional and hateful institution, against the will of four-fifths of her legal voters, again and again expressed. Well may that statesman in the language of Webster, exclaim, "Where shall I go?"

I have said that the last step but one has been taken. Sir, I most religiously believe it, and what is that last step?

It is the attempt to effect a complete centralization of power by virtue of a decision of the Supreme Court at Washington, declaring slavery to be the natural, rather than the circumstantial condition of man, and consequently that color or decent has no part or lot in this matter; that the law of might makes the master and weakness the slave. This is already announced in the southern papers as the only tenable doctrine that the democracy can adopt, nor can I see why it is not the natural offspring of that scarcely less objectioned one of grades in the mental power

of the races—a doctrine that has heretofore been held as the excuse for slavery.

Sir, I have yet left some degree of reverence for courts, but that reverence has been diminished not a little by this Dred Scott case. It is true that to a remarkable degree is respect for courts and judges still retained in this country. Public confidence in and respect for the Legislative and Executive departments of the nation, as well as in the several states, has suffered severe shocks, owing to frauds and corruption from time to time discovered in them, while the Judiciary still most rightfully possesses that confidence to a great degree, for the reason that that department still remains comparatively untarnished. It does not, however, follow as a safe conclusion, that in this confidence there lies no danger. So long have the people been accustomed to submit to bench decrees without a murmur, and to regard them as the law, that the power of the courts is second to none in the aid it affords in propelling the machinery of the Government. Let but this power once become centralized and supreme, and it will hold the destinies of the American Union in its balances. The great father of Republicanism—Thomas Jefferson—foresaw this, when in his letter to Mr. Hammond of Aug. 18th, 1821, he says:

"It has long been my opinion, and I have never shrunk from its expression (although I do not choose to put it in a newspaper, nor like Priam in armor, offer myself its champion) that the germ of dissolution of our Federal Government, is in the Constitution of the Federal Judiciary—an irresponsible body (for impeachment is scarcely a scare-crow) working like gravity by night and by day, gaining a little to-day and a little to-morrow, and advancing its noiseless step like a thief, over the field of jurisdiction, until all shall be usurped from the states and the government of all be consolidated into one."

How far the sentiment of that great man is being verified, I hardly dare to ask, and not half a century has passed since its utterance. A strict construction of constitutional law no longer prevails. Section after section and leaf after leaf of that time honored book are now being used to feed the flames of an unholy passion which knows no law but that law which gratifies its base desires.

One of the principle efforts of the Democracy at this time is the attempt to stifle freedom of speech and of the press on this question. During this debate a Senator (Mr. Cook) has attempted to impugn the motives of the Governor in introducing this great subject into his Message, and told us that it was all done for political effect, and he also asks if these resolutions were not brought forward at this time for political purposes—are not the offspring of political ambition. I will take the Yankee method of answering this question by putting one to the Senator. It is this, Sir—from whence comes his adherence and that of some of

his brother Senators, to that infamous document, the Lecompton Constitution, just at this time—when their aid in behalf of the truth and the right is so much needed—and whence the power that causes this adherence? Will he deny, Sir, that the “power behind the throne” in this instance, and which is greater than the throne itself, is the cohesive power of public plunder. He admits that the Lecompton Constitution is a fraud, and that it was not submitted to the people, and in the next sentence lauds James Buchanan for the sectional course he has taken on this subject.

It has often been the case that men have loved the treason while they despised the traitor. But now it becomes necessary to reverse this order of things, and we see the magic power of Democracy displayed in their love for the traitor, while they affect to despise the treason. They say they are opposed to the Lecompton Constitution as a cheat and treason against popular sovereignty, while they defend and eulogize James Buchanan, at whose instigation this swindle was perpetrated, and is now endeavored to be forced upon Kansas. Sir, can it be right for the President to do wrong, and is he to be praised for so doing? The only plea that can be urged in behalf of the course of the President in this matter is *ignorance*. It is true, Sir, that the ear of power is sometimes closed to facts which every man in the nation besides is well acquainted with. Especially is this the case in monarchies. But is James Buchanan more ignorant of the frauds of Lecompton than Senators on the other side of this House who denounce them? No, sir, the plea of ignorance is not sustained. And if it be true, then is that ignorance most willful. Where are the five Governors that have been sent to Kansas within the short space of three years? Let the President call them to the witness-stand and be no longer deceived in a matter that lies so near the heart of the American body politic.

In the annals of history, the year 1857 will make up a conspicuous page. Among the most prominent of the events thereon recorded, to descend as land-marks of this age to future generations will appear two, which when compared will cause every American citizen to hang his head for shame. The one will point to a proud Emperor, the Czar of all the Russians, whose edict is law, and whose word is the power of the Empire—opening his heart and liberating his surfs—*bidding his slaves go free*, that they may ever keep that year a year of jubilee. The other will represent the President of the greatest Republic on the globe, from the people of which all his power and authority is derived, and to whom he is accountable for all his acts—stooping to bind the very feet of his subjects with the iron links which

clank between the fetters of human slavery.

I ask Senators on the other side to contemplate the picture, and then tell me if they are quite willing to be represented as standing in the foreground among the most prominent figures upon the canvass, singing “Hail Columbia” to James Buchanan while he fastens on the chains?

Mr. President, the debate upon these resolutions has taken a range somewhat beyond the specific subject matter they contain, and while I would not digress too far from them, I wish here to say, that on the slavery question, I am confident that it is our duty to be progressive. The more the slave power forces its encroachments upon the rights and privileges of the Free States, either by decisions of the Supreme Court, by forced marches, or otherwise, the more definite and determined not only, but the more progressive should be our action.

I was educated a Henry Clay Whig. I cast my first vote as a citizen, for that eloquent and able Statesman, and up to the time of the passage of the Fugitive Slave Law, I entertained sentiments similar to those entertained by him. I still hold it to be sound political doctrine on the slavery question, to oppose the extension of slavery, and let it alone in the States where it exists, so far as the action of the Free States, as such, is concerned. But, sir, if this Lecompton swindle is to be crowded through Congress by the South, regardless of the will of the majority of the voters in Kansas, and against the wish of the Free States, I can see no course for us to take hereafter, but such as will not only limit but extinguish slavery and drive it from the land. When we see such States as Missouri, Kentucky and Maryland, struggling for freedom and in behalf of free labor, can we do less than to tender them our aid and sympathy. When Slave States are moving in the right direction, how can we, who enjoy the blessings they strive to obtain, look on with a cold indifference?

The final struggle between the slave oligarchy and the freemen of the North, hastens on—the signs of the times betoken this.—The plot thickens—statesmen are growing more and more sensitive upon this subject. The halls of Congress have again and again witnessed not only head to head, but hand to hand contests on this question. It is the duty of every man to watch the signs of the times, and act accordingly. The traveller by night, who plods along his weary way, guided only by the stars above, eagerly watches for the first indications of day, and when from the farm yard he hears the clarion sound of the ever faithful morning monitor, quickens his pace, knowing that the dawn is at hand.

In conclusion, sir, I will say, that I have no fears that a bold stand taken by the North, will result otherwise than favorable

to freedom. The Union will not be dissolved by reason of the efforts of Statesmen to limit the slave power. Sectionalists may aim at the heart of this Republic, but they will not penetrate it—they cannot destroy it. The war has been long, fierce and literally bloody. Every man, every true patriot, desires to see the flag of truce borne aloft between the contending parties.

Ere long, at no distant day I trust, a boundary line will be fixed to this domestic institution which “all christendom abhors,” and upon that line will be written as if in the blood of those martyrs who have given their lives for freedom. “thus far and no farther—here shall thy proud waves be stayed.” I shall, sir, with all those who are interested, and who is not, in the great conflict now in progress between the free and slave power—watch with the deepest anxiety the final result. I have great confidence in the ultimate triumph of freedom, though at this time the future may look dark, for—

“Truth crushed to earth will rise again,
The Eternal years of God are hers;
While Error wounded writhes in pain,
And dies amid her worshippers.”

In this question of slavery extension over our territories, the great West has a deep and permanent interest. A vast majority of the people here, without regard to party ties, are firmly opposed to the introduction of slave labor upon the rich prairies and fertile valleys of that vast domain which lies between the Mississippi and the Pacific. If the right prevails in Kansas, the wrong can never recover the shock. The next congressional apportionment under the census of 1860, will give to the North-west a power that will be felt on this question should it remain open beyond that time. New Free States are also ready for admission, nor can they be kept out; and the U. S. Senate may soon contain a majority in favor of admitting no more Slave States. Till then, but one course is left for Republicans, and that is a continued, untiring effort in behalf of freedom in the territories and new States, and the triumph of this principle will ere long be placed beyond the reach of demagogues who threaten that the Union will be dissolved if slavery is not hereafter recognized by this Government as a National Institution.